

Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5586.

#### SUPPLEMENTARY INFORMATION:

#### History

Docket No. 16534; Airspace Docket No. 03-ASO-19, published in the **Federal Register** on February 3, 2004 (69 FR 5009), established Class D and E4 airspace at Olive Branch, MS and amended Class E5 airspace at Memphis, TN. The construction of a federal contract tower with a weather reporting system at Olive Branch Airport made this action necessary. This action was originally scheduled to become effective on April 15, 2004; however, an unforeseen delay in beginning construction on the tower required the effective date of this action to be delayed. Construction is now nearing completion.

The FAA has determined that this 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) 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).

#### Confirmation of Effective Date

The effective date of Docket No. 16534; Airspace Docket No. 03-ASO-19 is hereby confirmed to be May 12, 2005.

**Authority:** 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p.389; 49 U.S.C. 106(g); 14 CFR 11.69.

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Issued in College Park, Georgia, on February 1, 2005.

**Mark D. Ward,**

*Acting Area Director, Eastern EnRoute & Oceanic Operations, ATO-E.*

[FR Doc. 05-3610 Filed 2-24-05; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 234

[Docket No. OST-2005-20331]

#### Reporting Directive Regarding Incidents Involving Animals During Air Transport

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Order.

**SUMMARY:** The Department is publishing the following reporting directive regarding the reporting requirements that are contained in the OST final rule on "Reports by Carriers on Incidents Involving Animals During Air Transport."

**DATES:** This order shall become effective after an OMB control number for the information collection requirements contained in the rule on "Reports by Carriers on Incidents Involving Animals During Air Transport" is assigned and announced in a separate document in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Blane A. Workie, Supervisory Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the General Counsel, 400 7th Street, SW., Room 10424, Washington DC 20590, 202-366-9342 (voice), 202-366-7153 (fax), or [blane.workie@ost.dot.gov](mailto:blane.workie@ost.dot.gov) (e-mail).

#### U.S. Department of Transportation, Office of the Secretary, Office of the General Counsel

[OST Docket 2005-20331]

Issued by the Department of Transportation, on the 15th day of February 2005.

#### In the Matter of a Reporting Directive on Incidents Involving Animals During Air Transport Issued Pursuant to 14 CFR 234.13; Order

The purpose of this order is to adopt a reporting directive to provide guidance to all U.S. air carriers that provide scheduled passenger air transportation regarding the new reporting requirements that are contained in the final rule on "Reports by Carriers on Incidents Involving Animals During Air Transport" and to answer questions that have been raised about the requirements in the rule.

#### Background

On February 14, 2005, the Department of Transportation (Department) published a final rule on "Reports by

Carriers on Incidents Involving Animals During Air Transport." 70 FR 7392. The rule, which applies to domestic and international scheduled-service transportation performed by U.S. air carriers with any size aircraft, adds a new § 234.13 to 14 CFR part 234.<sup>1</sup>

Section 234.13 requires each reporting air carrier to submit a report on any incidents involving the loss, injury, or death of an animal<sup>2</sup> during air transport<sup>3</sup> to the Department's Aviation Consumer Protection Division (ACPD) within 15 days of the end of each month. Each report must include the following information:

- (1) Carrier and flight number;
- (2) Date and time of the incident;
- (3) Description of the animal, including name, if applicable;
- (4) Identification of the owner(s) and/or guardian of the animal;
- (5) Narrative description of the incident;
- (6) Narrative description of the cause of the incident;
- (7) Narrative description of any corrective action taken in response to the incident; and
- (8) Name, title, address, and telephone number of the individual filing the report on behalf of the air carrier.

Section 234.13 also calls for the report to be submitted in the form and manner set forth in reporting directives issued by the Deputy General Counsel of the U.S. Department of Transportation. This reporting directive sets forth the form and manner in which carriers must submit the required data on loss, injury, or death of an animal during air transport. It is being issued as an order under the authority specified in 14 CFR 385.15(c).

#### Form and Manner of Reporting

All submissions must be made via e-mail to [animalreports@ost.dot.gov](mailto:animalreports@ost.dot.gov) except for situations where the carrier can demonstrate that it would suffer undue hardship if it were not permitted to submit the data by regular postal mail and ACPD has approved an exception. When submitting the information by postal mail under an exception, carriers

<sup>1</sup> The rule was originally published by the Department through its Federal Aviation Administration (FAA) on August 11, 2003 (68 FR 47798).

<sup>2</sup> Animal is defined in the rule as any warm or cold blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States.

<sup>3</sup> Under the rule, the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier, from check-in or delivery of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

must use the following address:  
Aviation Consumer Protection Division/  
C-75, Room 4107, U.S. Department of  
Transportation, 400 7th Street, SW.,  
Washington, DC 20590.

