

only cost impact upon the public is the time it takes to incorporate these AFM supplement revisions.

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

For the reasons discussed above, I certify that this action (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Beech Aircraft Corporation: Docket No. 95–CE–23–AD.

Applicability: Models 60 and A60 airplanes, serial numbers P–4 through P–246, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required within the next 60 calendar days after the effective date of this AD, unless already accomplished.

To prevent loss of control of the airplane because of the airplane traveling too slow in icing conditions, accomplish the following:

(a) Incorporate Airplane Flight Manual (AFM) supplement "FLIGHT IN KNOWN ICING CONDITIONS", Revised: January 1995, part number (P/N) 60–590001–17, into the AFM, P/N 60–590000–5 or P/N 60–590000–11, as applicable.

(b) Incorporating the AFM supplement "FLIGHT IN KNOWN ICING CONDITIONS", Revised: January 1995, part number (P/N) 60–590001–17, as required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

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

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) All persons affected by this directive may obtain copies of the AFM revision referred to herein upon request to Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 26, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–13626 Filed 6–2–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 234

[Docket No. 50053; Notice No. 95–7]

RIN 2137–AC67

Amendments to the On-time Disclosure Rule

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking and denial of petitions for emergency waiver.

SUMMARY: This document proposes to revise the on-time flight performance reporting requirements by re-instituting the exclusion of flights delayed or cancelled due to mechanical problems and seeks comments on the retroactive application of the proposal. This action is taken in response to recommendations made at the Federal Aviation Administration's Aviation Safety Conference and a petition for rulemaking by Northwest Airlines. This document denies the petitions of Northwest, Southwest and America West for an emergency waiver from the current on-time reporting requirements, and seeks comments concerning the collection of flight completion data and the filing frequency of the data collection.

DATES: Comments on the proposed rule must be received on or before July 5, 1995. Petitions for reconsideration of the staff action denying the emergency waiver must be received on or before June 15, 1995.

ADDRESSES: Comments should be directed to the Docket Clerk, Docket 50053, Room PL 401, Office of the Secretary, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590–0001. Comments should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket 50053. The postcard will be dated/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

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

SUPPLEMENTARY INFORMATION:

Background

On September 9, 1987, the Department of Transportation (DOT or Department) issued a rule (52 FR 34056) which required the largest U.S. airlines to report their on-time performance for every domestic scheduled passenger flight operated to or from a reportable airport, with the exception of qualifying flights that were delayed 15 minutes or more or cancelled because of mechanical problems. A flight is considered on-time if it arrives less than 15 minutes after its published arrival time. The U.S. airlines covered by the reporting requirement are those generating at least 1 percent of the U.S. domestic scheduled-passenger revenues on a yearly basis. Reportable airports are those airports in the contiguous 48 states generating at least 1 percent of the domestic scheduled-passenger enplanements on an annual basis. In practice, all reporting airlines are voluntarily submitting data for their entire domestic scheduled-passenger operations. The purpose of the rule was to reduce airline flight delays and consumer dissatisfaction with airline service by providing a persuasive, market-based incentive for airlines to improve their quality of service and reliability of schedules. The reporting system developed for the administration of these reporting requirements was called the On-Time Flight Performance Reporting System.

Flights that were delayed 15 minutes or more, or cancelled, because of mechanical problems which were reported to the Federal Aviation Administration (FAA) under 14 CFR 121.703 or 121.705, were excluded from the reporting requirements. Mechanical delays included delays of the flight on which the mechanical problem was encountered and subsequent delayed flights performed by the same or substitute aircraft for which the delay was attributed to the initial mechanical problem. However, flights delayed less than 15 minutes because of a mechanical problem were included in the on-time performance data.

The issuance of the rule was in response to the Department's year-long study conducted in 1986-87 of airline operating performance at eight of the country's largest airports. This study included all flights, even those delayed or cancelled because of mechanical problems, and it showed that only 40 to 50 percent of the flights arrived on-time. In December 1994, the on-time flight performance for the 10 reporting airlines ranged from 73 to 84 percent. These figures are higher than the airlines'

actual performance, since mechanical delays and cancellations (estimated to impact about 4 percent of all flights) are excluded. Nonetheless, there has been marked improvement in airline on-time performance, to the benefit of consumers.

