

- (n) Travel agency services; and
- (o) Trust and trust-related services;
- (1) Acting as administrator for prepaid legal service plans;
- (2) Acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; and
- (3) Trust services.

§ 712.6 What activities and services are prohibited for CUSOs?

CUSOs must not engage in the activities or services of depository financial institutions, insurance companies, trade associations, liquidity facilities, and similar entities.

§ 712.7 What must you do to add activities or services that are not preapproved?

In order for you to invest in and/or loan to a CUSO that offers the unpreapproved activity or service, you must first receive NCUA Board approval. Your request for NCUA Board approval of a new activity or service should include a full explanation and complete documentation of the activity or service and how that activity or service is associated with routine credit union operations. Your request should be submitted jointly to your Regional Office and to the Secretary of the Board. Your request will be treated as a petition to amend § 712.5 and NCUA will request public comment or otherwise act on the petition within 60 days after receipt.

§ 712.8 What transaction and compensation limits might apply to individuals related to you or a CUSO?

(a) *Officials and senior management employees.* Your officials, senior management employees, and their immediate family members must not receive any salary, commission, investment income, or other income or compensation from a CUSO either directly or indirectly, or from any person being served through the CUSO. This provision does not prohibit your officials or senior management employees from assisting in the operation of a CUSO, provided your officials or senior management employees are not compensated by the CUSO. For purposes of this paragraph (a), "official" means your directors or committee members. For purposes of this paragraph (a), "senior management employee" means your chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller). For purposes of this paragraph (a), "immediate family member" means a spouse or other

family members living in the same household.

(b) *Employees.* The prohibition contained in paragraph (a) of this section also applies to your employees not otherwise covered if the employees are directly involved in dealing with the CUSO unless your board of directors determines that your employees' positions do not present a conflict of interest.

(c) *Others.* All transactions with business associates or family members of your officials, senior management employees, and their immediate family members, not specifically prohibited by paragraphs (a) and (b) of this section must be conducted at arm's length and in your interest.

§ 712.9 When must you begin compliance with this part?

(a) *Investments.* Your investments in existence prior to [the effective date of the final regulation], must conform with this part not later than [the effective date of the final regulation], unless the Board grants its prior approval to continue such investment for a stated period.

(b) *Loans.* Your loans in existence prior to [the effective date of the final regulation] must conform with this part not later than [the effective date of the final regulation], unless:

(1) The Board grants its prior approval to continue your loan for a stated period; or

(2) Under the terms of its loan agreement you cannot require accelerated repayment without breaching the agreement.

PART 740—ADVERTISING

5. The authority citation for Part 740 continues to read as follows:

Authority: 12 U.S.C. 1766, 1781, 1789 and 4311.

6. Section 740.3(c) is revised to read as follows:

§ 740.3 Mandatory requirements with regard to the official sign and its display.

* * * * *

(c) An insured credit union shall not receive account funds at any teller's station or window where any noninsured credit union or institution receives deposits. Excepted from this prohibition are credit union centers, service centers, or branches servicing more than one credit union where only some of the credit unions are insured by the NCUA. In such instances there must be placed immediately above or beside each official sign another sign stating "The following credit unions serviced by this facility are not federally insured

by the NCUA _____." (the full legal name of each credit union and the city and state of its principal office will follow the word NCUA each time it appears). The lettering will be of such size and print to be clearly legible to all members conducting share or share deposit transactions.

* * * * *

[FR Doc. 97-6374 Filed 3-12-97; 8:45 am]

BILLING CODE 7535-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 243

[Docket No. OST-97-2198, Notice No. 97-4]

RIN 2105-AC62

Domestic Passenger Manifest Information

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This ANPRM requests information concerning operational and cost issues related to U.S. air carriers collecting basic information (e.g., full name, date of birth and/or social security number, emergency contact and telephone number) from passengers traveling on flights within the United States. This proposal is being issued pursuant to the Aviation Disaster Family Assistance Act of 1996. This law was passed to address the difficulties associated with notification of families in the aftermath of domestic aviation crashes. This proposal is also being issued to fulfill a recommendation contained in the Initial and Final Reports of the White House Commission on Aviation Safety and Security that urges the Department to explore the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system.

DATES: Comments must be received by May 12, 1997.

ADDRESSES: Comments on this advance notice of proposed rulemaking should be filed with: Docket Clerk, U.S. Department of Transportation, Room PL-401, Docket No. OST-97-2198, 400 7th Street, SW., Washington, DC 20590. Five copies are requested, but not required.

FOR FURTHER INFORMATION CONTACT: Dennis Marvich, Office of International Transportation and Trade, DOT, (202) 366-4398; or, for legal questions, Joanne

Petrie, Office of the General Counsel, DOT, (202) 366-9306.

SUPPLEMENTARY INFORMATION: The Department of Transportation is requesting comment on cost and operational issues related to compiling more complete passenger manifests in domestic air transportation.

The Problem

Families and loved ones of the victims of aviation disasters want to know, as quickly as possible, whether their family member was on board the flight. There have, however, been difficulties in the aftermath of past aviation disasters in immediately determining who was on the airplane and in notifying family members. Air carriers usually have on hand records that identify those passengers that actually boarded the aircraft listed by their surnames and first initials, and these records must be matched with associated ticket information in order to compile a verified manifest. The search then begins for additional information to determine the full name of the passengers on the verified manifest, and for information that could identify family contacts. Passenger information that could identify family contacts may not be immediately accessible to the airline if the passenger made his or her reservation through a travel agent (as we understand about 75 percent do). Information from inquiries received by the air carrier from individuals that think that a family member may have been on board the flight is accumulated and used in the search. As sufficient information accumulates, the families of passengers are notified on a rolling basis, and those for whom more information may be available and accessible, such as passengers with frequent flyer accounts, usually would be notified first. All of the procedures leading to family notification outlined above take time. Congress has placed a renewed emphasis on notification and other issues involving the treatment of families of victims of aviation disasters in recent legislation and the White House Commission on Aviation Safety and Security reinforced Congress' concern in its recommendations. The purpose of this advance notice of proposed rulemaking is to gather information to help DOT determine what, if any, regulatory actions it should take to address the problem of quickly notifying the families of victims of domestic aviation disasters.

