

emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

94-20-05 Beech Aircraft Corporation:

Amendment 39-9033; Docket No. 94-CE-19-AD.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
1900	UA-2 and UA-3.
1900C	UB-1 through UB-74 and UC-1 through UC-174.
1900D	UE-1 through UE-87.
C-12J (Military)	UD-1 through UD-6.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To protect either circuit connected to the hot battery bus from overloads, which, if not protected, could result in loss of certain emergency equipment, accomplish the following:

(a) Visually inspect the hot battery bus fuse assembly to ensure that the hot battery bus bar is mounted on the row of terminals located on top of the hot battery bus fuse assembly in accordance with paragraphs 1 through 3 in the Accomplishment Instructions section of Beech Service Bulletin (SB) No. 2562, dated August 1994. If not mounted correctly, prior to further flight, reinstall the hot battery bus bar and reattach the wire harness in accordance with Beech SB No. 2562.

(b) Modify the wiring to add a redundant power source for the hot battery bus by

accomplishing paragraphs 1, 2, and 4 through 12 of the Accomplishment Instructions section of Beech SB No. 2562, dated August 1994.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) The inspection and modification required by this AD shall be done in accordance with the instructions to Beech Service Bulletin No. 2562, dated August 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-9033) becomes effective on October 14, 1994.

Issued in Kansas City, Missouri, on September 21, 1994.

Barry D. Clements,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-23812 Filed 9-29-94; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 92-ANE-33; Amendment 39-9038; AD 93-19-02R1]

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT9D series turbofan engines, that currently requires eddy current inspection and modification of the diffuser case rear rail, and removal, if necessary, of the diffuser case. This amendment corrects an error in paragraph numbering in the compliance section and allows

modification of diffuser cases in accordance with previous revisions of a PW Service Bulletin as an alternative means of compliance. This amendment is prompted by comments received after issuance of AD 93-19-02. The actions specified by this AD are intended to prevent diffuser case rupture and an uncontained engine failure.

DATES: Effective on October 17, 1994.

The incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register as of October 18, 1993 (58 FR 51212, October 1, 1993).

Comments for inclusion in the Rules Docket must be received on or before November 29, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-33, 12 New England Executive Park, Burlington, MA 01803-5299.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Daniel Kerman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7130, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION: On September 16, 1993, the Federal Aviation Administration (FAA) issued AD 93-19-02, Amendment 39-8695 (58 FR 51212, October 1, 1993), as a final rule with request for comments that superseded AD 86-11-04, to define initial inspection requirements that will allow for transition to more stringent repetitive on-wing eddy current inspections of the diffuser case rear rail for cracking. AD 93-19-02 also requires ultrasonic and metallographic inspections of the shell wall, and ultrasonic inspection of the rear rail at the Boss 6 location to determine weld size. In the previous AD, 86-11-04, diffuser cases were allowed to remain in service with weld repairs of up to 4 inches in length. In AD 93-19-02, diffuser cases with weld repairs in the rear rail of greater than or equal to 1.5 inches in axial length at Boss 6 must be replaced. In addition, AD 93-19-02 requires a one-time X-ray inspection of

the rear rail and sides of bosses for weld quality. This inspection is necessary since in the last two failures, weld defects were undetected by the inspections required by AD 86-11-04. Also, diffuser cases with rear rails that have been weld-repaired must incorporate the modifications described in PW SB No. 5805, Revision 6, dated September 15, 1993. Finally, an optional terminating action to the inspections and modifications of AD 93-19-02 is available with the installation of a new, improved diffuser case in accordance with PW SB No. 6105, Revision 2, dated May 14, 1993.

AD 93-19-02 was prompted by reports of 2 additional diffuser case failures. Both failures occurred within significantly shorter time intervals since last inspection than that specified in AD 86-11-04. In an effort to better understand the diffuser case failure mode, a rig test was performed. This test examined crack initiation and growth rates in weld-repaired versus non-weld-repaired diffuser cases. Results of the test established that cracks initiate and propagate more rapidly in weld-repaired diffuser cases. In addition, weld repairs at the Boss 6 location were determined to have even greater potential for rapid crack growth and resultant diffuser case failure. That condition, if not corrected, could result in diffuser case rupture and an uncontained engine failure.

Although AD 93-19-02 was issued as a final rule without prior notice and an opportunity for public comment, the FAA requested comment on the AD. Due consideration has been given to the comments received.

One commenter states that paragraph (c)(3) of AD 93-19-02 refers incorrectly to paragraphs (d) and (f), as those paragraphs are applicable to those diffuser cases that have been weld-repaired. The FAA concurs. Paragraph (c)(3) of this Revision to AD 93-19-02 has been changed to refer to paragraphs (e), (g), (h), (i), (j), (k), and (l). These paragraphs are applicable to those diffuser cases that have not been weld-repaired.

One commenter states that paragraph (o) of AD 93-19-02 requires modifications to the diffuser case in accordance with PW Service Bulletin (SB) No. 5805, Revision 6, dated September 15, 1993. The commenter maintains that modifications performed in accordance with the earlier revisions to this SB should be considered in compliance with this AD. The FAA concurs. All previous revisions of PW SB No. 5805 differ from Revision 6 only in editorial clarifications or corrections of typographical errors and do not impact the intent of the document.