The improvement can be attributed to, among other things, more realistic flight scheduling by the airlines and improved traffic management by the FAA. The reporting requirements and the publication by the Department of each reporting airline's on-time performance created an incentive for the airlines to adjust scheduled flight times and make other changes to improve schedule reliability. These actions reduced unrealistic scheduling and resulted in improved on-time performance.

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

Comments on the NPRM were received from Alaska Airlines, Inc. (Alaska), American Airlines, Inc. (American), America West Airlines, Inc. (America West), Delta Air Lines, Inc. (Delta), Northwest Airlines, Inc. (Northwest), Southwest Airlines Co. (Southwest), the Air Transport Association of America (ATA), and The Port Authority of New York and New Jersey (Port Authority).

The comments addressed safety, alternative data sources, the proprietary nature of aircraft tail number data, elimination of the rule in its entirety, the addition of new data items and definition changes.

Northwest, Southwest and America West opposed the elimination of the mechanical exclusion. They contended that including mechanicals in their on-time reports could compromise safety. They believed airline personnel might dispatch aircraft with mechanical problems to improve on-time performance.

ATA, American, Delta and the Port Authority filed in support of the proposed amendment. They contended

the elimination of the exclusion would not compromise safety.

Alaska stated the Department should initiate a rulemaking to see whether the existing on-time performance requirements should be eliminated in their entirety, rather than imposing additional reporting requirements.

On September 30, 1994, the Department issued a final rule that revised the reporting requirements in 14 CFR part 234 for the On-Time Flight Performance Reporting System (59 FR 49793, September 30, 1994). The rule change eliminated the exclusion of reporting flights delayed or cancelled due to mechanical problems and added three new data items (aircraft tail number, wheels-off time and wheels-on time) for each flight reported. These changes were effective on January 1, 1995. The initial monthly airline reports under the new requirements covering January 1995 operations were due at DOT on February 15, 1995. These reports have been filed. Since then February, March and April reports have also been filed.

One of the main purposes of the original rule, adopted on September 9, 1987, was to create a market-based incentive for airlines to improve their service quality and schedule reliability for consumers. The public availability of comparative data on airline service created this incentive. In issuing the September 30, 1994 final rule, the Department believed the elimination of the exclusion for mechanical delays and mechanical cancellations would provide better consumer information since aircraft dispatch reliability would now be a factor in airline on-time performance. At the same time, the new consumer reports would provide more complete information on an airline's operation.

A benefit of the revised reporting requirement was an 840 hour reduction in airline reporting burden. The elimination of a time-consuming sort to exclude mechanical delays and cancellations more than offset the increase in burden of adding three new data items.

The addition of the new data items—wheels-off and wheels-on times, and the identification of aircraft by tail number—enables the FAA to analyze air traffic operations and create system models for use in reducing enroute and ramp delays. The reporting of these three data items is not at issue in this notice, and airlines will continue to report these items.

Aviation Safety Conference

On January 9 and 10, 1995, the DOT and FAA sponsored an aviation safety

conference in Washington, D.C. The two-day conference, with over 1,000 attendees, focused on ways to improve safety measures and increase public confidence in airline transportation. Six workshops dealt with specific safety areas, namely: (1) *Crew Training*, (2) *Air Traffic Control and Weather*, (3) *Safety Data Collection and Use*, (4) *Application of New Technology*, (5) *Aircraft Maintenance Procedures and Inspection*, and (6) *Development of Flight Crew Procedures*.

Workshop # 5, *Aircraft Maintenance Procedures and Inspection*, recommended that DOT remove maintenance delays and cancellations from the On-Time Flight Performance Reporting System stating that: (1) their inclusion intimidates maintenance personnel, (2) their inclusion encourages potentially unsafe practices, (3) the risk of abuse outweighs the benefits of the information, and (4) the information is already required for submission to local FAA offices.

Following the Aviation Safety Conference, Transportation Secretary Federico Peña and FAA Administrator David Hinson issued a press release on February 9, 1995, outlining the actions that government and industry are taking to achieve a goal of "zero accidents." Secretary Peña and Administrator Hinson presented 173 safety action initiatives that the government, industry and labor developed. The *Aviation Safety Action Plan* of February 9, 1995, sets the timetable for achieving these safety action initiatives. While 104 of the safety initiatives are scheduled for completion by September 30, 1995, there is no specific time schedule to resolve the issue of maintenance delays in the On-Time Flight Performance Reporting System. However, the plan states "Administrative policy determination necessary."