Statutory Authority

The Aviation Disaster Family Assistance Act of 1996 (Pub. L. 104-264, October 9, 1996) was passed to

address the difficulties of the notification of families in the aftermath of domestic aviation crashes. It directs the Secretary to form a task force to, among other things, improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident. Further, one section of the Act, codified at 49 USC 41113, requires an air carrier to develop a plan for addressing family needs in the event of a major crash, including providing a list of passengers to the NTSB. This ANPRM will provide information to the task force needed to make the recommendations required in the legislation.

Finally, the Office of the Secretary (OST) has broad regulatory authority to ensure safe and adequate service in aviation. 49 USC 41702 provides that "[a]n air carrier shall provide safe and adequate interstate air transportation." The Office of the Secretary has broad rulemaking powers under 49 USC 40113 to "take action the Secretary * * * considers necessary to carry out this part, including * * * prescribing regulations, standards, and procedures, and issuing orders."

The Secretary also has broad authority to prescribe reporting and record-keeping requirements. 49 USC 41708 provides that "the Secretary may require an air carrier or foreign air carriers to file annual, monthly, periodical, and special reports with the Secretary in the form and the way prescribed by the Secretary." 49 USC 41709 further provides that the Secretary shall prescribe the form of records to be kept by an air carrier and that the Secretary may inspect those records at any time. 49 USC 41711 provides that the Secretary "may inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry." In terms of enforcement, the Secretary has broad authority under 49 USC 46301, 46310 and 46316 to assess appropriate civil and criminal penalties for failure to comply with regulations.

Related DOT Requirements

14 CFR 121.693(e), which is administered by the Federal Aviation Administration (FAA), requires certificated operators of large aircraft to collect passenger names for each scheduled and charter flight. The provision does not, however, require full name of passengers or additional information such as phone number of

emergency contact. The provision further states that the aircraft load manifest must include passenger names "unless such information is maintained by other means" by the carrier. In most cases, carriers use other means such as the ticket list. In addition, in recent years, air carriers have begun to routinely check identification for every passenger. There is currently no requirement that airlines record or copy information from this identification into their records.

Regulatory History

Aviation Disasters Outside the United States

The problems of passenger identification and family notification after an aviation tragedy that occurred outside the United States first gained widespread attention after the tragic bombing of Pan American Flight 103 over Lockerbie, Scotland on December 21, 1988. The President's Commission on Aviation Security and Terrorism made recommendations concerning passenger manifests in international air travel, part of which Congress enacted as section 203 of Public Law 101-604 (49 USC 44909). This section provides that:

the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State (1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

The statute requires that the passenger manifest information include the full name of each passenger; the passport number of each passenger, if a passport is required for travel; and, the name and telephone number of an emergency contact for each passenger. The statute further notes that the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to the passenger manifest requirements. Finally, the statute provides that the Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed on U.S. air carriers.

DOT published an advance notice of proposed rulemaking (ANPRM) on January 31, 1991 (56 FR 3810) that requested comments on how best to

implement the statutory requirements. During the course of President Bush's "Regulatory Moratorium and Review" in 1992, DOT requested comments on its regulatory program and received several additional comments on the passenger manifest information requirement. Many of the comments received in response to the ANPRM and the Regulatory Moratorium and Review indicated that implementing a passenger manifest requirement would be very costly. In light of these and other comments, and the fact that aviation disasters occur so infrequently, DOT continued to examine whether there was a low-cost way to implement a passenger manifest requirement.

When American Airlines Flight 965, which was flying from Miami to Cali, Colombia, crashed near Cali on December 20, 1995, there were significant delays in providing the State Department with a complete passenger manifest. On March 29, 1996, DOT held a public meeting on implementing the statutorily-mandated passenger manifest requirement. The notice announcing the public meeting (61 FR 10706, March 15, 1996) listed ten questions concerning information availability and current notification practices, privacy considerations, similar information requirements, information collection techniques, and costs of collecting passenger manifest information, and formed the focus of the meeting. The meeting was attended by approximately 80 people, and discussion lasted nearly 5 hours and covered a wide variety of topics. At the end of the meeting, it was the consensus that one or more working groups headed by the Air Transport Association would be formed to further explore some of the issues raised.

On September 9, 1996, Vice President Al Gore submitted an initial report to President Clinton from the White House Commission on Aviation Safety and Security. Among the twenty recommendations contained in the report was a recommendation to improve passenger manifests. Recommendation 15 states:

The Commission believes that Section 203 of the 1990 Aviation Security Improvement Act, which requires airlines to keep a comprehensive passenger manifest for international flights, should be implemented as quickly as possible. While Section 203 does not apply to domestic flights, the Commission urges the Department of Transportation to explore immediately the costs and effects of a similar requirement on the domestic aviation system.

The Final Report of the Congress, issued February 12, 1997, contained the same recommendation.