Modifications performed to the diffuser case in accordance with the previous revisions of PW SB No. 5805 constitute an acceptable alternate means of compliance to paragraph (o) of this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the revision of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA has reviewed and approved the technical contents of PW SB No. 5805, Revision 6, dated September 15, 1993, that describes procedures for modification of the rear rail by detaching the diffuser case rear rail from the strut boss, thus extending the serviceable life of the diffuser case by reducing crack initiation and propagation rates; PW Alert Service Bulletin (ASB) No. 6076, Revision 1, dated August 20, 1992, that describes ultrasonic and metallographic inspection of the shell wall, and ultrasonic inspection of the rear rail at the Boss 6 location to determine weld size; PW SB No. 6088, dated August 5, 1992, that describes an X-ray inspection of the rear rail and sides of bosses for detection of poor weld quality; PW SB No. 5591, Revision 7, dated August 25, 1992, that describe initial and repetitive on-wing eddy current inspections of the diffuser case rear rail; and PW SB No. 6105, Revision 2, dated May 14, 1993, that describes installation of a new, improved diffuser case.

Additional information regarding weld repair requirements for the diffuser case rear rail is contained in PW JT9D Engine Manual, Part Number 686028, dated September 1, 1993.

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT9D series turbofan engines of this same type design, this AD revises AD 93-19-02 to correct an error in paragraph numbering in the compliance section and allow modification of diffuser cases in accordance with previous revisions of PW SB No. 5805 as an alternative means of compliance to paragraph (o) of this AD. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-ANE-33." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26,

1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-8695 (58 FR 51212, October 1, 1993) and by adding a new airworthiness directive, Amendment 39-9038, to read as follows:

93-19-02 R1 Pratt & Whitney: Amendment 39-9038. Docket 92-ANE-33. Revises AD 93-19-02, Amendment 39-8695.

Applicability: Pratt & Whitney (PW) JT9D-3A, -7, -7H, -7A, -7AH, -7F, -7J, -20, and -20J turbofan engines installed on but not limited to Boeing 747 series, Airbus A300 series, and McDonnell Douglas DC-10 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent diffuser case rupture and an uncontained engine failure, accomplish the following:

(a) For those diffuser cases that have not been inspected in accordance with PW Alert Service Bulletin (ASB) No. 6076, Revision 1, dated August 20, 1992, initially inspect the diffuser case for cracks in accordance with the intervals and requirements described in paragraphs (d), (f), (g), (i), (j), (k), or (l) of this AD, as applicable.

(b) For those diffuser cases that have not been inspected in accordance with PW ASB No. 6076, Revision 1, dated August 20, 1992, inspect the diffuser case rear rail along the shell wall at Boss 6 for weld repair size in accordance with PW ASB No. 6076, Revision 1, dated August 20, 1992, at the next M flange separation of the high pressure turbine case after the effective date of this AD. Diffuser cases with weld repairs in the rear rail along the shell wall of axial length

greater than or equal to 1.5 inches at Boss 6 must not be returned to service. If the weld length is less than 1.5 inches, inspect in accordance with the new criteria, improved technique, intervals, and requirements defined in the Accomplishment Instructions of PW Service Bulletin (SB) No. 5591, Revision 7, dated August 25, 1992.

Note: Additional information regarding weld repair requirements for the diffuser case rear rail is contained in PW JT9D Engine Manual, Part Number 686028, dated September 1, 1993.

(c) For those diffuser cases that have been inspected in accordance with PW ASB No. 6076, Revision 1, dated August 20, 1992, accomplish the following:

(1) For diffuser cases that have weld repairs in the rear rail along the shell wall at Boss 6 of axial length greater than or equal to 1.5 inches, remove from service and replace with a serviceable part prior to further flight.

(2) For diffuser cases that have weld repairs in the rear rail along the shell wall at Boss 6 of axial length less than 1.5 inches, initially inspect the diffuser case for cracks in accordance with the intervals and requirements described in paragraphs (d), (f), (g), (i), (j), (k), or (l) of this AD, as applicable.

(3) For diffuser cases that have no weld repairs in the rear rail along the shell wall at Boss 6, initially inspect the diffuser case for cracks in accordance with the intervals and requirements described in paragraphs (e), (g), (h), (i), (j), (k), or (l) of this AD, as applicable.

(d) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, that contained rear rails with no cracks at any boss location at the last ECI, and have a weld repair in the rear rail along the shell wall at Boss 6, perform an initial ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, as follows:

(1) For diffuser cases with greater than 275 cycles in service (CIS) since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, on the effective date of this AD, perform an ECI in accordance with the new criteria and improved technique defined in the Accomplishment Instructions PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 500 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, or prior to accumulating 75 CIS after the effective date of this AD, whichever occurs first.

(2) For diffuser cases with less than or equal to 275 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, on the effective date of this AD, perform an ECI in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 350 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986.

(e) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, that contained rear rails with no cracks at any boss location at the last ECI, and have no weld repairs in the rear rail along the shell wall at Boss 6, perform an ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 500 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986.

(f) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, that contained rear rails with "A" cracks at Boss 6 at the last ECI, and have a weld repair in the rear rail along the shell wall at Boss 6, perform an ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 300 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, or prior to accumulating 60 CIS after the effective date of this AD, whichever occurs first.

(g) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, that contained rear rails with "A" cracks at any boss location other than at Boss 6 at the last ECI, with or without weld repairs in the rear rail along the shell wall at Boss 6, perform an ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 300 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986.

(h) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, that contained rear rails with "A" cracks at Boss 6 at last ECI, and have no weld repairs at Boss 6, perform an ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 300 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986.

(i) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, and contained rear rails with "B" cracks at Boss 6 at last ECI, with or without weld repairs in the rear rail along the shell wall at Boss 6, remove from service and replace with a serviceable part prior to accumulating 5 CIS after the effective date of this AD.

(j) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, and contained rear rails with "B" cracks at any boss location other than Boss 6 at last ECI, with or without weld repairs in the rear rail

along the shell wall at Boss 6, perform an ECI of the diffuser case rear rail for cracks in accordance with the new criteria and improved technique defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992, prior to accumulating 75 CIS since the last ECI performed in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986.