The report is to be submitted in Microsoft Word format. To protect identifiable personal information, reporting carriers must submit the required information in two separate documents. One document shall contain all of the required data elements, and the second shall be redacted and contain all of these elements with the exception of information regarding the identification of the owner(s) and/or guardian of the animal and the name, title, address, and telephone number of the individual filing the report on behalf of the air carrier.

### Frequently Asked Questions

Since the original publication of the rule, several questions have been raised concerning the reporting requirements, answers to which are provided below:

1. *Which carriers must file a report on incidents involving the loss, injury, or death of an animal during air transport, and what transportation is subject to the reporting requirement?*

Based on the statute requiring the reports, a reporting carrier is defined as any U.S. air carrier that provides scheduled passenger air transportation. This definition includes commuter carriers and air taxis that provide scheduled service, whether or not they are classified as a commuter carrier. Carriers that provide both scheduled and non-scheduled service are only to report incidents that occur on (or that are associated with) a scheduled passenger flight.

2. *Are carriers required to report incidents involving the loss, injury or death of an animal transported on an all-cargo flight?*

No. But the loss, injury, or death of a pet that is shipped as cargo carried on a passenger flight is subject to this reporting requirement.

3. *Does the requirement to submit a report on incidents involving the loss, injury, or death of an animal during air transport apply to foreign carriers?*

No, foreign air carriers are not covered by the animal reporting requirement. However, U.S. carriers that provide scheduled passenger air transportation must report all incidents involving loss, injury or death of an animal during air transport even if the flight is between two foreign points.

4. *If there is an incident involving the loss, injury or death of an animal on a code-share flight, which carrier is required to report it?*

The operating airline is required to report such incidents, since it provides services on that flight. An incident that occurs on a flight that carries the code of a foreign carrier but that is operated by a U.S. carrier is subject to this reporting requirement and is to be reported by the U.S. carrier. A flight that carries the code of a U.S. carrier but is operated by a foreign carrier is not subject to this rule. Therefore, incidents that occur on such a flight need not be reported.

5. *What should be reported as the loss, injury, or death of an animal during air transport?*

Any incident, even if it was determined that the carrier was not at fault, resulting in the loss, injury or death of any warm or cold blooded animal that is being kept as a pet in a family household in the United States and that occurred during the time that the animal was in the custody of the air carrier must be reported.

6. *If a carrier has not taken corrective action in response to an incident involving the loss, injury, or death of an animal, how should a carrier address this fact in its report to ACPD?*

The carrier must state in its report that no corrective action was taken. A carrier may if it wishes explain the reason that no corrective action was taken.

7. *If a carrier does not know the cause of the loss, injury or death of an animal or believes that there were a number of causes, how should the carrier respond to the requirement to provide a narrative description of the cause of the incident?*

If the reason for the loss, injury or death of an animal is not known, the carrier can state that the cause is not known. If there are a number of factors that contributed to the loss, injury or death of an animal, the carrier must list all of the factors.

8. *When must carriers begin submitting reports to ACPD?*

Carriers are not required to begin submitting reports to ACPD until the Department obtains an Office of Management and Budget (OMB) control number for the reporting. OMB regulations implementing provisions of the Paperwork Reduction Act of 1995 specify that no person is required to respond to an information collection unless it displays a valid OMB control number. Once the Department receives OMB approval of this information collection request (ICR), it will announce this approval in a **Federal Register** notice with a specific compliance date.

9. *Where and how will ACPD publish the reports?*

ACPD will process each report and publish the information without any identifiable personal information, in its electronic version of the Air Travel Consumer Report. This publication is issued monthly, usually within the first week of each month. There is usually a 40-day lag in processing data (e.g., a report issued in early November will contain data for September incidents). The publication can be found on-line at <http://airconsumer.ost.dot.gov>.

10. *Must carriers file a report in months when they do not experience a reportable loss, injury, or death of an animal?*

No. Negative reports should not be filed; carriers must file a report only for a month in which they had a reportable loss, injury, or death of an animal.

Accordingly,

1. We order all U.S. air carriers that provide scheduled passenger air transportation to submit a report on any incidents involving the loss, injury, or death of an animal during air transport to the Aviation Consumer Protection Division within 15 days of the end of each month in the form and manner set forth in this reporting directive;

2. This order shall be published in the **Federal Register**; and

3. This order shall become effective after an OMB control number for the information collection requirements contained in the rule on "Reports by Carriers on Incidents Involving Animals During Air Transport" is assigned and announced in a separate document in the **Federal Register**.

This action is taken under authority assigned in 14 CFR 385.15(c) of the Department's regulations.

**Rosalind A. Knapp,**

*Deputy General Counsel.*

[FR Doc. 05-3638 Filed 2-24-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9184]

RIN 1545-BC71

#### Real Estate Mortgage Investment Conduits

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document contains final regulations relating to the application of the unified partnership audit