On September 10, 1996, DOT published a notice of proposed rulemaking (61 FR 47692) that proposed to require that each air carrier and foreign air carrier collect basic information from specified passengers traveling on flight segments to or from the United States. U.S. carriers would collect the information from all passengers and foreign air carriers would only be required to collect the information for U.S. citizens and lawful permanent residents of the United States. The information would include the passenger's full name and passport number and issuing country code, if a passport were required for travel. Carriers would be required to deny boarding to passengers who do not provide this information. In addition, airlines would be required to solicit the name and telephone number of a person or entity to be contacted in case of an aviation disaster. Airlines would be required to make a record of passengers who decline to provide an emergency contact. Passengers who decline to provide emergency contact information would not, however, be denied boarding. In the event of an aviation disaster, the information would be provided to DOT and the Department of State to be used for notification. DOT proposed to allow each airline to develop its own procedures for soliciting, collecting, maintaining and transmitting the information. The notice requested comment on whether passenger date of birth should be collected, either as additional information or as a substitute for required information (e.g. passport number/passport number and issuing country code), and on whether U.S. airlines should be required to collect country of citizenship from passengers on flights where a passport is not required for travel. Were the proposed rule in effect in 1994, about 72 million passenger (one-way) trips on flights to and from the United States would have been covered, and, based on this number of annual passenger trips, DOT estimated in the notice that collecting passenger manifest information, excluding date of birth information, would cost about \$28 million to \$45 million per year for air carriers, travel agents, and passengers (passengers' cost is for passengers' time foregone). One-time costs to reprogram air carrier computer reservations systems (CRSs) and departure control systems (DCSs) were estimated to be about \$30.5 million. The cost per passenger one-way trip was estimated to range between about \$0.39 and \$0.63, and the cost of an enhanced notification of a family

under the proposed rule, on a per victim basis, was estimated to range between about \$238,000 and \$364,000. The comment period for the NPRM closed on November 12, 1996.

Domestic Aviation Disasters

The welfare of families in the aftermath of domestic aviation disasters, such as those that occurred in Charlotte, NC, Aliquippa, PA, and Roselawn, IN, in 1994, and in Miami, FL, in 1996, has been a concern of DOT. Representatives of DOT have visited domestic crash sites, met with family members of victims, and worked with air carriers and with other interested U.S. Government agencies on the issues that arise in the aftermath of an aviation disaster.

The treatment of the families of victims in the aftermath of the ValuJet Flight 592 aviation disaster on May 11, 1996, in which 105 passengers perished, prompted a Congressional hearing on June 13, 1996, before the House Aviation Subcommittee on the "Treatment of Families of Victims After ValuJet 592". The hearing dealt with procedures and coordination in the aftermath of the ValuJet aviation disaster in Miami specifically, and domestic aviation disasters generally, including the notification of the families of victims. During the hearing, members of Congress made several points regarding notification of victims' families of aviation disasters. One said that in the aftermath of a crash three things needed to be known: (1) was a family member on the flight?; (2) was he or she alive?; and (3) could family members get to the site? This Member said that perhaps manifests needed to be within the purview of the U.S. Government and that it seemed that airlines ought to know who is on a flight of any substantial length. Another Member said that many of the same types of problems mentioned in the hearing were explored in detail in the aftermath of the 1988 Pan Am 103 aviation disaster over Lockerbie, Scotland; that a study commission was put together; and that the results of the study commission were contained in the "Report of the President's Commission on Aviation Security and Terrorism" and were put into law in the Aviation Security Improvement Act of 1990 (Pub.L. 101-604). This Member said that Public Law 101-604 should be examined to see how it could be adapted to domestic crashes. Later, this Member said that it was understood that there would be costs of having good manifest information on hand, but that the financial burdens must be faced up to by the airlines. A third Member

wanted airlines to work on getting a manifest quickly. One of the family members who testified said that it was distressing to not know who was on the plane, in terms of the suffering of the family members of victims, but also in terms of thinking of the security risks to U.S. borders from not knowing. This family member went on to say that airlines know with certainty the identities of about 75 percent of passengers on international flights, and about 60 percent on domestic flights. This witness said that, as a frequent flyer, the airlines maintain much personal information on the witness, and that if the airlines had incentives to do so, they would be able to access frequent flyer information in the aftermath of crashes.

On July 17, 1996, TWA Flight 800, which was flying from New York to Paris, went down off Long Island, New York. There were 230 passenger fatalities. Local government officials publicly commented on difficulties in determining exactly who was on board the flight and in compiling a complete, verified manifest. (Although this was an international flight, the crash occurred in U.S. territorial waters and, therefore, the Department of State had no specific role in family notification and facilitation for U.S. citizens.)

The TWA Flight 800 accident focused attention on the security aspects of air transportation and dramatized the problems related to prompt notification. After the crash, there were a series of Congressional hearings on the need for increased security on the U.S. domestic and international air systems. On July 25, 1996, President Clinton promised that "we will require pre-flight inspections for any plane flying to or from the United States—every plane, every cabin, every time." The next day the FAA issued the directives to make this happen, and today the FAA and the airlines are doing it.

The White House Commission on Aviation Safety and Security was formed by E.O. 13015 of August 22, 1996, to advise the President on matters involving aviation safety and security, both domestically and internationally. It was directed to recommend to the President a strategy designed to improve aviation safety and security, both domestically and internationally. During the course of deliberations by the White House Commission on Aviation Safety and Security, and in other fora mentioned above, families of past victims of aviation disasters were able to discuss the problems associated with the post-aviation-disaster notification of and continuing

communication with the families of victims of aviation disasters.

As mentioned above, Vice President Al Gore transmitted the Initial Report of the White House Commission on Aviation Safety and Security to President Clinton on September 9, 1996. Recommendation 15 of the Initial Report states, in part:

* * * the Commission urges the Department of Transportation to explore immediately the costs and effects of a similar [passenger manifest] requirement on the domestic aviation system.

