

CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO SC E5 Andrews, SC [NEW]

Robert F. Swinnie Airport, SC
(Lat. 33°27'06"N, long. 79°31'34"W)
Andrews NDB
(Lat. 33°27'05"N, long. 79°31'38"W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile

radius of Robert F. Swinnie Airport and within 4 miles east and 8 miles west of the 174° bearing from the Andrews NDB extending from the 6.3-mile radius to 16 miles south of the airport, excluding that airspace within the Georgetown, SC, Class E airspace area.

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Issued in College Park, Georgia, on December 18, 2001.

Wade T. Carpenter,

*Acting Manager, Air Traffic Division,
Southern Region.*

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. OST 2000–8164]

RIN 2139–AA09

Reporting the Causes of Airline Delays and Cancellations

AGENCY: Office of Secretary, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: As required by Federal statute, the Department of Transportation is considering modifying the reporting requirements regarding air carriers' quality of services. We are proposing requiring air carriers that file airline service quality performance reports under the regulations to collect and report the causes of airline delays and cancellations. Currently, there is a lack of data on the specific causes of airline delays and cancellations. The proposed changes are designed to fill the data gaps for airline delays and cancellations and provide this information to the public and other interested parties.

DATES: Comment Deadline: February 25, 2002.

ADDRESSES: Written, signed comments containing the docket number that appears in the heading of this document can be sent to: Docket Clerk, US DOT Dockets, Room PL–401, 400 Seventh Street SW., Washington DC 20590–0001. All comments will be available for examination at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you would like notification that we have received your comment, please include a self addressed stamped envelop or postcard.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus or Clay Moritz, Office of Airline Information, K–25, Bureau of

Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590–0001, (202) 366–4387 or 366–4385, respectively. You can also contact them by e-mail at bernard.stankus@bts.gov or clay.moritz@bts.gov or by fax at (202) 366–3383.

SUPPLEMENTARY INFORMATION:

Electronic Access

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Background

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

In August 2000, we formed the Air Carrier On-Time Reporting Advisory Committee (the Task Force). The Task Force members were chosen to reflect a balanced cross section of interests. In addition to government representatives, they included representatives from consumer airline groups, air carriers, labor unions and airport operators. On September 25, 2000, the Task Force was chartered as a Federal advisory committee. Its mission was to consider

changes to the current on-time reporting system so that the public would have clear information about the nature and sources of airline delays and cancellations.

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

We have used the recommendations from the Task Force, the results of our pilot project and our outreach efforts to form the proposals contained in this NPRM.

Scope of Proposed Rulemaking

We are proposing to amend 14 CFR Part 234 to require that air carriers report the causes of airline delays and cancellations. We are proposing that this new reporting requirement apply only to those air carriers that are already reporting under part 234. Under part 234, a reporting carrier is an air carrier that holds a certificate under 49 U.S.C. 41102 and that accounted for at least one percent of domestic scheduled passenger revenues in the 12 months ending March 31 of each year. We believe that this proposal will provide those air carriers in a position to quickly adopt the new reporting system, that opportunity, but it also would provide a transition period to those air carriers who may face technological obstacles. In taking this approach, we believe that

the proposal minimizes the regulatory burden on the industry and yet, provides valuable information to the public.

We are proposing this phased regulatory approach, based on a Task Force recommendation that, after an assessment of the reporting burdens, we consider applying the new reporting requirements to other major and national air carriers and the code-share partners of major carriers. In order to evaluate the Task Force's recommendation on expanding the part 234 reporting requirements to other major and national air carriers and the code-share partners of major carriers and to announce the results of the delay-reporting pilot project, we conducted several outreach efforts with industry representatives.

During an August 10, 2001 meeting with air carriers already reporting under Part 234, several airline representatives indicated that non-reporting airlines would face significant start-up costs, including software changes and computer hardware upgrades. Several representatives voiced the opinion that the non-reporting carriers would face a difficult and lengthy transition period and, from a technological standpoint, were not in a position to comply with the Part 234 reporting requirements in the near term.

