

takeoff to or above FL 260, subject to the approval of and in accordance with the conditions established by, the appropriate authorities of Iraq; or

(2) Aircraft descending into the Kuwait FIR (OKAC) may operate at altitudes below FL 260 in the Baghdad FIR (ORBB) to the extent necessary to permit descent for landing within the Kuwait FIR (OKAC), subject to the approval of and in accordance with the conditions established by, the appropriate authorities of Iraq; or

(3) The flight operations in the Baghdad FIR (ORBB) at altitudes below FL 260 are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. Government (or under a subcontract between the prime contractor of the department, agency, or instrumentality, and the person described in paragraph (a) of this section), with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. Government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of part 119, 121, 125, or 135 of this chapter, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This SFAR will remain in effect until October 26, 2020. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued under the authority provided by 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), in Washington, DC, on October 18, 2018.

**Daniel K. Elwell,**  
*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Chapter II

#### Airline Reporting of Data on Mishandled Baggage, Wheelchairs, and Scooters

**AGENCY:** Office of Aviation Enforcement and Proceedings, Office of the Secretary, U.S. Department of Transportation (Department).

**ACTION:** Notification of enforcement.

**SUMMARY:** This document addresses the obligations of large U.S. airlines to report to the Department mishandled baggage, wheelchairs, and scooters data following the enactment of the FAA Reauthorization Act of 2018.

**DATES:** This enforcement notification is applicable on October 26, 2018.

**FOR FURTHER INFORMATION CONTACT:** John Wood, Senior Attorney, Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202-366-9342 (telephone), [john.wood@dot.gov](mailto:john.wood@dot.gov) (email).

**SUPPLEMENTARY INFORMATION:** On November 2, 2016, the Department published a final rule in the **Federal Register** titled “Reporting of Data for Mishandled Baggage and Wheelchairs and Scooters Transported in Aircraft Cargo Compartments.” 81 FR 76300. This November 2 final rule changed the methodology that airlines are required to use in reporting to the Department their mishandled baggage data, from the number of mishandled baggage reports (MBRs) filed with the airline and the number of domestic passenger enplanements to the number of mishandled bags and the number of enplaned bags.<sup>1</sup> The rule also requires airlines to report separate statistics for mishandled wheelchairs and scooters. On November 3, 2016, the Department published another final rule titled “Enhancing Airline Passenger Protections III,” 81 FR 76826, that, among other things, lowered the reporting carrier threshold for

<sup>1</sup> Currently, airlines report the number of MBRs filed by passengers with the airline. One MBR might cover more than one bag because a single MBR could be submitted by a family—or even an individual—with multiple mishandled bags. Under the new methodology, airlines report the number of bags that were mishandled as opposed to the number of MBRs filed by passengers. Also, today, airlines report the number of passenger enplanements. Under the new methodology, U.S. airlines will report the number of checked bags enplaned (including bags checked at the gate and “valet” bags) rather than the number of passenger enplanements.

mishandled baggage from at least 1 percent of domestic scheduled passenger revenues to at least 0.5 percent. The November 3 final rule further requires reporting carriers that market domestic scheduled codeshare flights to file separate mishandled baggage data for codeshare flights that carry only one U.S. carrier’s code. In March 2017, the Department provided that carriers would be required to comply with the changes to mishandled baggage reporting requirements made by these two final rules with respect to air transportation occurring on or after January 1, 2019. See 82 FR 14437 (March 21, 2017); 82 FR 14604 (March 22, 2017).

On October 5, 2018, the President signed the FAA Reauthorization Act of 2018 (FAA Act) into law. See Public Law 115-254. Section 441 of the FAA Act states that “[t]he compliance date of the final rule, dated November 2, 2016, on the reporting of data for mishandled baggage and wheelchairs in aircraft cargo compartments (81 FR 76300) shall be effective not later than 60 days after the date of enactment of this Act.”<sup>2</sup>

By this notification, the Office of Aviation Enforcement and Proceedings (Enforcement Office) is providing guidance to affected U.S. carriers on compliance with mishandled baggage, wheelchair, and scooter reporting requirements following the enactment of the FAA Act. Section 441 of the FAA Act provides that the compliance date for the November 2, 2016 final rule shall be effective not later than 60 days after

<sup>2</sup> The FAA Act also includes another section related to mishandled baggage reporting. Section 410 of the FAA Act states that “[n]ot later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall study and publicize for comment a cost-benefit analysis to air carriers and consumers of changing the baggage reporting requirements of section 234.6 of title 14, Code of Federal Regulations, before implementation of such requirements . . .” The Department must also report to Congress on the findings of the cost-benefit analysis. The Department does not view sections 441 and 410 as inconsistent with each other, because it interprets section 410 as applying only to prospective changes, and as not applying to the changes made by the final rules issued November 2, 2016 and November 3, 2016. In June 2018, the Department announced its initiation of a rulemaking, Reporting of Data for Mishandled Baggage and Wheelchairs and Scooters Transportation in Aircraft Cargo Compartments II (RIN #2105-AE77), “to address substantial challenges in accurately reporting, under the mishandled baggage reporting final rules published in November 2016, data for bags handled by multiple airlines and bags that traveled on both reportable domestic segments and nonreportable international segments.” See <https://www.transportation.gov/regulations/report-on-significant-rulemakings>. The Department will conduct a cost-benefit analysis for proposed changes to the baggage reporting requirements of 14 CFR 234.6 and report to Congress as required by section 410 of the FAA Act.