The President accepted the recommendations contained in this initial report, and on September 9 issued a Memorandum on the Assistance to Families Affected by Aviation and Other Transportation Disasters to the Secretaries of State, Defense, Health and Human Services, and Transportation, the Attorney General, and the Chairman of the National Transportation Safety Board (NTSB). The Memorandum invests NTSB with the clear responsibility, authority, and capacity to assist families of passengers involved in domestic disasters not determined to be criminal. Pursuant to the recommendation above, the purpose of this ANPRM is to request comment on cost and operational issues related to collecting more complete passenger manifest information in domestic air transportation.

The Aviation Disaster Family Assistance Act of 1996, passed following Congressional hearings on the treatment of families of victims of aviation disasters, requires the Department to submit a report to Congress on the subject. The information the DOT seeks in this ANPRM will allow DOT to analyze the data and submit the required report.

Overview: Passenger Manifests and the Domestic Air Transportation System

The United States leads the world in innovations within its domestic air transportation system. It was the first country to introduce widespread deregulation within its domestic air transportation system, and the overall efficiency of the U.S. system is held up as an example to other countries. The efficiency of the U.S. domestic air transportation system results in low fares, which enable more passengers to travel by air, the safest mode of travel. To achieve these results, the U.S. domestic air transportation system has evolved into one that generally requires precise coordination and timing of operations. In this evolved system, air carriers employ often hub-and-spoke networks in which connecting traffic is

fed at hub airports either to the originating carrier (on-line service) or to affiliated carriers (intra-line service), engage in point-to-point service operations (including shuttle services) that employ fast turnarounds, and (much less frequently) offer services that connect with one or more different airlines (interline service).

The U.S. domestic aviation passenger market was served in 1995 by nine major air carriers, 21 national air carriers, 12 large regional air carriers, and 132 medium regional air carriers. Of the 132 medium regional air carriers, 18 used large aircraft seating over 60 passengers and 114 used small aircraft seating less than 60 passengers. (The latter can, alternatively, be classified as commuters). The air carriers listed above enplaned about 541 million passengers in 1995. In addition to enplanement data, data on passenger origins to destinations on the larger carriers listed above are also available. Such data subsume the fact that a single passenger trip may involve more than one flight segment, and, for 1995, show that about 358.5 million domestic passenger trips took place on the U.S. domestic aviation system. The number of aircraft departures for the carriers identified above in 1995 was about 10.8 million.

To complete the picture of the U.S. domestic aviation system, we estimate that, in addition to the 174 carriers identified above, there were about 3100 charter air taxis operating in the U.S. domestic market in 1995. Data on the operations of these charter air taxis are not systematically kept, however, and are not provided here or included in any of the figures given above.

Economic Considerations

This rulemaking is significant under E.O. 12866 and the Department of Transportation's regulatory policies and procedures because of public and Congressional interest associated with the potential rulemaking action. It is anticipated that an eventual rule will impose costs of more than \$100 million per year on air carriers, travel agents, and passengers, and thus will be a major rulemaking. The ANPRM has been reviewed by the Office of Management and Budget under E.O. 12866.

For purposes of this ANPRM, DOT has developed initial estimates of the costs of a domestic passenger manifest information requirement. These estimates were derived by modifying for the present (domestic) case the underlying economic model that was used to estimate the costs of a proposed passenger manifest information requirement on flights to and from the

United States (as mentioned above, the NPRM was published on September 10, 1996 [61 FR 47692]). A copy of the Preliminary Regulatory Evaluation, which goes into detail regarding the methodology used there, is available in DOT Docket OST 95-950.

In the estimates below, no fixed costs are included. None are included primarily in order to avoid possible double counting of fixed costs regarding compliance with international and domestic passenger manifest information requirements. That is, it may be that the modifications to air carrier computer reservation systems (CRSs) and departure control systems (DCSs) that would be required to comply with any DOT final rule regarding international passenger manifest information will also allow many air carriers to comply with a domestic passenger manifest information with few or no additional modifications and costs.

Two sets of estimates will be given for the domestic case. In the first, it is assumed that passenger manifest information is collected from each passenger (either once or twice per round trip) each time that the passenger travels. In the second, this same assumption applies to non-frequent-flyer passengers. For frequent flyers, however, it is assumed that air carriers maintain full passenger manifest information in their files, and that when a frequent flyer travels, the air carrier needs only to confirm the passenger manifest information once per round trip. It is assumed that one-half of all domestic trips are taken by frequent flyers.

In both sets of estimates, it is assumed that passenger manifest information consists of four pieces of information (passenger full name, date of birth or social security number, contact name and contact telephone number). It is assumed that it would take air carriers or travel agents ten seconds to solicit and collect each of the four pieces of information at the time of either reservation or check-in, two seconds to just solicit each piece of information at the time of reservation, and five seconds to verify each piece of information for

frequent flyers at the time of reservation. The number of passenger trips based on origin to destination data, 358.5 million, is used in the estimates. In so doing, the implicit assumption is being made that domestic passenger manifest information can be costlessly shared among any carriers that are involved in a single passenger trip.

DOT estimates that for the case (Case 1), where it is assumed that domestic passenger manifest information is collected from each passenger (either once or twice per round trip) each time that the passenger travels, that the total annual recurring costs of a domestic passenger manifest requirement would be between \$108.7 and 217.5 million. These costs would break down as follows: air carriers \$18.9 to 37.9 million per year, travel agents \$13.1 to 26.2 million per year, and passengers (the value of time forgone while providing information) \$76.7 to 153.3 million per year. The first year cost (without any fixed cost included) for Case 1 would be \$103.8 to 207.6 million. The present value over ten years of the costs for Case 1 would be \$701.5 million to 1.4 billion.