During the previous Task Force meetings, the Air Carrier Association of America indicated that expanding the Part 234 reporting requirements to its members would result in each carrier facing additional annual costs of \$25,000 to \$100,000. The Regional Airline Association also indicated that expanding the reporting requirements to its members would have a significant impact on resources, personnel, and operations. It did not provide, however, an actual cost estimate for its members to report on-time data.

We have reviewed domestic enplanement data. Domestic enplanements include all enplanements for scheduled service operations between two U.S. points. For 2000, the data showed that the 12 air carriers currently reporting under Part 234 accounted for approximately 83% of the domestic passenger enplanements. We also examined the data for "code-sharing partners." Airlines use two-character designator codes to identify themselves in the computer reservation systems. Code-sharing is an arrangement whereby one carrier's designator code is used to identify a flight operated by another carrier. The 2000 data showed that the reporting carrier's code-share partners accounted for approximately 9% of the enplanements. There are also

other major and national air carriers that are not code-sharing partners and the enplanement data indicates they handled approximately 5% of the domestic enplanements.

We reviewed data for medium and large regional air carriers. We defined medium and large regional air carriers as those carriers that provide passenger service with aircraft having a passenger capacity of 61 seats or more. Medium regional air carriers have annual operating revenue of \$20 million or less. Large regional carriers have annual operating revenue of more than \$20 million but less than \$100 million. The 42 medium and regional air carriers handled approximately 2% of the domestic enplanements.

We also reviewed data for small air carriers. One definition of small carriers is those certificated or commuter air carriers that do not provide code-share service for a major air carrier, but do provide passenger service with aircraft having passenger capacity of 60 seats or fewer. For our regulatory purposes, the Small Business Administration defines an air carrier as a small business if it has 1500 or fewer employees. We estimate there are approximately 80-90 small air carriers. The 2000 data showed that small carriers accounted for only 1% of the enplanements.

Based on our review and the feedback we received concerning cost, resource considerations, and the time to implement a reporting system, we are limiting the scope of the NPRM. Based on the small number of enplanements handled by small air carriers, medium and large regional air carriers, and the potential burdens and costs faced by these carriers that are not now required to submit on-time flight performance reports, the NPRM excludes these carriers from the on-time reporting requirements. This decision is being made in recognition of the amount of time and expense required to implement a reporting system as well as the additional potential resource burdens associated with reporting. We are therefore not proposing, at this time, to include code-share partners and other major/national carriers in the Part 234 reporting system. We believe that based on the feedback gathered during the pilot project, we need additional time to examine and estimate the potential burdens. Instead, the inclusion of code-share partners and other major/national carriers in the Part 234 reporting system will be the subject of a future rulemaking.

We recognize that our proposal would not include approximately 17% of the enplanement data in the reporting system and thus, potentially affect the

utility of the information available to the public. Accordingly, we are inviting comments on what should be the proper time frame to include the remaining major carriers as well as the national carriers, and the reporting carriers' code-share partners in the part 234 reporting requirements. We are also seeking cost estimates from air carriers on our proposal and input from members of the public on whether they would benefit from expanding the part 234 reporting requirements. After reviewing all the comments, we will determine whether the proposed scope of the rulemaking is appropriate.

Causal Categories and Methodology

By requiring air carriers to report the causes of delays and cancellations, we hope to address two important air transportation issues: (1) identify the causes of flight delays and cancellations for future corrective action and (2) alleviate some of the frustration and anger that airline passengers have expressed concerning delayed and cancelled flights.

The primary purpose for collecting causal data is to categorize delays and cancellations so that system problems can be identified and the appropriate parties can take corrective action. Based on the Task Force's recommendations and our work in the pilot program, we are proposing four categories for reporting delays: (1) Air carrier, (2) extreme weather, (3) National Aviation System (NAS), and (4) late arriving aircraft; and three categories for reporting cancellations: (1) Air carrier, (2) extreme weather, and (3) the NAS.