Petitions for Reversal of the Final Rule

After the January 1995 safety conference, Northwest petitioned the DOT (Docket 50053) on January 19, 1995, to (1) grant an emergency waiver to all airlines permitting them to exclude mechanical delays or cancellations from the monthly on-time reports; and (2) institute a rulemaking proceeding to reinstate the mechanical exclusion.

Northwest maintained that the 220 industry representatives at the Aircraft Maintenance Procedure and Inspection Workshop unanimously recommended that mechanical delays and cancellations be eliminated from the on-time performance reporting. Northwest believes the present rule has the potential to jeopardize public safety by

introducing the possibility of conflict between an airline's commitment to on-time performance and its commitment to safety. Northwest estimated that 60 hours of re-programming time would be required to convert back to the previous system of excluding mechanical delays and cancellations from on-time performance reporting.

Southwest and America West filed answers on February 1 and February 3, 1995, respectively, with motions to file late. The motions are hereby granted. Both airlines supported Northwest's petition for rulemaking and emergency waiver application.

On February 15, 1995, America West, Northwest, and Southwest (joint petitioners) filed a joint emergency petition (Docket 50053). The petition requested the immediate issuance of an order instructing all reporting airlines covered by the On-Time Flight Performance Reporting System to exclude mechanical delays and cancellations from the reports submitted to the Department.

Senator Larry Pressler, Congressman James L. Oberstar, the International Brotherhood of Teamsters (IBT), the Air Line Pilots Association (ALPA), the International Airline Passenger Association (IAPA), and the International Association of Machinist and Aerospace Workers (IAM) have each sent letters to Secretary Peña on this subject. They asked the Secretary to reverse the decision to include mechanical delays and cancellations in the on-time reports and to restore the previous data collection requirements. IAPA also proposed the exclusion of delays and cancellations caused by weather, since airlines cannot control these events. IAPA believes that passengers want to know which airlines are not operating on-time because of their own shortcomings, not external causes such as weather.

Comments in opposition were filed by American and Delta. Also, American, Delta, United and USAir sent a letter (joint letter) to Secretary Peña.

American does not believe airline employees would risk their jobs and threaten passenger safety by dispatching unsafe aircraft with mechanical problems to improve on-time performance. American asserts that there are many opportunities for airlines to behave recklessly in order to improve on-time performance, if they are so inclined. American believes Northwest could make the same argument about weather or a medical emergency. For example, an airline could unsafely dispatch aircraft or attempt landings in bad weather, or refuse to make an emergency landing for an on-board

medical emergency to avoid chargeable delays and improve on-time performance. American believes that this does not happen.

The joint emergency petitioners responded that American's comments are without merit and frivolous. The joint petitioners do not believe mechanicals can be equated with inclement weather or medical emergencies. The decision to delay a flight based on mechanical problems can be made by a single airline employee, while the decision to delay a flight based on adverse weather conditions is a group process in which the government is involved. Furthermore, the petitioners contend it is absurd to think a pilot would not make a landing for a medical emergency.

Delta stated that the Department has already fully examined the safety issue and properly concluded that there is no safety risk. Delta asserts that the mechanical exclusion generated considerable unnecessary expenses for the reporting airlines. Delta believes that Northwest was less than candid in its portrayal of the opposition to reporting mechanical delays and cancellations at the safety conference. Delta compared reporting mechanical delays with reporting flights delayed because of time-consuming deicing procedures required by the FAA. Delta notes that no one has suggested that airline employees are exposed to undue pressures to meet schedules when they are faced with a decision whether to deice an aircraft or not.

The joint letter expressed the carriers' concerns about the Department reversing the on-time reporting requirements. They believe that the Department performed a thorough analysis of the issues in its final rule issued on September 30, 1994. They also believe the current requirements provide better consumer information. They suggested that the consumer information would be further improved by adding a requirement for reporting completion factor.

Completion Factor

The Department seeks comments on whether it should publish the percentage of scheduled domestic passenger departures completed or scheduled domestic revenue-passenger miles completed by the reporting carriers. Commenters should address whether the publication of this information would allow consumers to make better decisions on air-travel purchases.

Under the present reporting requirement of including mechanicals,

the Department is able to calculate for each carrier's domestic system the percentage of scheduled passenger departures completed. However, if the Department reverts to the old system of excluding flights impacted by mechanicals, it could calculate departure-completion percentages for only the reported flights. Please comment on (1) whether the departure-completion percentage should exclude or include flights impacted by mechanical problems, and (2) if flights impacted by mechanicals are included in the completion percentage, how should the Department collect this data?