(k) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, and contained rear rails with "C" cracks at Boss 6 at last ECI, with or without weld repairs in the rear rail along the shell wall at Boss 6, remove from service and replace with a serviceable part prior to further flight.

(l) For those diffuser cases that have been inspected in accordance with PW SB No. 5591, Revision 4, dated March 6, 1986, and contain rear rails with "C" cracks at any boss location other than Boss 6 at last ECI, with or without weld repairs in the rear rail along the shell wall at Boss 6, remove from service and replace with a serviceable part as follows:

(1) For shell wall cracks of greater than or equal to 2 inches, remove from service and replace with a serviceable part prior to further flight.

(2) For shell wall cracks of less than 2 inches, remove from service and replace with a serviceable part within 5 CIS after the effective date of this AD.

(m) Thereafter, perform repetitive ECI of the diffuser case rear rail for cracks in accordance with the new criteria, improved technique, intervals, requirements, and removal from service criteria defined in the Accomplishment Instructions of PW SB No. 5591, Revision 7, dated August 25, 1992.

(n) For those diffuser cases that have been weld repaired at any boss location, at the next K flange separation of the diffuser case after the effective date of this AD, perform a one-time x-ray inspection of the diffuser case rear rail and sides of all bosses for weld quality in accordance with PW SB No. 6088, dated August 5, 1992, prior to installation of the diffuser case. Remove any weld defects within the inspection zone in accordance with PW SB No. 6088, dated August 5, 1992, prior to installation of the diffuser case.

(o) For those diffuser cases with rear rails that have been weld repaired at any boss location, incorporate the modifications described in PW SB No. 5805, Revision 6, dated September 15, 1993, at the next removal of the diffuser case for repair after the effective date of this AD.

(p) Installation of an improved diffuser case in accordance with PW SB No. 6105, Revision 2, dated May 14, 1993, constitutes terminating action to the inspections and modifications required by this AD.

(q) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(r) Except for diffuser cases that have cracks that require removal prior to further flight, special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. For diffuser cases that have cracks that require removal prior to further flight, on aircraft that are eligible for an engine-inoperative ferry, special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished with one engine inoperative.

(s) The inspections and modifications shall be done in accordance with the following PW service bulletins:

Document No.	Pages	Revision	Date
SB No. 5591	1-3	7	Aug. 25, 1992.
	4-9	6	Aug. 14, 1992.
	10	7	Aug. 25, 1992.
	11-12	6	Aug. 14, 1992.
	13	7	Aug. 25, 1992.
	14-15	6	Aug. 14, 1992.
	16	7	Aug. 25, 1992.
	17-19	6	Aug. 14, 1992.
Total pages: 19			
SB No. 5805	1-4	6	Sept. 15, 1993.
	5	Original	Apr. 20, 1988.
	6-72	6	Sept. 15, 1993.
Total pages: 72			
ASB No. 6076	1-5	1	Aug. 20, 1992.
	6-19	Original	July 31, 1992.
Total pages: 19			
SB No. 6088	1-11	Original	Aug. 5, 1992.
Total pages: 11			
SB No. 6105	1	2	May 14, 1993.
	2-7	Original	Jan. 15, 1993.
	8	1	Apr. 14, 1993.
	9	2	May 14, 1993.
	10-15	Original	Jan. 15, 1993.
	16	2	May 14, 1993.
	17-18	Original	Jan. 15, 1993.
	19	2	May 14, 1993.
	20-46	Original	Jan. 15, 1993.
	47	1	Apr. 14, 1993.
	48	2	May 14, 1993.
	49-56	Original	Jan. 15, 1993.
Total pages: 56			

This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of October 18, 1993 (58 FR 51212, October

1, 1993). Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal

Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(t) This amendment becomes effective on October 17, 1994.

Issued in Burlington, Massachusetts, on September 22, 1994.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94-24070 Filed 9-29-94; 8:45 am]

BILLING CODE 4910-3-P

Office of the Secretary

14 CFR Part 234

[Docket No. 48524; RIN 2137-AB94]

Amendments to the On-Time Disclosure Rule

AGENCY: Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule revises the on-time flight performance reporting requirements by: Eliminating the exclusion of flights delayed or canceled due to mechanical problems; adding the aircraft tail number, and wheels-off and wheels-on times for each flight reported; adding several definitions; clarifying the reporting requirements for a new flight; and deleting references to obsolete organizational offices.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus or Jack Calloway, Office of Airline Statistics, DAI-10, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4387 or 366-4383, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1992, the Research and Special Programs Administration ("RSPA") issued a Notice of Proposed Rulemaking ("NPRM") (57 FR 58755; December 11, 1992) seeking public comments on the proposal to improve the on-time flight performance reporting requirements in 14 CFR Part 234 *Airline Service Quality Performance Reports*. The Department proposed to eliminate the reporting exclusion for flights delayed or canceled due to mechanical problems; to add the aircraft tail number, and wheels-off and wheels-on time for each flight reported; to define "canceled flight," "discontinued flight," "diverted flight," and "extra-section flight"; to clarify the reporting requirement for a new flight; and, to delete references to obsolete offices.

Part 234 requires the largest U.S. air carriers to report their on-time departure and arrival performances for every

domestic scheduled-passenger flight operated to or from a reportable airport, with the exception of flights that are delayed 15 minutes or more, or canceled, because of mechanical problems. A flight is considered on-time if the flight departs and arrives less than 15 minutes after its published scheduled times. The Department publishes separate listings for departure and arrival performances. The reporting system developed for the administration of these reporting requirements is called the On-Time Flight Performance System.