DOT estimates that for the case (Case 2), where it is assumed that one-half of all domestic passenger trips are taken by frequent flyers and air carriers maintain full passenger manifest information in their files for frequent flyers and only need to confirm the passenger manifest information once per round trip, that the total annual recurring costs of a domestic passenger manifest requirement would be between \$79.1 and \$158.2 million. These costs would break down as follows: air carriers \$11.3 to 22.6 million per year, travel agents \$12.0 to 24.1 million per year, and passengers (the value of time forgone while providing information) \$55.8 to 111.5 million per year. The first year cost (without any fixed cost included) for Case 2 would be \$75.5 to 151.0 million. The present value over ten years of the costs for Case 1 would be \$510.1 million to 1.0 billion.

According to aviation accident statistics available on-line from the National Transportation Safety Board, over the past 10 years there have been

1,156 passenger fatalities on the types of carriers included in the costs above—all domestic air carriers except for on-demand air taxis. Dividing the present value of the costs of a domestic passenger manifest requirement by the number of these fatalities gives the cost, on a per-victim basis, of the enhanced notifications of families that could be expected from implementing a domestic passenger manifest information requirement. For the passenger manifest information requirement in Case 1 above, this figure is \$606,800 to \$1.2 million. For the passenger manifest information requirement in Case 2 above, this figure is \$441,300 to \$882,700.

Another perspective on the costs of a domestic passenger manifest information requirement can be provided by dividing the recurring costs of the requirement by the number of annual passenger trips taken, as if passengers would end up paying all the costs of such a requirement. The cost per one-way passenger trip for Case 1 above is \$0.30 to 0.61 and for Case 2 it is \$0.22 to \$0.44. These numbers would double if the calculation were being performed for round trips.

Finally, changes in the amount of time that it is assumed to take to collect passenger manifest information have large implications for the figures given above. The following are sensitivity analyses of Case 1 and Case 2 based on varying the time to solicit and collect each piece of passenger manifest information from 10 to 15 seconds. The time to just solicit each piece of information varies as one-fifth of the amount of time to both solicit and collect it, and the time to confirm frequent flyer information varies as one-half of the time to both solicit and collect it. Headings in the table are the total time to solicit and collect all four pieces of passenger manifest information. The low and high estimates are for situations where passenger manifest information is collected one and two times per round trip, respectively. In Case 2, it is always assumed that frequent flyer information is confirmed only, and that this is done once per round trip.

Type of cost	Seconds to solicit and collect passenger manifest information	
	40 sec.	60 sec.
Case 1		
Annual Recurring (low)	\$108.7 mil	\$163.1 mil.
Annual Recurring (high)	217.5 mil	326.2 mil.
US Air Carriers (low)	18.9 mil	28.4 mil.
US Air Carriers (high)	37.9 mil	56.8 mil.
Travel Agents (low)	13.1 mil	19.7 mil.

Type of cost	Seconds to solicit and collect passenger manifest information	
	40 sec.	60 sec.
Travel Agents (high)	26.2 mil	39.4 mil.
Passeng. time (low)	76.7 mil	115.0 mil.
Passeng. time (high)	153.3 mil	230.0 mil.
Per enhanced notification (low)	606,900	910,300.
Per enhanced notification (high)	1,213,700	1,820,600.
Per one-way trip (low)	0.30	0.46.
Per one-way trip (high)	0.61	0.91.
Case 2		
Annual Recurring (low)	79.1 mil	118.6 mil.
Annual Recurring (high)	158.2 mil	237.2 mil.
US Air Carriers (low)	11.3 mil	16.9 mil.
US Air Carriers (high)	22.6 mil	33.9 mil.
Travel Agents (low)	12.0 il	18.0 mil.
Travel Agents (high)	24.0 mil	36.1 mil.
Passeng. time (low)	55.8 mil	83.6 mil.
Passeng. time (high)	111.5 mil	167.3 mil.
Per enhanced notification (low)	441,300	662,000.
Per enhanced notification (high)	882,700	1,324,000.
Per one-way trip (low)	0.22	0.33.
Per one-way trip (high)	0.44	0.66.

Questions

In this ANPRM, DOT is interested in gathering up-to-date information on how it could implement a domestic passenger manifest information requirement so that U.S. air carriers can achieve the most effective transmission of information after a domestic aviation disaster at a cost that the general public and the aviation community will find reasonable. We would appreciate additional information in the form of answers to the following questions upon which to base our proposal. For clarity, we request commenters to note the question number in their response.

1. Basic Approach

This ANPRM envisions that both certificated and non-certificated (e.g., air taxis) U.S. passenger direct air carriers and indirect air carriers would compile passenger manifest information for all passengers on all domestic flight segments in the United States. The rule would apply to "air transportation" as defined in 49 USC 40102, and not to general aviation. Passengers would be defined broadly to include confirmed, ticketed passengers as well as standbys, walk-ups, lap infants, those rerouted from another flight or air carrier, and non-revenue passengers. At this time, we expect that the domestic passenger manifest information would consist of passenger: (1) full name; (2) date of birth (DOB) or social security number (SSN); (3) contact name; (4) contact telephone number. Further, we envision the information would be transmitted to the Department of Transportation and the National Transportation Safety Board as soon as possible, but no later than three

hours, after the aviation disaster. Please comment on the various elements of this approach. What is the difference in providing the information to DOT and the NTSB in one hour versus three hours?