Air Carrier Delays or Cancellations

Below is a list of examples of causes for delays and cancellations that we believe are within the control of the air carrier. This list should be used as a guide for the type of occurrences that should be reported as an air carrier delay and/or cancellation. It should not be considered a complete list and we welcome comments on additions or deletions.

Aircraft cleaning, Aircraft damage, Awaiting the arrival of connecting passengers or crew, Baggage, Bird strike, Cargo loading, Catering, Computer, outage—carrier equipment, Crew legality (pilot or attendant rest), Damage by hazardous goods, Engineering Inspection, Fueling, Handling disabled passengers, Late Crew, Lavatory Servicing, Maintenance, Oversales, Potable Water Servicing, Removal of unruly passenger, Slow boarding or seating, Stowing carry-on baggage, Weight and balance delays.

During the pilot program, bird strikes were coded as an air carrier caused delay and/or cancellation. Although air carriers generally cannot prevent bird strikes, they are in the best position to take corrective action by having spare aircraft or by repairing damaged parts. However, during our meetings with industry representatives, other carriers, who did not participate in the pilot program, questioned whether this coding designation is the appropriate way to report bird strikes. We request comments on the appropriate coding designation for bird strikes.

Extreme Weather

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

National Aviation System (NAS)

Delays and cancellations attributable to NAS refer to a broad set of conditions: weather-non extreme, airport security, airport operations, heavy traffic volume, air traffic control, etc. Recent Congressional legislation will transition passenger screening and other security responsibilities from the air carriers to the Department of Transportation.

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

In addition, the National Oceanic and Atmospheric Administration provides the FAA with weather information. Airport operators provide the FAA with information on runway closures and other airport incidents. With these data sets, the FAA has the capability to refine the NAS delays into weather-non

extreme, volume, equipment outages, runway closures, other or "no match."

Volume delays are those delays that occur because the amount of air traffic exceeds the airport's capacity. These delays or cancellations are assigned to NAS rather than to the air carriers because the heavy traffic volume generally consists of flights from a multitude of carriers. Consistent high volume delays are an indication to airport operators and to state and local governments that there is a need for infrastructure investments and improvements. Equipment outages are failures that involve FAA equipment and do not involve the air carrier's equipment. A "no match" means there was a NAS delay reported, but FAA found nothing in its tracking system that would account for a NAS delay.

Late Arriving Aircraft

Consumers have an interest in knowing if particular flights are consistently late due to late arriving aircraft. Delays reported under the "late arriving aircraft" category demonstrate the ripple effects of an earlier flight delay problem. The cause of the initial delay would have to be addressed to cure the delays associated with late arriving aircraft. Some carriers track the initial causes and use an internal code to identify the initial cause for downline late arriving aircraft. Other carriers do not track the downline effects of earlier delays and only code that the flight was late because of the previous flight's late "turn around." While we would like to collect data that identifies the initial causes of downline delays, we are not proposing that carriers alter their tracking systems to provide the data. Rather, we are proposing to give the carriers the flexibility of reporting a delay caused by previous late arriving aircraft under several reporting codes. Under our proposal, a carrier would use the code D for delays attributed to a previous late arriving aircraft and the initial cause is unknown. Also, carriers may use the codes DA for delays attributed to a previous late arriving aircraft where the initial delay was assigned to the air carrier; DB for delays attributed to a previous late arriving aircraft where the initial delay was caused by extreme weather; and DC for delays attributed to a previous late arriving aircraft where the initial delay was assigned to the NAS.

As a result of our delay reporting pilot program with American Airlines, Delta Air Lines, Southwest Airlines, and United Air Lines, we have discovered that most air carriers only track and code delays up to the time the aircraft pushes away from the gate at the origin

airport. After that time, the aircraft is generally under the command of the air traffic control system. Some carriers track delays for each minute of the delay and other carriers track delays only when the delay is five minutes or longer.