Commenters should also address the use of existing data such as the *T-100 System* for calculating the percentage of scheduled domestic revenue-passenger miles completed. While the Department can presently make this calculation, the percentage is slightly overstated when an airline operates extra-section flights. Aircraft miles for extra-section flights are reported as aircraft-miles completed, but are not reported as scheduled aircraft miles. If the Department uses this system to determine a completion factor, there would be no special treatment for flights cancelled because of mechanical problems.

Commenters, that propose additional data items, should address the cost to the airlines to submit those data items.

Frequency of Reporting

A recent Presidential regulatory initiative directs federal agencies to review their reporting regulations in order to reduce the burden on business and the public. In many instances, less frequent reporting may relieve some burden.

From our initial review of the likely benefits of less frequent filing of on-time data, we believe that there would be no burden reduction. Airlines are required to file data for each individual flight segment, and less frequent reporting would not change this requirement. Therefore, we are not proposing to amend the filing frequency. However, if commenters can show a savings from less frequent reporting, we may be agreeable to amending the regulations.

Commenters should address the burden reduction and the effect on the usefulness of consumer information if the on-time performance data were filed less frequently. For instance, commenters may want to consider such options as: (1) Quarterly submissions to DOT with consumer information published quarterly and quarterly tapes provided CRS vendors; (2) quarterly submissions to DOT with consumer information published quarterly and monthly tapes provided CRS vendors;

and (3) quarterly submissions to DOT but data separated by month, with monthly tapes provided CRS vendors. Under option (3), the quarterly consumer information could be shown by month, by quarter or by the last month of the quarter.

The Proposal

The Department is proposing to reinstate the exclusion of mechanical delays and cancellations in the on-time performance reports. At the January 1995 Aviation Safety Conference, representatives of the mechanics and pilots unions expressed concerns that there may be undue pressure on mechanics to dispatch aircraft in the name of on-time performance. Neither the pilots nor the mechanics responded to the December 4, 1992 NPRM. In the interest of public safety, we wish to fully explore this issue.

When the Department decided to eliminate the mechanical exclusion, the decision was based on information in the docket and the belief that the majority of the air transportation industry, including the airlines, labor, ATA, and the general public did not oppose the change. There was no evidence in the record to indicate that safety would be adversely affected by eliminating the mechanical exclusion. The only airlines opposing the change were America West, Northwest and Southwest. These airlines generally ranked in the top three for on-time performance.

Since the Department's September 30, 1994 final rule, safety concerns have been raised. The purpose of this rulemaking is to fully explore these concerns. We do not, however, believe a safety emergency exists. As American, Delta, United, USAir and even Northwest have stated, airlines are faced with many instances where an airline must decide between safety and on-time performance, and safety always is given first priority. Accordingly, the emergency waiver requests of Northwest, America West and Southwest are hereby denied. Airlines have 10 days to appeal for review of this action to the Administrator, Research and Special Programs Administration, under 14 CFR 385.50 *et seq.*

For historical data base purposes, we are also asking airlines to comment on the retroactive application of the proposal. Specifically, the Department proposes to require airlines to refile all relevant monthly on-time reports beginning with January 1995, to exclude mechanical delays or cancellations. Comments should discuss, among other things, the availability of historical data, and burden and monthly costs involved.

Until this rulemaking is completed, airlines will continue to report according to the final rule issued on September 30, 1994. All back issues of the Department's monthly *Air Travel Consumer Report*, which includes data from the On-Time Flight Performance Reporting System, will be issued contemporaneously with the publication of this proposed rulemaking. Future issues will be issued monthly on a current basis as the data are received.

IAPA's proposal to exclude weather-related delays and cancellations will not be considered in this rulemaking, as it is beyond the scope of the September 30, 1994 final rule. Moreover, while airlines do not have control over the weather, they do control where they establish hub airports. The various hub airports throughout the country are not affected by weather to the same degree. Consumers should have this information.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866, therefore it was not reviewed by the Office of Management and Budget.

This rule is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034), because it involves Departmental policy concerning the reporting of flight delays and their potential impact on safety.