The U.S. carriers covered by the Part 234 requirements are those generating at least 1 percent of the U.S. domestic scheduled-passenger revenues on a yearly basis. Currently, there are ten carriers reporting the data. They are Alaska Airlines, Inc. (Alaska), America West Airlines, Inc. (America West), American Airlines, Inc. (American), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Northwest Airlines, Inc. (Northwest), Southwest Airlines Co. (Southwest), Trans World Airlines, Inc. (TWA), United Air Lines, Inc. (United) and USAir, Inc. (USAir).

Reportable airports are those airports in the contiguous 48 states generating at least 1 percent of the domestic scheduled-passenger enplanements on an annual basis. There are 29 reportable airports in 1994. In practice, all reporting carriers are voluntarily submitting data for their entire domestic scheduled-passenger operations.

One of the main purposes of the rule is to create a market-based incentive for airlines to improve their service quality and schedule reliability for consumers. The public availability of comparative data on airline service quality creates this market-based carrier incentive.

The addition of wheels-off and wheels-on times, and the identification of aircraft by tail number, will enable the Federal Aviation Administration (FAA) to analyze air traffic operations and create system models for use in reducing enroute and ramp delays. Air traffic delays cost the public and the industry an estimated \$8.5 billion in 1990, according to the FAA.

Public Comments

Comments on the NPRM were received from Alaska, American, Delta, Northwest, Southwest, the Air Transport Association of America (ATA), The Port Authority of New York and New Jersey (Port Authority), and America West which filed comments along with a motion for leave to file late comments.

The ATA is an airline trade association with 17 U.S. carrier members and two Canadian air carrier associate members. Of the ten carriers currently reporting on-time flight performance data, America West is the only non-ATA member. The ATA stated that Alaska, Northwest and Southwest did not join in ATA's comments to the NPRM.

The comments address safety, alternative data sources, the proprietary nature of aircraft tail number data, elimination of the rule in its entirety, the addition of new data items and definition changes. Each of these subjects is addressed under a separate caption.

Safety

Northwest, Southwest and America West opposed the elimination of the mechanical exclusion.

Northwest believes the existing rule balances the need for consumer information with safety, and gives carriers an incentive to engage in realistic scheduling. Northwest states it has placed a high priority on improving its on-time performance, and has developed a comprehensive system which includes employee training to assure flights are dispatched on time. However, Northwest also states that it has, and always will place safety ahead of on-time flight performance. Consequently, it has instructed its employees to ignore on-time flight performance when safety is an issue. Northwest believes the proposed change will make on-time flight performance an issue that employees may wrongly consider when making decisions that have major safety implications. Northwest states it does not want its employees to feel pressure to choose between safety and on-time flight performance. Northwest believes the current rule is an unqualified success, and should not be amended to include mechanical delays and mechanical cancellations.

Southwest believes the policy of each air carrier is "safety first." However, Southwest feels a carrier cannot guarantee that an employee's commitment to safety will not be affected by a desire to see the carrier do well in its on-time flight performance. Southwest contends including mechanical delays in the reported flight records will intensify the conflict between safety and on-time performance.

Southwest states the Research and Special Programs Administration (RSPA) did not reveal any need for the proposed change in the treatment of mechanical delays, other than the

Inspector General's (IG) audit report which found minor discrepancies in some nonreported flights. After the IG audit, RSPA issued an accounting and reporting directive on the subject of nonreported mechanical delays and mechanical cancellations. Southwest asserts a follow-up audit has not been conducted, and concludes that there is no evidence that the problem continues to exist.

Southwest further states that in a 1990 internal DOT memorandum, RSPA expressed concern with the IG's suggestion that mechanical delays and mechanical cancellations should be collected with a suppression code to enable DOT to continue excluding those flights from the monthly consumer report. RSPA commented that collecting data on mechanical delays and mechanical cancellations would duplicate FAA's collection and would be counter to DOT's current policy. RSPA also questioned whether the data on mechanical delays and mechanical cancellations could be protected under the Freedom of Information Act (5 U.S.C. 552) (FOIA).

In response to Southwest's contention that the NPRM did not reveal any need for eliminating the mechanical exclusion, other than the IG's recommendation, RSPA notes that the NPRM specifically stated, "The improved modifications in the reporting system would result in improved consumer information . . ." (57 FR 58756).

As asserted by Southwest, the Department did not conduct a follow-up audit on the exclusion of flights impacted by mechanical problems. Southwest, therefore, concludes there is no evidence as to carrier reporting compliance after RSPA issued its accounting and reporting directive to clarify the reporting instructions. However, the Department's decision to propose eliminating the mechanical exclusion rendered a follow-up unnecessary.

Southwest also states that RSPA even had concerns about collecting data on mechanical delays and mechanical cancellations, as the collection would duplicate an existing FAA collection and be counter to Departmental policy. While RSPA did express concerns about the suggestion to collect mechanical delays and mechanical cancellations and suppress that information in the data base, RSPA's concerns were with its ability to withhold the mechanical data from public release. RSPA believed it would be required to release the mechanical data under the FOIA even if a suppression code were used. Also, RSPA questioned whether the reporting

of specific mechanical data to RSPA and the FAA was duplicate reporting, which would be counter to the Paperwork Reduction Act (44 U.S.C. Chapter 35). This concern has been addressed because carriers would not, under this rule, report specific mechanical data to the Department. All flights would be reported, with no distinction between flights impacted by mechanical delays and those flights impacted by other delays.

America West requests the present exclusions for mechanical delays and mechanical cancellations be retained. The carrier believes DOT would be ill-advised to make any changes in the existing regulations, unless DOT can assure the change will not cause "one employee at one airline on one occasion to send out an aircraft in order to avoid having a 'late' flight and that an incident or accident occurs."