One of our aims in developing the causal reporting system is to require minimal change to the air carriers' internal tracking systems, while still collecting useful data. Thus, based on the results of our pilot project, we are proposing to collect the number of minutes for each flight delay category for every flight that arrives 15 minutes or more after the scheduled arrival time. As such, carriers would be required to:

1. Create a bridge or map to translate their internal codes to the BTS assigned categories.

2. Report delay categories when the arrival delay is 15 minutes or more. The proposal would not require carriers to report causal data for flights that are

considered Aon-time," meaning the flight arrived less than 15 minutes after its published arrival time.

3. Ensure that the total minutes of causal delays equal the actual minutes of arrival delay.

Since not all carriers track and code departure delays of less than 5 minutes, we are proposing that carriers code the total delay as a NAS delay when there is a departure delay of 4 minutes or less and an arrival delay of 15 minutes or more.

Air carriers track only departure delays. Therefore, whenever the arrival delay is greater than the departure delay, the air carriers will assign NAS minutes to make up the difference between the departure delay and the arrival delay (Departure delay + NAS delay = Arrival delay).

Whenever the departure delay is more than the arrival delay, the en route time savings would be prorated back to the departure delay categories. For example, if a 50 minute departure delay consists

of a 15 minute air carrier delay, a 10 minute NAS delay, and a 25 minute late arriving aircraft, then the departure delay would be 30% air carrier, 20% NAS and 50% late arriving aircraft. If the flight arrived 40 minutes late, this would be reported in minutes as 12 minutes air carrier, 8 minutes NAS and 20 minutes late arriving aircraft.

Reporting of Delayed Flights

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

FIELD SPECIFICATIONS FOR FORM 234, ON-TIME PERFORMANCE REPORTS

| Field and description | Type | Location | Length | Comments |
|--|--------------|---|--------|--|
| A—Carrier code | Alpha | 1–2 | 2 | |
| B—Flight number | Num | 3–6 | 4 | |
| C—Origin airport code | Alpha | 7–9 | 3 | |
| D—Destination airport code | Alpha | 10–12 | 3 | |
| E—Date of flight operation | Num | 13–20 | 8 | Format yyyyymmdd. |
| F—Day of the week of flight operation | Num | 21 | 1 | Mon = 1, Sun = 7. |
| G—Scheduled departure time per OAG | Num | 22–25 | 4 | Local time 24 hour clock. |
| H—Scheduled departure time per CRS | Num | 26–29 | 4 | Local time 24 hour clock. |
| I—Gate departure time (actual) | Num | 30–33 | 4 | Local time 24 hour clock. |
| J—Scheduled arrival time per OAG | Num | 34–37 | 4 | Local time 24 hour clock. |
| K—Scheduled arrival time per CRS | Num | 38–41 | 4 | Local time 24 hour clock. |
| L—Gate arrival time (actual) | Num | 42–45 | 4 | Local time 24 hour clock. |
| M—Difference between OAG and CRS sched- uled departure times. | Num | 46–49 | 4 | In minutes (2 hrs = 120 min) Caused-In Min- utes. |
| N—Difference between OAG and CRS sched- uled arrival times. | Num | 50–53 | 4 | In minutes. |
| O—Scheduled elapsed time per CRS | Num | 54–57 | 4 | In minutes. |
| P—Actual gate-to-gate time | Num | 58–61 | 4 | In minutes. |
| Q—Departure delay time (actual minutes CRS) | Num | 62–65 | 4 | In minutes. |
| R—Arrival delay time (actual minutes CRS) | Num | 66–69 | 4 | In minutes. |
| S—Elapsed time difference (actual minutes CRS). | Num | 70–73 | 4 | In minutes. |
| T—Wheels-off time (actual) | Num | 74–77 | 4 | Local time 24 hour clock. |
| U—Wheels-on time (actual) | Num | 78–81 | 4 | Local time 24 hour clock. |
| V—Aircraft tail number | Alpha/Num .. | 82–87 | 6 | Left justified, trailing blanks. |
| W—Cancellation code | Num | 88 | 1 | (1, 2, or 3). |
| X—Minutes late for delay code A | Num | 89–92 | 4 | Carrier Caused Delays—In min. |
| Y—Minutes late for delay code B | Num | 93–96 | 4 | Extreme Weather Delays—In minutes. |
| Z—Minutes late for delay code C | Num | 97–100 | 4 | NAS Delays—In minutes. |
| AA—Minutes late for delay code D | Num | 101–104 | 4 | Late Arriving Aircraft Delays—In minutes. |
| AB—Minutes late for delay code DA | Num | 105–108 | 4 | Late Arriving Aircraft—Carrier Caused—In Min- utes. |
| AC—Minutes late for delay code DB | Num | 109–112 | 4 | Late Arriving Aircraft—Weather. |
| AD—Minutes late for delay code DC | Num | 113–116 | 4 | Late Arriving Aircraft—NAS Caused—In Min- utes. |
| Cancellation codes | | Delay codes | | |
| 1—Carrier Caused | | A—Carrier Caused. | | |
| 2—Extreme Weather | | B—Extreme Weather. | | |
| 3—National Aviation System | | C—National Aviation System. | | |
| | | D—Late Arriving Aircraft. | | |
| | | DA—Late Arriving Aircraft—Carrier Caused. | | |