2. Information Requirements and the Capacity of Computer Reservations Systems

Our understanding is that air carriers often only collect passenger last name and first initial for the manifest. By element, or overall for all elements, how long would it take to collect the additional passenger information that is outlined here? What are the practical implications of collecting the information outlined above, in particular DOB and SSN? Are any of the information elements substitutes for each other? Should passengers that refuse to provide domestic passenger manifest information be denied boarding? Were a domestic passenger manifest information requirement to be imposed, where would the information in practice be collected, at the time of reservation or at the time of check-in? Do Computer Reservation Systems (CRSs) have the capacity to hold the information that would be required by a domestic manifest information requirement? In considering the capacity of CRSs, is it more productive to think in terms of domestic passenger enplanements (e.g., 541 million in 1995) or domestic passenger trips based on origins to destinations (e.g., 385.5 million in 1995)?

3. Frequent Flyer Information and a Domestic Passenger Manifest Information Requirement

We understand that more extensive passenger information is kept on hand for frequent flyers, and that frequent flyers account for over one-half of all passengers traveling on the domestic operations of some U.S. air carriers. Are any of the information elements outlined above, as a matter of course, kept on hand for frequent flyers today? If so, which ones? Could the information above be added to existing frequent flyer information? Could frequent flyer information be accessed quickly in the aftermath of a domestic aviation disaster and, assuming passenger information similar to that outlined above were kept as part of frequent flyer information, be used to satisfy the requirements of a domestic passenger manifest information requirement?

4. Privacy Considerations and Fraud Issues

What privacy issues are raised by a domestic passenger manifest information requirement as outlined above? Will manifest information be subject to subpoena by private litigants and law enforcement agencies? What fraud issues, if any, are raised by implementing the above domestic passenger manifest information requirement? What are the implications for personal privacy that would result if air carriers were required to collect any of the following information from passengers: full name, date of birth, social security number, emergency contact and phone number? What types

of safeguards, if any, should be placed upon the passenger manifest information that is collected by air carriers?

5. Coverage of Domestic Passenger Manifest Information Requirement and the Differing Implications, if Any, for Different Types of Air Carriers That Would be Covered

We envision that all U.S. passenger air carriers and charter operators would be covered by a domestic passenger manifest information requirement: scheduled and charter air carriers, as well as air taxis and commuters. Are there categorically differing implications of imposing a domestic passenger manifest information requirement on these different types of carriers that are not taken into account elsewhere within these questions? If so, what are they?

6. Sharing of Domestic Passenger Manifest Information Within and Among Air Carriers

As outlined above, we envision that all air carriers would be covered by a domestic passenger manifest information requirement. That is, scheduled and charter air carriers would be covered, as would air taxis and commuters. Moreover, passenger manifest information would be expected to be on hand for passengers' journeys from beginning to end. Thus, passenger manifest information for the various legs of a journey could need to be shared internally within one air carrier (e.g. among, perhaps, various air carrier information systems including carrier internal reservations systems and Departure Control Systems [DCSs] and external Computer Reservation Systems [CRSs]), or among more than one carrier for code-share flights and interlined flights. Please specify in detail for each case how such information sharing would be accomplished, and outline any practical difficulties involved in such intra or intercarrier sharing of passenger manifest information? Indicate how such sharing would take place through domestic air carriers' Computer Reservation Systems (CRSs)? Could it be accomplished within existing CRS configurations or would the systems need to be changed and what would the changes consist of (be precise and concise in describing the changes and please present them in layman's language)? If changes would need to be made, please provide an estimate of the work that would be required to modify the CRSs and the cost to do so (break out specifics of any cost figures given).

7. Implications for Different Types of Air Carrier Operations (Point-to-Point) and the Current Frequency of Flights

The obvious implication of adding a domestic passenger manifest information requirement is that it would take time to collect passenger information, and that if the information were not collected before a passenger arrived at the airport, there could be implications for existing flight schedules. What effect would implementing a domestic passenger manifest information requirement along the lines outlined above have upon check-in deadlines and minimum connecting times? Domestic air carrier operations can be conceptualized as being either point-to-point or hub-and-spoke, with shuttle operations constituting a high-frequency sub-case of point-to-point operations. How would imposing a passenger manifest information requirement as outlined above affect air shuttle operations where passengers walk up to the flight without prior contact with the air carrier? Some air carriers have structured their operations around very high frequencies of flights that employ very fast airport turnarounds (some in the neighborhood of 20 minutes). How would imposing a passenger manifest information requirement as outlined above affect such air carriers with very high frequencies of flights or those with very fast turnarounds? How would imposing a passenger manifest information requirement as outlined above affect hub-and-spoke air carriers' operations and current times for connecting banks of flights? What would be the primary considerations for charter air carriers? How would the information be collected on a charter where the airline operates the flight but the charter operator sells the seats? Which party should be required to produce the manifest in the event of an aviation disaster?

8. Interactions Between Domestic Positive Baggage Matches and a Domestic Passenger Manifest Information Requirement

If a positive baggage match system is implemented for U.S. domestic flights, and a domestic passenger manifest information requirement is also implemented, what, if any, interactions could be expected? Similarly, if security profiles are developed on some passengers, what, if any, interactions could be expected? Would implementation of a positive baggage match system, on its own, result in passengers being asked to report earlier to the airport for domestic flights than has been the case in the past? If a

positive baggage match system were implemented and a domestic passenger manifest requirement were also implemented, would passengers be asked to report to the airport any earlier than if a positive baggage match system alone were implemented?