enactment of the Act, which is December 4, 2018. Accordingly, airlines determined by the Department's Office of Airline Information (OAI) as accounting for at least 1 percent of domestic scheduled passenger revenues for calendar year 2018<sup>3</sup> must submit mishandled baggage data to the Department using the new mishandled baggage methodology and must separately report statistics for mishandled wheelchairs and scooters for domestic scheduled flights they operate beginning December 4, 2018 and through December 31, 2018. See 81 FR 73000 (November 2, 2016). The airlines must submit this data to the Department no later than January 15, 2019.<sup>4</sup> The data would consist of: (1) Operating carrier code; (2) month and year of data; (3) number of mishandled bags; (4) number of bags enplaned; (5) number of mishandled wheelchairs and scooters; (6) number of wheelchairs and scooters enplaned; (7) certification that to the best of the signing official's knowledge and belief the data is true, correct, and complete; and (8) date of submission, name of airline representative, and signature.

If a reporting carrier is unable to report accurate data on the total number of mishandled bags and enplaned bags for the entire reportable period beginning December 4, 2018, and ending December 31, 2018, the Enforcement Office will exercise its enforcement discretion as appropriate.<sup>5</sup> An airline should inform the Enforcement Office no later than January 3, 2019, if the airline is unable to provide accurate mishandled baggage data using the methodology set forth in the November 2, 2016 rule for the December 2018 reportable period. To the extent the Enforcement Office decides not to pursue action against an airline that does not report the required

data because of reliability concerns, in the interest of providing air travel consumers with access to reliable mishandled baggage data, the Enforcement Office expects that the airline will accurately report mishandled baggage data to the Department using the prior mishandled bag reporting methodology (*i.e.*, the total number of passengers enplaned and the total number of MBRs filed with the airline in the manner described in 14 CFR 234.6(a) and OAI Technical Reporting Directive #29A, for the flights it operates December 1 through 31, 2018). Even if an airline indicates an inability to report accurately the total number of mishandled bags and enplaned bags, the Enforcement Office will expect the airline to accurately report the total number of mishandled wheelchairs and scooters and total number of wheelchair and scooters enplaned. Because the Enforcement Office expects that airlines should be able to accurately report mishandled wheelchair and scooter data, the Enforcement Office requests a detailed explanation no later than January 3, 2019, from any airline asserting that it is not able to accurately report wheelchair and scooter data to the Department for flights beginning December 4, 2018.

Issued in Washington, DC, on October 22, 2018.

**Blane A. Workie,**

*Assistant General Counsel for Aviation Enforcement and Proceedings.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 40

[Docket No. RM17–13–000; Order No. 850]

#### Supply Chain Risk Management Reliability Standards

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) approves supply chain risk management Reliability Standards CIP–013–1 (Cyber Security—Supply Chain Risk Management), CIP–005–6 (Cyber Security—Electronic Security Perimeter(s)) and CIP–010–3 (Cyber Security—Configuration Change Management and Vulnerability

Assessments) submitted by the North American Electric Reliability Corporation (NERC). In addition, the Commission directs NERC to develop and submit modifications to the supply chain risk management Reliability Standards so that the scope of the Reliability Standards include Electronic Access Control and Monitoring Systems.

**DATES:** This rule is effective December 26, 2018.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Cheryl A. LaFleur, Neil Chatterjee, and Richard Glick.

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA), the Commission approves supply chain risk management Reliability Standards CIP–013–1 (Cyber Security—Supply Chain Risk Management), CIP–005–6 (Cyber Security—Electronic Security Perimeter(s)) and CIP–010–3 (Cyber Security—Configuration Change Management and Vulnerability Assessments).<sup>1</sup> The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted the supply chain risk management Reliability Standards for approval in response to a Commission directive in Order No. 829.<sup>2</sup> As discussed below, we approve the supply chain risk management Reliability Standards as they are responsive to Order No. 829 and improve the electric industry's cybersecurity posture by requiring that entities mitigate certain cybersecurity risks associated with the supply chain for BES Cyber Systems.<sup>3</sup>

<sup>1</sup> 16 U.S.C. 824o(d)(2).

<sup>2</sup> *Revised Critical Infrastructure Protection Reliability Standards*, Order No. 829, 156 FERC ¶ 61,050, at P 43 (2016).

<sup>3</sup> BES Cyber System is defined as “[o]ne or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.” Glossary of Terms Used in NERC Reliability Standards (NERC Glossary), [http://www.nerc.com/files/glossary\\_of\\_terms.pdf](http://www.nerc.com/files/glossary_of_terms.pdf). The acronym BES refers to the bulk electric system.

<sup>3</sup> For calendar year 2018, 12 airlines reached the reporting threshold of 906,261,000 in domestic scheduled passenger revenue (one percent of total domestic scheduled passenger revenue) and are required to report mishandled baggage data. These airlines are: Alaska Airlines, American Airlines, Delta Air Lines, Envoy Air, ExpressJet Airlines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, SkyWest Airlines, Southwest Airlines, Spirit Airlines and United Airlines.

<sup>4</sup> As section 441 only changes the compliance date of the November 2 final rule, airlines are not required to submit data for any code-share operations, which is a requirement of the November 3, 2016, final rule.

<sup>5</sup> During the past year, the Enforcement Office has been working with the reporting carriers to ensure that they are able to report new mishandled baggage data for flights on or after January 1, 2019. This notification is not intended to suggest an airline's delay in submitting the new mishandled baggage data for flights occurring on or after January 1, 2019, would lead the Enforcement Office to exercise its enforcement discretion.