| Cancellation codes | Delay codes |
|--------------------|--|
| | DB—Late Arriving Aircraft—Weather Caused. DC—Late Arriving Aircraft—NAS Caused. |

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

All alpha fields for which data are unavailable will be left blank. The data fields in this document are Y2K compliant.

For delays that were caused by a previous late arriving aircraft, the carrier has two options for reporting this delay. Carriers that do not track the initial cause of the late arriving aircraft would report the minute for the late arriving aircraft in Delay Code D, and report zeros for delay codes DA, DB and DC. Carriers that track the initial cause, would assign the minutes to the applicable DA, DB and DC codes, and report a zero for delay code D.

Examples of Delayed Flight Coding

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

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

3. A flight was delayed 4 minutes to load a handicapped passengers and another 3 minutes to load late-arriving baggage. The flight arrived 15 minutes late. The delayed flight would be coded 7 minutes for air carrier and 8 minutes for NAS. Please note in this example that while no single air carrier caused delay was 5 minutes or more, the sum of the carrier delay was more than 5 minutes and the total delay was 15 minutes and thus, reportable.

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

5. A flight had a 16 minute ground hold and arrived 14 minutes late. There is no delay coding as the flight is consider on-time.

6. A flight is 20 minutes late because of weather and is coded 20 minutes for weather. The next flight with that aircraft is 15 minutes late leaving the gate and arrives 20 minutes late. The delayed flight would be coded 15

minutes for late arriving aircraft—weather or 15 minutes for late arriving flight, if the carrier did not track the initial delay cause. Please note in this example that the air carrier made up 5 minutes of the initial late arriving aircraft delay, but then experienced a 5 minute en-route delay.

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

8. A flight was 20 minutes late because of a thunderstorm and 6 minutes late because of a crew problem. The flight arrived 18 minutes late. The delayed flight would be coded 14 minutes for weather and 4 minutes for air carrier. In this example, the air carrier must round the prorated minutes to whole numbers. Carriers should not report fractions or decimals. Also, carriers would report an air carrier delay of less than 5 minutes because the carrier was required to track the crew delay because it was 5 minutes or more.

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

Reporting of Cancelled Flights

Carriers use a fixed-length file format to report on-time data. We propose to add a one position numeric field for the cancellations code. The proposed codes are as follows: “1”—Air Carrier, “A2”—Extreme Weather, “3”—NAS (national aviation system).

Examples of Cancelled Flight Coding

1. A flight cancelled because of mechanical problems is code “1” for air carrier.

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

3. The next segment of Flight 123, DCA—MIA was cancelled because the aircraft that was to be used for this flight is stuck in two feet of snow in Boston. The weather in Washington and Miami is clear. The cancellation would be coded “2” for weather, because the intended aircraft was out of position as a result of a prior cancellation attributed to weather.