Executive Order 12612

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

Regulatory Flexibility Act

I certify this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposal will affect only large certificated U.S. airlines accounting for at least 1 percent of U.S. domestic scheduled passenger revenues (over \$450 million annually for the 12 months ended March 31, 1994). The Department's economic regulations define "large certificated air carrier" to include U.S. air carriers holding a certificate issued under section 401 of the Federal Aviation Act of 1958, as

amended, that operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds. Consequently, small carriers are not affected by this final rule.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being sent to the Office of Management and Budget for approval in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2138-0041; ADMINISTRATION: Research and Special Programs Administration; TITLE: Airline Service Quality Performance Reports; NEED FOR INFORMATION: Consumer Information and Flight Data for Air Traffic Control; PROPOSED USE OF INFORMATION: Consumer Publications; FREQUENCY: Monthly; BURDEN ESTIMATE: 1,920; AVERAGE BURDEN HOURS PER RESPONDENT 192. For further information contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590-0001, (202) 366-4735 or Transportation Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2137-AC67 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 234

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

Proposed Rule

Accordingly, it is proposed to amend 14 CFR Part 234, *Airline Service Quality Performance Reports*, as follows:

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

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

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

2. Section 234.2, Definitions, is amended by revising the definition of "reportable flight" and by adding the definitions for "mechanical delay" and "mechanical cancellation" in

alphabetical order as set forth below, and the introductory text is republished as follows:

§ 234.2 Definitions.

For the purpose of this part:

* * * * *

Mechanical delay and mechanical cancellation mean respectively, the arrival delay (by 15 minutes or more) or cancellation of a flight scheduled to be operated with a particular aircraft on a particular day due to mechanical problems on that aircraft that are reported to the Federal Aviation Administration pursuant to 14 CFR 121.705 or 121.703. Mechanical delays will include delays in both the flight on which the mechanical problem was encountered and subsequent delayed flights performed by the same aircraft, or the aircraft substituted for it, on the same day, where the delay was attributable to the initial mechanical problem.

* * * * *

Reportable flight means any nonstop flight to or from any airport within the contiguous 48 states that accounted for at least 1 percent of domestic scheduled passenger enplanements in the previous calendar year, as reported in reports submitted to the Department pursuant to part 241 of this title. Qualifying airports will be specified periodically in reporting directives issued by the Office of Airline Statistics. Flights delayed or cancelled because of qualifying mechanical problems are excluded from the carriers reports.

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

§ 234.4 Reporting of on-time performance.

* * * * *

(b) A reporting carrier shall not report any of the information specified in paragraph (a) of this section for any scheduled operation that was late or cancelled due to a mechanical cancellation or mechanical delay.

* * * * *

4. Section 234.8 is amended by revising paragraph (b)(1) as set forth below, and the introductory text of paragraph (b) is republished as follows:

§ 234.8 Calculation of on-time performance codes.

* * * * *

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

(1) Based on reportable flight data provided to the Department, calculate the percentage of on-time arrivals of each nonstop flight. Calculations shall

not include discontinued, extra-section flights, nor flight operations affected by mechanical delays or mechanical cancellations for which data are not reported to the Department.

* * * * *

Issued in Washington, D.C. on May 26, 1995.

Ana Sol Gutierrez,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 95-13630 Filed 6-1-95; 8:45 am]

BILLING CODE 4910-62-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1307

Plastic Buckets; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission has voted to terminate a proceeding to develop a rule addressing risks of injury and death associated with certain 5 gallon plastic buckets.¹ The Commission initiated the proceeding when it published an advance notice of proposed rulemaking ("ANPR") on July 8, 1994. 59 FR 35058. On February 8, 1995, the Commission voted to terminate the proceeding and withdraw the ANPR. As explained below, the Commission determined that based on information available at this time, rulemaking is not warranted.

FOR FURTHER INFORMATION CONTACT: Celestine Trainor, Directorate for Epidemiology, Division of Human Factors, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0468.

SUPPLEMENTARY INFORMATION:

A. Background

In July 1989, the Commission first learned of a drowning hazard associated with certain large buckets or bucket-like containers. These drownings occurred when a child leaned over the bucket and fell in head first. Children have drowned in a very small amount of liquid. Because of their shape, size, and sturdiness, the buckets do not tip over,

¹ The Commission voted to issue this termination notice with Chairman Ann Brown and Commissioner Mary Gall voting in favor of issuing the notice. Commissioner Thomas Moore abstained from voting on this implementing notice because he did not participate in the previous decision to withdraw the ANPR.