The Department does not believe reporting mechanical delays and mechanical cancellations would cause an employee to compromise safety to improve an airline's on-time performance. Under the present system, an employee could easily improve its employer's on-time performance by miscategorizing a delayed flight as a mechanical delay. The IG's report did not find a pattern of this type of behavior at any of the reporting carriers. Rather, some flights were reported as delayed flights that should have been excluded as mechanical delays, while other flights that were called mechanical delays were actually delayed for other reasons. In no case was a carrier's monthly on-time performance ranking affected by misclassification of flights. Given the fact employees did not attempt to improve on-time performance by intentionally misclassifying flights, the Department does not believe employees will violate FAA regulations, risk their own jobs, and threaten passenger safety by dispatching unairworthy aircraft to improve on-time performance.

Moreover, the Department believes the elimination of the exclusion for mechanical delays and mechanical cancellations will provide better consumer information since aircraft dispatch reliability will now be a factor in a carrier's on-time performance. For example, two carriers each ground one of their aircraft for a day because of mechanical problems. Carrier A fulfills its schedule using a backup aircraft. All of Carrier A's flights are on-time except for the last flight operated with the backup aircraft. Carrier B does not have a backup aircraft available, so it cancels eight flights that were to be operated with the disabled aircraft. Carrier B

fulfills the rest of its schedule in a timely manner. Under the mechanical exclusion provision, Carrier B would have the better on-time flight performance for that day even though it was without a backup aircraft and cancelled eight flights.

The present system, in some circumstances, penalizes the carrier with the more reliable service. Elimination of the mechanical exclusion would end this inequity. If the previous example were based on the new rule, the carrier meeting its schedule with backup equipment would have the better on-time rating. The availability of this additional information would result in a more accurate portrayal of a carrier's flight operation, thereby enabling the consumer to make a more informed flight-selection decision. Furthermore, the elimination of the exclusion should benefit the on-time rankings of carriers with more effective preventive maintenance programs because such carriers would experience fewer mechanical delays and mechanical cancellations.

The Department intends for the airlines to continue to put safety first, and to train their employees accordingly. As Northwest stated, it too always places safety ahead of on-time performance and instructs its employees to do the same when there is a conflict between timeliness and safety. The Department is confident all carriers operate in the same manner as Northwest. The change in the reporting requirements in 14 CFR Part 234 does not affect the requirement under 14 CFR §§ 121.703 and 121.705 that carriers report equipment malfunctions to the FAA. It is important to remember the Department is not establishing a required level of performance that each carrier must meet. Rather, the Department merely discloses to the public the carriers' on-time performance by month. The public will be better informed when each carrier reports its complete schedule.

ATA, American and Delta filed in support of the proposed amendment. They contend the elimination of the exclusion would not compromise safety.

ATA does not believe the elimination of the exclusion will adversely affect reporting air carriers or the travelling public. The inclusion of mechanical-delay and mechanical-cancellation information will give those interested in air carrier flight performance a better picture of flight delay and cancellation activity. The safety of passengers and crew is the most important responsibility of air carriers. ATA states that carriers devote enormous resources and attention to fulfilling that

responsibility. ATA does not believe the elimination of the mechanical-delay and mechanical-cancellation exclusion will induce ATA members to dispatch aircraft that are unairworthy, or have any other adverse effect upon aviation safety.

American believes that carriers would not risk safety for competitive reasons. Reporting all flights would "provide consumers with a more accurate picture of a carrier's overall on-time record, which is the reason for the rule in the first place."

Delta states that it has incurred considerable unnecessary expense to exclude the mechanical delays and mechanical cancellations, and argues that their inclusion will not have a negative effect on the safety of airline operations. Moreover, the existing rule "has the effect of punishing carriers with better dispatch reliability records relative to their competitors."

The Port Authority also believes safety would not be compromised by the inclusion of maintenance-related delays; and, the proposed changes would provide consumers with more useful information to make informed decisions.

Alternative Data Sources—Wheels-Off/On Times

While not objecting to the reporting of wheels-off and wheels-on data, ATA does not believe airlines should be required to submit data that the agency itself could compile.

Delta believes the wheels-off, wheels-on and tail number data could provide the FAA with valuable information for improving the air traffic control system. However, Delta also believes carriers are already providing much of this information to the FAA, and questions whether reporting the same data in a different format is cost justified.

The Port Authority believes the additional data items will significantly benefit the study and reduction of air traffic delays. By measuring wheels-off/on times against gate departure/arrival times, an airport operator can better assess the efficiency of its airfield layout and take action to improve traffic flow and reduce ground delays, which the authority estimates account for 70 percent of the total aircraft delay time at its airports.

Alaska believes carrier submission of wheels-off and wheels-on time data is unnecessary and unjustified. The proposed elements should be based on DOT's on-time flight performance needs rather than on FAA's air traffic control needs.

By collecting wheels-off and wheels-on times and tail numbers, the FAA will

be able to use the on-time flight performance data base to track flight delays. It is cost efficient to add these data items to an existing data base rather than to create a new one.

The Department agrees with Alaska that wheels-off and wheels-on times are not needed for consumer information purposes, although consumers would benefit directly from reduced aircraft delays.

There is an existing company that is a potential data source for aircraft tail numbers, and wheels-off and wheels-on times. Through its tracking system, the company captures these data elements for all scheduled domestic flights for six of the ten reporting air carriers.

The Department would accept carrier data through any outside company, if the proper arrangements can be made for data transmittal. A carrier must give its permission to the outside company to provide the data to the government without cost to the government.

Proprietary Data—Aircraft Tail Number

The collection of tail number data will benefit the FAA directly, by giving the FAA the necessary information to track aircraft throughout the air traffic system. This tracking will enable the FAA to reduce aircraft delays, thereby benefiting the consumer.

ATA opposes collecting aircraft tail number information because it believes: (1) The information is proprietary and very sensitive; (2) there is an appreciable cost burden to the carrier, especially to one carrier that tracks its aircraft by nose numbers rather than tail numbers; and (3) consumers would not derive any benefits from the reporting of tail numbers.