4. It's a clear day at O'Hare. However, there is a ground hold for flights to DFW because of severe thunderstorm around the DFW airport. After a 3 hour wait, the weather at DFW has not changed, and the carrier cancels the flight. The cancellation would be coded “2” for weather.

5. It's a rainy, misty day at O'Hare. Operations have been slow all morning. The air carrier receives a call from air traffic control asking that it cancel one of its next five flights to allow the airport to return normal operations. Other carriers receive similar calls. These cancellations would be coded “3” for NAS.

ADP Computer Tape

We are proposing to remove the requirement that carriers must submit on-time data on ADP computer tape. BTS is migrating from the mainframe computer to a mid-tier processing environment. Thus, BTS will be able to accommodate other types of reporting media.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is “significant” under Executive Order 12866 and the regulatory policies and procedures of the Department of Transportation (44 FR 11034), and was reviewed by the Office of Management and Budget. As discussed above, the purpose of the proposed rule is to disclose more fully to the public the nature and source of the delays and cancellations experienced by air travelers. This objective is achieved by amending 14 CFR 234 to require reporting air carriers

to identify and report causes of airline delays and cancellations. Based on information collected during the pilot project, we estimate that the proposed reporting requirements would require each reporting carrier to expend 10–20 hours to reconfigure its data system. Once these initial resources are expended, we estimate that there will be no additional costs or burdens for delay and cancellation reporting. We estimated reprogramming costs of \$100.00/hour. Thus, we estimate that for the 12 reporting air carriers, there would be an initial reprogramming costs of \$12,000–\$24,000. We estimate that the benefits to the traveling public, as well, more accurate information for the allocation of transportation resources outweigh the minimal costs that would be incurred by the reporting air carriers.

Executive Order 12612

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

Initial Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review its regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of ‘small business’ has the same meaning as under the Small Business Act (15 CFR parts 631–657c). For those companies providing scheduled passenger air transportation, the SBA defines a small business as an air carrier that has 1500 employees or fewer (See NAICS Number 48111).

The proposed rule would apply only to those air carriers that meet the part 234 reporting criteria (*i.e.*, carriers that hold a certificate under 49 U.S.C. 41102 and account for at least 1 percent of the domestic scheduled-passenger revenues in the past 12 months). We have reviewed our data base and find that none of the air carriers that report under part 234 have 1500 employees or fewer. In fact, our information indicates that all of these carriers employ more than 3,000 employees. Therefore, we believe that the proposed rule would not apply to any ‘small business’ as defined by the SBA.

Thus, based on the above discussion, I certify this proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

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

Environmental Assessment

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

Initial Paperwork Reduction Act Analysis

The reporting and recordkeeping requirements associated with this proposed rule are being sent to the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2138–0040.

Administration: Bureau of Transportation Statistics; *Title:* Airline Service Quality Performance Reports; *Need for Information:* Statistical information on the cause of airline delays and cancellations; *Proposed use of Information:* To disclose more fully to the public the nature and source of the delays and cancellations experienced by air travelers; *Frequency:* Monthly; *Burden Estimate:* 180 hours; Average Annual Burden Hours per Respondent After Final Rule is Issued—No burden. Based on information collected during the pilot project, we estimate that the proposed reporting requirements would require each reporting carrier to expend 10–20 hours to reconfigure its data system. We estimated reprogramming costs of \$100.00/hour. Thus, we estimate that for the 12 reporting air carriers, there would be an initial reprogramming costs of \$12,000–\$24,000. Once these initial resources are expended, we estimate that there would be no additional annual burden. We invite comments on our burden estimates. For further information or to

comment on the burden hour estimate contact: The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention Desk Office for the Department of Transportation or Bernie Stankus at the address listed under **FOR FURTHER INFORMATION CONTACT**.