9. Domestic Passengers Manifests and Electronic Tickets

The use of electronic tickets ("e-tickets") or ticketless travel is becoming more widespread. It is our understanding that six major U.S. airlines use them. Some carriers offer e-tickets only through direct sales, while others offer them through direct, travel agent, and Internet sales. In e-ticketing, passengers that reserve a flight through a travel agent, on the Internet, or directly with an airline by phone give a credit card number and receive a reservation number in lieu of a paper ticket. At the airport, the passenger tells the ticket counter agent the reservation number, shows identification if asked, receives a boarding pass and gets on board the flight. While identification checks for claiming e-tickets and boarding passes vary, often, if the e-ticket was purchased directly from an airline, the credit card used for the purchase of the e-ticket and a photo ID are required to claim the e-ticket boarding pass; while if the e-ticket was purchased from a travel agent, less stringent identification procedures apply since it is assumed that travel agents know their clients. It would appear, on the face of it, that e-ticketing via the Internet would allow for the facile collection of domestic passenger manifest information since there could be fill-in spaces for full name, date of birth and/or social security number, and contact name and telephone number on the form that the passenger would fill out when requesting the e-ticket. It would appear that the challenges posed by a domestic passenger manifest requirement for e-tickets sold via direct sales and through travel agent would be similar to the challenges posed by a domestic passenger manifest requirement for regular tickets. How, if at all, would imposing a domestic passenger manifest requirement affect e-ticketing? Please describe the differential effects of imposing a domestic passenger manifest requirement on the various modalities of e-ticketing, direct airline, travel agent, and Internet sales.

10. Implications for High Frequency Corridors, High Frequency Facilities, and Peak Load Capacity

Certain U.S. air corridors and facilities regularly operate near capacity.

Others do not do so regularly, but do operate near capacity during peak travel days and periods of the year. Are there any special considerations regarding high frequency corridors and high frequency facilities that need to be examined in contemplating a domestic passenger manifest requirement? Please outline these considerations in detail and, if possible, provide concrete examples of the considerations that need to be examined and the projected effects of a domestic passenger manifest requirement. Please include considerations of any needed expansions of facilities. In these types of operations, what flight delays would result if air carriers were required to take the steps outlined in the basic approach? Would there be any other inconvenience to passengers? Would the answers to the above be different in non-high frequency corridors and non-high frequency facilities?

11. Recurring Costs of a Domestic Passenger Manifest Information Requirement

What are the elements of recurring costs of implementing a domestic passenger manifest information requirement and who would incur these costs? Please provide estimates of these costs. In breaking out these costs, be as specific as possible. Please also answer the question that follows. If passenger manifest information is collected at the time of reservation from passengers that subsequently cancel their reservations or do not show up for their flights, costs could be incurred to collect passenger manifest information from such passengers, and then, again, for any passengers that eventually take the place of these passengers on the flight. In order that the costs of such canceled reservations and no shows might be incorporated into estimates of the costs of a domestic passenger manifest information requirement, please estimate how many passengers make reservations for every 100 passengers that eventually board a domestic flight.

12. Fixed Costs of a Domestic Passenger Manifest Information Requirement

DOT requests comments on the amount of fixed, one-time costs associated with imposing a domestic passenger manifest requirement. We would anticipate that these costs would be primarily the cost of programmers' time (salaries and benefits) for the reprogramming of air carriers' computer reservations systems and departure control systems. There may also be costs for developing intercarrier computer interfaces for the sharing of domestic passenger manifest data, and work on

such a collective task, if necessary, might be undertaken by an association of air carriers, such as the Air Transport Association of America, which indicated in 1991 ANPRM comments in response to implementing a passenger manifest information requirement for flights to and from the United States that it would do so. To the extent that work done to prepare air carriers' electronic information systems (CRSs, DCSs, and any others) for a passenger manifest requirement on flights to and from the United States would also serve the purposes of a domestic passenger manifest requirement, these costs should not be double-counted and also attributed to the fixed, one-time cost of implementing a domestic passenger manifest requirement. We ask that commenters provide information in as much detail as possible, as well as all supporting explanations of the source and derivation of the data. Further, would travel agents incur any fixed costs if a passenger manifest requirement as outlined in the "basic approach" were implemented?

13. Integration of Manifest Requirements With Processes for Expedited Positive Identification and Notification

The Department has learned from its inquiry into the implementation of an international passenger manifest that the resources required to do so can be substantial. There, the information necessary to compile as many as 770,000 manifests annually would need to be collected, whereas, for domestic passengers, as mentioned earlier, the information necessary to compile 10.8 million manifests annually would need to be collected.

The purpose of collecting better manifest information is to remedy past difficulties in this area. The most glaring of these has been the inability of air carriers to rapidly determine in the aftermath of an aviation disaster who was on the flight and respond to the inquiries of families of victims that call in and seek information on whether or not a family member was on the flight. Assuming that adequate telephone capacity exists and family members can get through to the airline, having an accurate list of the passengers that are on the flight—even without collecting data on emergency contacts—could allow air carriers to respond compassionately to such inquiries. And, as a result of such inquiries, family members would identify themselves as such to the air carrier, and thereby add to the stock of other information regarding passengers that the airlines

have available to them from internal and other sources.

Another stage of notification involves contacting a family member to inform him or her of the status of a particular passenger. This stage of notification depends on the verification of the status of individual passengers. This stage of notification and surrounding issues, such as the disposition of remains and personal effects, has also been fraught with difficulties in the past.

A broad examination of such issues is the subject of the Aviation Disaster Family Assistance Act of 1996, and, as required there, the Department has established a 23-member Advisory Committee on Assistance to Families in Aviation Disasters. Enhanced notification is one aspect of the overall objective of providing better treatment of families in the aftermath of an aviation disaster, and it, and other issues, will be taken up by the Advisory Committee on Assistance to Families in Aviation Disasters.