ATA believes that the availability of tail-number data would enable a person to determine the way a carrier deploys its aircraft throughout its route system. Thus, the reporting would reveal basic management decisionmaking. ATA argues that such fundamental business decisions should not be required to be disclosed in monthly reports to the government.

The claim that data are proprietary in nature does not preclude the Department from collecting the data. FOIA provides safeguards from the public disclosure of proprietary information. Moreover, the Department has no plans for routine public release of tail-number data. A carrier objecting to public disclosure of tail-number data may file a motion under the Department's regulation 14 CFR § 302.39 *Objections to public disclosure of information*. Such a motion would be

reviewed under the requirements of FOIA.

The adoption of the tail number requirement would not result in an "appreciable" cost to the carriers, since most of them already track their aircraft movements by tail number. While ATA states one of its member carriers tracks its aircraft by nose number instead of tail number, no individual carrier has stated it would have difficulty in supplying data by tail number. A carrier could easily program a bridge for converting its nose number to a tail number for Part 234 reporting purposes. If this is not feasible, the carrier may contact the Office of Airline Statistics (OAS) to make other arrangements for tracking aircraft through the carrier's system. Any air carrier may request a waiver under 14 CFR § 234.12 from the on-time flight performance reporting provisions.

Eliminate On-Time Flight Performance Reporting

Alaska stated the Department should initiate a rulemaking to see whether the existing on-time performance requirements should be eliminated, rather than imposing additional reporting requirements. Alaska believes the airline industry's condition is far too dire to permit the continuation of a reporting regulation which Alaska argues has no appreciable influence on consumer choice or industry scheduling conduct. Alaska does not adjust its schedules based on on-time performance ratings. Its scheduling practices are tied to its internal schedule monitoring system that uses departure times, in contrast to the Department's arrival-based reporting requirement.

Alaska believes that collection of additional data—mechanical delays and mechanical cancellations, wheels-off and wheels-on times, and aircraft tail numbers—is unnecessary and unjustified until the current reporting requirements are shown to have improved carrier scheduling conduct.

The Department disagrees with Alaska's position that carrier on-time performance is unaffected by the reporting requirements. In its answer to this rulemaking, Northwest stated it has made changes to its schedule to improve on-time performance. On May 17, 1993, Delta implemented a system-wide communication program to improve its on-time performance. Given the industry's improvement in on-time flight performance since the reporting requirement was instituted in 1987, the Department believes most carriers have made similar changes. Before the reporting regulations were in effect, a Department investigation into

scheduling practices of selected air carriers at four major airports disclosed that 25 to 60 percent of those carriers' scheduled flights were more than 15 minutes late (52 FR 34056; September 9, 1987). Today, more than 80 percent of the reporting carriers' flights are on time. On-time flight disclosure helps to eliminate deceptive scheduling practices by carriers, to the benefit of consumers.

Alaska believes departure times, rather than arrival times, are a better indicator of a carrier's reliability. The Department disagrees. Consumers are more interested in arrival times, because they have meetings to attend or may have somebody meeting them at the destination airport. Consumers also consider elapsed flight time when selecting an air carrier. If arrival times were ignored, schedule times could be shaved to make them more appealing to consumers. If the flights departed on time, the carrier would have a 100 percent on-time record even if every flight arrived a half-hour late. Such information would be very deceptive to the consumer.

New Data

American suggested the Department collect aircraft-type data along with the other proposed data elements, as a means of increasing the utility of the data.

The Department agrees with American that aircraft-type data are useful for tracking the number of passengers affected by aircraft delays. However, the Department can convert tail-number information into aircraft-type data using the aircraft inventory data base maintained from the carriers' Schedule B-43 *Inventory of Airframes and Aircraft Engines* and B-7 *Airframe and Aircraft Engine Acquisitions and Retirements*. These schedules provide aircraft type by tail number. Thus, DOT does not need air carriers to supply aircraft-type information with its Part 234 submission.

Definitions

Delta suggested minor changes or clarifications to some of the definitions in the proposed rule. Delta recommended RSPA clarify whether days mean calendar days or twenty-four hour periods. Delta also recommended RSPA revise "diverted flight" to read: "A diverted flight means a flight which is not operated from the originating point(s) to each of the destinations set forth in the carrier's published schedule."

The Department agrees with Delta's comments concerning the definitions, and has amended the definitions in the

final rule to show "days" mean calendar days; and "diverted flight" means a flight operated from the scheduled origin point to a point other than the scheduled destination point in accordance with the carrier's published schedule. Also, since the ensuing flight segment from the nonscheduled destination airport is not a scheduled departure, that flight segment is not reported under Part 234.

Technical Directive

A Technical Directive was issued with the original rule in 1987 (Appendix I-Reporting Directive-Office of Aviation Information Management, RSPA, 52 FR 34073, September 9, 1987), which instructed carriers on the proper reporting format. Since then, the Technical Directive has been updated by other accounting and reporting directives, which were issued by OAS. RSPA will reissue the Technical Directive to the industry concurrently with the publication of this rule in the *Federal Register*. The reissued Technical Directive includes the changes made in this rulemaking and other effective revisions made in previous Accounting and Reporting Directives. The major revision in the Technical Directive is in the ADP area.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was subject to review by the Office of Management and Budget.