Regulation Identifier Number

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

Regulatory Text

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

List of Subjects in 14 CFR Part 234

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

PART 234—[AMENDED]

1. The authority citation for Part 234 would be revised to read as follows:

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

2. Section 234.4 would be amended by adding paragraphs (a)(16) through (a)(23), revising paragraph (b), and adding paragraphs (g), (h) and (i) as follows:

§ 234.4 Reporting of on-time performance.

(a) * * *

(16) Causal code for cancellation, if any.

(17) Minutes of delay attributed to the air carrier, if any.

(18) Minutes of delay attributed to extreme weather, if any.

(19) Minutes of delay attributed to the national aviation system, if any.

(20) Minutes of delay attributed to a previous late arriving aircraft, if any.

(21) Minutes of delay attributed to a previous late arriving aircraft where the original delay was an air carrier delay, if any.

(22) Minutes of delay attributed to a previous late arriving aircraft where the original delay was caused by extreme weather, if any.

(23) Minutes of delay attributed to a previous late arriving aircraft where the

original cause was assigned to the national aviation system, if any.

(b) When reporting the information specified in paragraph (a) of this section for a diverted flight, a reporting carrier shall use the original scheduled flight number and the original scheduled origin and destination airport codes. Carriers are not required to report causal information for diverted flights.

* * * * *

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

CODE

- 1—Air Carrier
- 2—Extreme Weather
- 3—National Aviation System (NAS).

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

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

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

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

CAUSE

- A—Air Carrier
- B—Extreme weather
- C—NAS
- D—Late arriving aircraft
- DA—Late arriving aircraft—air carrier
- DB—Late arriving aircraft—extreme weather
- DC—Late arriving aircraft—NAS.

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

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

aircraft being out of position as a result of a prior cancellation or delay attributable to weather.

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

(4) Late arriving aircraft delays are the result of a late incoming aircraft from the previous flights. Reporting carriers should use this code only when they are unable to identify the root cause of the initial delay.

(5) Late arriving aircraft—carrier caused delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was within the air carrier's control.

(6) Late arriving aircraft—extreme weather delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was extreme weather.

(7) Late arriving aircraft—NAS caused delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was a NAS problem.

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

3. Section 234.5 would be 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 Information in a format specified in accounting and reporting directives issued by the Assistant Director for Airline Information.

Ashish Sen,

Director, Bureau of Transportation Statistics.
[FR Doc. 01-31725 Filed 12-26-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-8041; File No. S7-23-01]

RIN 3235-AI25

Defining the Term "Qualified Purchaser" Under the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission today proposes a definition for the term "qualified purchaser" under the Securities Act of 1933 to implement a provision of the National Securities Markets Improvement Act of 1996. The proposed definition mirrors the definition of accredited investor under Regulation D of the Securities Act. Thus, the new qualified purchaser definition identifies well-established categories of persons we have previously determined to be financially sophisticated and therefore not in need of the protection of state registration when they are offered or sold securities. This proposal should facilitate capital formation, especially for small businesses. It will implement the Congressional intent, impose uniformity in the regulation of transactions to these financially sophisticated persons and reduce burdens on capital formation.

DATES: Public comments are due February 25, 2002.

ADDRESSES: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, and 450 Fifth Street, NW, Washington DC 20549-0609. You may send comment letters electronically to the following e-mail address: Rule-comments@sec.gov. Comment letters should refer to File No. S7-23-01; if you use e-mail, please include the file number on the subject line. We will make all comments available for public inspection and copying in our public reference room at the same address. Comment letters (submitted electronically) will be posted on our Internet site (<http://www.sec.gov>).¹

FOR FURTHER INFORMATION CONTACT:

Marva Simpson, Office of Small Business Policy, at (202) 942-2950, Division of Corporation Finance, U.S. Securities and Exchange Commission,

¹ We do not edit personal, identifying information, such as names or electronic mail addresses, from electronic submissions. Submit only information you wish to make publicly available.