The Department needs information about the benefit in making substantial increased investments in obtaining data on those traveling by air and their emergency contacts, thus providing additional data for enhanced notification of the families of victim, if, at the same time, the process of determining and confirming the status of the passengers in the aftermath of an aviation disaster cannot be accelerated beyond some minimum amount of time. The Department must also assure itself that any additional resources put into enhanced notification, or particular aspects of enhanced notification, could not be better directed to other elements of the treatment of families in the aftermath of an aviation disaster. It may be that developing better procedures for accessing the information that air carriers and travel agents routinely collect on passengers could be a substitute for developing new, overlapping information-collection systems that would rarely be used.

Comments are solicited on any and all of the issues raised above. In particular we urge commenters to assess the likely effect on notification of the improvements contained in the Aviation Disaster Family Assistance Act of 1996, and to develop and describe how the notification process could be further improved, if this is felt to be necessary, and to identify the best way to make any such improvements.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Department has conducted a preliminary analysis of the potential

information collection burdens associated with a domestic manifest requirement. The Department's analysis suggests that if passenger manifest requirements substantially the same as those proposed for international flights, to be imposed on U.S. domestic flights,

the paperwork burdens on the public could be substantial. If air carriers were not to find innovative ways to collect the information, the burden would be large. A perspective on the potential burden can be gained from the following comparison of these burdens from

international and domestic manifest requirements with total Department of Transportation information collection burdens on the public as of December 1996:

Department of Transportation collection burdens	Million hours
Total DOT Information Collection Burden (1996)	65.7
Passenger Manifest Information (Int'l) Proposed Rule	1.1 to 1.4
Domestic Passenger Manifest Information: (Assuming a counterpart rule to the Passenger Manifest Information [Int'l] Proposed Rule were imposed):	
Case I	4.3 to 6.8
Case II	3.2 to 4.9

(Note: The burden estimate for a domestic manifest requirement have been extrapolated on the basis of annual costs from those calculated for the Passenger Manifest Information [Int'l] Proposed Rule. They do not take into account any possible advancement in collection systems, which could greatly reduce the paperwork burden.)

The estimates suggest that if both international and domestic passenger manifest paperwork burden estimates are added together, the burden increase relative to current levels imposed by all transportation requirements would be on the order of a low of about 7.6 percent and a high of about 11.0 percent.

(Note: An average of the two cases for a domestic passenger manifest requirement has been used to calculate the high and low figures for a domestic passenger manifest requirement.)

The Department is currently engaged in an effort to meet its share of a government-wide goal, required by the Paperwork Reduction Act of 1995, of achieving government-wide a 25 percent reduction in paperwork by the end of fiscal year 1998. From the standpoint of the Department's efforts to design an Information Simplification Plan consistent with the goals of the Paperwork Reduction Act and the President's program, it is essential that the Department do everything possible to reduce unnecessary duplication and achieve maximum cost effectiveness in information collection activities affecting the public. The implementation of passenger manifest requirements in a cost-effective way will be a top priority of the Department. It is also hoped that public input from this ANPRM will make a substantial contribution to this endeavor.

Regulatory Flexibility Act

The Regulatory Flexibility Act was enacted by the United States Congress to ensure that small businesses are not disproportionately burdened by rules and regulations promulgated by the

Government. If a domestic passenger manifest data collection system were proposed, it might affect air taxi operators, commuter carriers, charter operators, and travel agents. Some of these entities may be "small entities" within the meaning of the Regulatory Flexibility Act. We specifically request comments on whether there are additional small entities that might be impacted by such a proposal and whether the impact is likely to be significant within the meaning of the Act.

Federalism Implications

This rulemaking has no direct impact on the individual states, on the balance of power in their respective governments, or on the burden of responsibilities assigned them by the national government. In accordance with Executive Order 12612, preparation of a Federalism Assessment is, therefore, not required.

List of Subjects in 14 CFR Part 243

Air carriers, Aircraft, Air taxis, Air transportation, Charter flights, Foreign air carriers, Foreign relations, Reporting and recordkeeping requirements, Security.

Authority: 49 U.S.C. 40101, 40113, 40114, 41708, 41709, 41711, 41702, 46301, 46310, 46316.

Issued in Washington, D.C. on March 7, 1997.

Rodney E. Slater,

Secretary of Transportation.

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FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Arbitration Policy; Roster of Arbitrators, and Procedures for Arbitration Services

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Proposed rule.

SUMMARY: The proposed revision to 29 CFR Part 1404 is being published in order to revise the policies and procedures used by Federal Mediation and Conciliation Service in administering its arbitration program.

The goals of the proposed revision are to more accurately reflect current practice, clarify the role of the Arbitrator Review Board, revise the standards for arbitrator listing on the Roster, and announce certain changes. Among the changes made are:

First, requests for special experience or qualifications, or other special requirements, must be either jointly submitted by the parties, or, if unilaterally submitted, must certify that the other party agrees, or there is no conflict with the applicable contract. This will allow a single party, for example, to request a panel with special expertise, so long as the required assurances are made. Similarly, FMCS will make a direct appointment of an arbitrator based on the assurances of one party.

Second, the Federal Mediation and Conciliation Service, Office of Arbitration Services (OAS) will no longer receive or interpret contract language in regard to furnishing services.

Third, as an alternative to the submission of a panel of arbitrators, FMCS, upon request, will furnish the names and biographical sketches of all listed arbitrators in specified geographical locations. In this case, the