This rule is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). The purpose of the rule is to improve consumer information on carrier on-time flight performance while, at the same time, reducing carrier costs for providing such information and providing the FAA with the necessary data to reduce flight delays. These objectives will be achieved by amending 14 CFR Part 234. The savings would be derived from the decrease in air traffic delays, resulting from FAA's more efficient management of air traffic. The FAA estimated a mere 1 percent reduction in delays would produce a cost savings of \$85 million to the public and industry. According to a study conducted by FAA's Information Systems Branch, the total cost of air traffic delays for calendar year 1990 was \$8.5 billion. More recently, on May 27, 1993, in testimony before the National Commission to Ensure a Strong

Competitive Airline Industry, Mr. Joseph M. Del Balzo, the FAA's Acting Administrator, stated the ATA estimates that air traffic delays impose annual costs of \$8 billion on the nation's airlines and air travelers.

The industry-wide cost for adding the three data items at issue would be a one-time programming and testing cost of approximately \$34,000, ten carriers at \$3,400 per carrier. Once the programming is in place, the annual cost to the carriers would be approximately \$1,000 per carrier. The economic benefits to the industry, as well as to the consumer, far outweigh the cost of supplying the data. Eliminating the exclusion of flights that are delayed by mechanical problems in the carriers' on-time performance reports should result in a net savings to the air carriers. Delta stated that the mechanical exclusion has caused it to incur unnecessary expenses. While the elimination of the mechanical exclusion will require carriers to report more data to DOT, the carriers will not be required to identify the cause of the delays and to filter out those flights delayed by mechanical problems. The end result will be better consumer information and a cost savings to the reporting air carriers. The NPRM estimated the elimination of the mechanical exclusion should save the airline industry at least \$154,000. Although the Department encouraged carriers to comment on this estimate, Delta was the only carrier that did; however, Delta did not quantify costs. A regulatory evaluation has been prepared and placed in the rulemaking docket. In the notice of proposed rulemaking, the Department estimated there was a potential annual savings to the airline industry and to the general public of \$85 million.

This rule is consistent with the objectives of the executive order because the rule creates market based incentives for carriers to improve their on-time flight performance by providing consumers with superior information with which to make informed choices.

The amendments to 14 CFR Part 234 enable the Department to readily verify that the carriers are in compliance with the reporting requirements. The Department will be able to match a carrier's reported flights with the carrier's scheduled flights as listed in the *Official Airline Guide*. Previously, such a matching was not possible, because carriers did not report qualifying mechanical delays and mechanical cancellations.

Title 14 CFR Part 234 does not specify an on-time flight performance standard which carriers must meet. Rather, the carriers' reports provide consumers with

information on carrier performance, which the consumer may use in carrier selection.

On-time flight performance data are pertinent information for state or local airport operators. The Port Authority filed in support of the amendments to 14 CFR 234.

The amendments to 14 CFR Part 234 simplify carrier reporting by eliminating the special, and sometimes complicated, treatment of flights affected by mechanical delays.

The three new data items were added at the request of the FAA, who will now be able to use the existing data base as a more complete source of information for airport and enroute delay studies. This action negates the need for the FAA to create a data base of its own.

Executive Order 12612

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

Regulatory Flexibility Act

I certify this final rule will not have a significant economic impact on a substantial number of small entities. The amendments will affect only large certificated U.S. air carriers accounting for at least 1 percent of U.S. domestic scheduled passenger revenues (over \$450 million annually for the 12 months ended March 31, 1993). The Department's economic regulations define "large certificated air carrier" to include U.S. air carriers holding a certificate issued under section 401 of the Federal Aviation Act of 1958, as amended, that operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds. Consequently, small carriers are not affected by this final rule.

Paperwork Reduction Act

The reporting and recordkeeping requirements associated with this rule were sent at the NPRM stage to the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2138-0041. The final rule adopts those requirements. OMB has approved 14 CFR Part 234 through July 31, 1995. ADMINISTRATION: Research and Special Programs Administration; TITLE: Airline Service Quality Performance Reports; NEED FOR INFORMATION: Consumer Information and Flight Data for Air Traffic Control; PROPOSED USE OF

INFORMATION: Consumer Publications and Modeling for Studying and Reducing Air Traffic Delays; FREQUENCY: Monthly; BURDEN ESTIMATE: 1,780; AVERAGE BURDEN HOURS PER RESPONDENT 178. For further information contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001, (202) 366-4735 or Transportation Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

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 2137-AB94 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 234

Advertising, Air carriers, Consumer protection, Reporting requirements, Travel agents, Mishandled baggage reports.

Final Rule

Accordingly, RSPA amends 14 CFR Part 234 Airline Service Quality Performance Reports as follows:

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS—[AMENDED]

1. The authority for Part 234 is revised to read as follows:

Authority: 49 U.S.C. 40101, 40114, 41702, 41708 and 41712; 5 U.S.C. 553(e) and 14 CFR 302.38.

2. Section 234.2 Definitions is amended by revising the definitions of *reportable flight* and *reporting carrier*; removing the definitions of *mechanical delay* and *mechanical cancellation*; and adding new definitions in alphabetical order as follows:

§ 234.2 Definitions.

For the purpose of this part: *Cancelled flight* means a flight operation that was not operated, but was listed in a carrier's computer reservation system within seven calendar days of the scheduled departure.

Discontinued flight means a flight dropped from a carrier's computer reservation system more than seven calendar days before its scheduled departure.

Diverted Flight means a flight which is operated from the scheduled origin

point to a point other than the scheduled destination point in the carrier's published schedule. For example, a carrier has a published schedule for a flight from A to B to C. If the carrier were to actually fly an A to C operation, the A to B segment is a diverted flight, and the B to C segment is a cancelled flight.

Extra-section flight means a flight conducted as an integral part of scheduled passenger service, that has not been provided for in published schedules and is required for transportation of traffic that cannot be accommodated on the regularly scheduled flight.

* * * * *

Reportable flight means any nonstop flight, including a mechanically delayed flight, to or from any airport within the contiguous 48 states that accounts for at least 1 percent of domestic scheduled-passenger enplanements in the previous calendar year, as reported to the Department pursuant to Part 241 of this title. Qualifying airports will be specified periodically in accounting and reporting directives issued by the Office of Airline Statistics.

Reporting carrier means an air carrier certificated under section 401 of the Federal Aviation Act of 1958 that accounted for at least 1 percent of domestic scheduled-passenger revenues in the 12 months ending March 31 of each year, as reported to the Department pursuant to Part 241 of this title. Reporting carriers will be identified periodically in accounting and reporting directives issued by the Office of Airline Statistics.

Wet-leased flight means a flight operated with a leased aircraft and crew.

3. Section 234.4 is amended by revising paragraphs (a) and (b), redesignating paragraphs (c) and (d) as (e) and (f), respectively, and adding new paragraphs (c) and (d) to read as follows:

§ 234.4 Reporting of on-time performance.

(a) Each reporting carrier shall file RSPA Form 234 "On-Time Flight Performance Report" with the Office of Airline Statistics on a monthly basis, setting forth the information for each of its reportable flights held out in the *Official Airline Guide* (OAG), in the computer reservations systems (CRS), or in other schedule publications. The reportable flights include, but are not limited to, cancelled flights, mechanically cancelled flights, diverted flights, new flights and wet-leased flights. The report shall be made in the form and manner set forth in accounting and reporting directives issued by the Director, Office of Airline Statistics, and shall contain the following information:

- (1) Carrier and flight number.
- (2) Aircraft tail number.
- (3) Origin and Destination airport codes.
- (4) Published OAG departure and arrival times for each scheduled operation of the flight.
- (5) CRS scheduled arrival and departure time for each scheduled operation of the flight.
- (6) Actual departure and arrival time for each operation of the flight.
- (7) Difference in minutes between OAG and CRS scheduled arrival times.
- (8) Difference in minutes between OAG and CRS scheduled departure times.
- (9) Actual wheels-off and wheels-on times for each operation of the flight.
- (10) Date and day of week of scheduled flight operation.
- (11) Scheduled elapsed time, according to CRS schedule.
- (12) Actual elapsed time.
- (13) Amount of departure delay, if any.
- (14) Amount of arrival delay, if any.
- (15) Amount of elapsed time difference, 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.

(c) A reporting carrier shall report the information specified in paragraph (a) of this section for a new flight beginning with the first day of the new scheduled operation.

(d) A reporting carrier shall not report the information specified in paragraph (a) of this section for any discontinued or extra-section flight.

* * * * *

4. Section 234.5 is revised to read 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 Statistics on ADP computer tape in the format specified in accounting and reporting directives issued by the Director of that office.

5. Section 234.6 is revised to read as follows:

§ 234.6 Baggage-handling statistics.

Each reporting carrier shall report monthly to the Department on a domestic system basis, excluding charter flights, the total number of passengers enplaned systemwide, and the total number of mishandled-baggage reports filed with the carrier. The

information shall be submitted to the Department within 15 days of the end of the month to which the information applies and must be submitted with the transmittal letter accompanying the data for on-time performance in the form and manner set forth in accounting and reporting directives issued by the Director, Office of Airline Statistics.

6. Section 234.8 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 234.8 Calculation of on-time performance codes.

(a) Each reporting carrier shall calculate an on-time performance code in accordance with this section and as provided in more detail in accounting and reporting directives issued by the Director, Office of Airline Statistics. The calculations shall be performed for each reportable flight, except those scheduled to operate three times or less during a month. In addition, each reporting carrier shall assign an on-time performance code to each of its single plane one-stop or multi-stop flights, or portion thereof, that the carrier holds out to the public through a CRS, the last segment of which is a reportable flight.

(b) The on-time performance code shall be calculated as follows:

(1) Based on reportable flight data provided to the Department, calculate the percentage of on-time arrivals of each nonstop flight. Calculations shall not include discontinued or extra-section flights for which data are not reported to the Department.

* * * * *

7. Section 234.12 is revised to read as follows:

§ 234.12 Waivers.

Any carrier may request a waiver from the reporting requirements of this part. Such a request, at the discretion of the Administrator, Research and Special Programs Administration, may be granted for good cause shown. The requesting party shall state the basis for such a waiver.

Issued in Washington, D.C. on September 23, 1994.

D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 94-24169 Filed 9-29-94; 8:45 am]

BILLING CODE 6901-05-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 778 and 799

[Docket No. 940975-4275]

Missile Technology Control Regime (MTCR); Revisions to the CCL

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising certain entries of the Commerce Control List (CCL) to conform with changes to the Missile Technology Control Regime (MTCR) Equipment and Technology Annex. The MTCR is a multilateral forum; participating countries agree to control items contained on the Annex in order to limit proliferation of missiles capable of delivering weapons of mass destruction. Most of these revisions are based on technical consultations with MTCR countries held in September 1993, in London, and in December 1993, in Interlaken. Additionally, this rule makes other corrections and clarifications needed to make the CCL conform to the Annex. The revisions to the CCL made by this rule help to ensure that the items controlled by the United States in meeting its MTCR obligations are similar to those controlled by other MTCR participating countries.

EFFECTIVE DATE: This rule is effective September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Bruce Webb, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482-3806.

SUPPLEMENTARY INFORMATION:

Background

This rule amends Part 778 to clarify missile technology licensing policy. Many of the changes to the Commerce Control List (CCL) made by this rule, directly reflecting changes in the MTCR Annex, consist of technical refinements that more precisely identify items controlled for missile technology reasons. The technical refinements in Category 1 either change certain paragraphs or add clarifying notes.

In other cases, the CCL has been brought into line where it had diverged from the Annex. In Category 3, 3A01.a.1.a replaces 3A01.a.1, and resulting changes occur in 3D21 and 3E01. As telemetering and telecontrol