

community change it may be necessary for the FAA to again revise its policy.

The FAA special-issuance policy will include consideration for depression treated with certain antidepressant

medication under the guidance set forth as follows:

### CONSIDERATION FOR SPECIAL ISSUANCE OF A MEDICAL CERTIFICATE WITH REGARD TO DEPRESSION TREATED WITH MEDICATION

This protocol applies to considerations for special-issuance medical certification for airmen requesting first-, second-, and third-class special-issuance medical certificates, for the exercise of privilege under 14 CFR parts 121, 135, or 91, who are being treated with certain antidepressant medications.

#### Criteria To Be Considered

Diagnoses	Required Reports and Consultations (Initial Consideration)
<p>Mild to moderate depressive disorders, such as:</p> <ol style="list-style-type: none"> <li>1. Major Depressive Disorder (mild to moderate) either single episode or recurrent episode</li> <li>2. Dysthymic Disorder</li> <li>3. Adjustment disorder with depressed mood</li> </ol> <p><b>Pharmacologic Agents Considered (Single-Agent Use Only)</b></p> <ol style="list-style-type: none"> <li>1. Fluoxetine (Prozac);</li> <li>2. Sertraline (Zoloft);</li> <li>3. Citalopram (Celexa); or</li> <li>4. Escitalopram (Lexapro)</li> </ol> <p><b>Specifically Unacceptable Diagnoses and or Symptoms</b></p> <ol style="list-style-type: none"> <li>1. Psychosis</li> <li>2. Suicidal ideation</li> <li>3. History of electro convulsive therapy (ECT)</li> <li>4. Treatment with multiple antidepressant medications concurrently</li> <li>5. History of multi-agent drug protocol use (prior use of other psychiatric drugs in conjunction with antidepressant medications)</li> </ol> <p><b>Psychiatric Status</b></p> <ol style="list-style-type: none"> <li>1. All symptoms of the psychiatric condition for which treatment is indicated must be ameliorated by the single medication and the condition must be stable with no change in or exacerbation of symptoms for 12 months prior to certification;</li> <li>2. Airman must be on a stable dosage of medication for a minimum of 12 months prior to certification; and</li> <li>3. Airman must have no aeromedically significant side effects of prescribed medication.</li> </ol>	<ol style="list-style-type: none"> <li>1. A consultation status report (and follow-up reports as required) from a treating psychiatrist attesting to and describing the applicant's diagnosis, length and course of treatment, dosage of the antidepressant medication taken, and presence of any side effects from the antidepressant the applicant takes or has taken in the past;</li> <li>2. A written statement prepared by the applicant describing his or her history of antidepressant usage and mental health status;</li> <li>3. A report of the results of neurocognitive psychological tests with provision of the raw test data, including, but not limited to: COGSCREEN AE, Trails A/B; Stroop Test; CCPT, PASSAT, Wisconsin Card Sorting Test;</li> <li>4. An evaluation and a written report from a HIMS-trained AME who has reviewed items 1., 2., and 3. above and who makes a recommendation for a special-issuance medical certificate; and</li> <li>5. Any additional information the Federal Air Surgeon may require to make a determination.</li> </ol>

Issued in Washington, DC on March 26, 2010.

**Frederick E. Tilton,**

*Federal Air Surgeon.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 234

[Docket No. DOT-OST-2010-0039]

RIN No. 2105-AE00

#### Enhancing Airline Passenger Protections: Extension of Compliance Date for Posting of Flight Delay Data on Web Sites

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

**ACTION:** Final rule; extension of compliance date.

**SUMMARY:** The Department of Transportation is extending by 60 days, i.e., until June 29, 2010, the compliance date of the provision in its final rule entitled "Enhancing Airline Passenger Protections" that requires airlines to publish flight delay information on their Web sites. This extension is in response to requests by several carrier associations for an additional 90 days time for airlines to comply with the requirement to display flight delay data on Web sites in view of the extensive changes to carriers' reporting systems that are necessitated by the rule and their contention that completion of these tasks is not possible by April 29, 2010, the current effective date of the requirement. The Department agrees that additional time to comply with the posting of flight delay information on the carriers' Web sites is warranted to

ensure the posting of complete and accurate information but has determined that 60 days is enough time for the carriers to do so. Therefore, this final rule extends the compliance date for the provision in question for an additional 60 days, from April 29, 2010, to June 29, 2010.

**DATES:** This amendment further amending the final rule published December 30, 2009 (74 FR 69002) is effective April 29, 2010.

**FOR FURTHER INFORMATION CONTACT:** Blane A. Workie or Daeleen M. Chesley, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202-366-9342 (phone), 202-366-7152 (fax), [blane.workie@dot.gov](mailto:blane.workie@dot.gov) or [daeleen.chesley@dot.gov](mailto:daeleen.chesley@dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:** On March 10, 2010, the Department of Transportation published a notice of

proposed rulemaking (NPRM) in the **Federal Register** (75 FR 11075) proposing to extend for 45 days the compliance date of the provision in its final rule entitled “Enhancing Airline Passenger Protections,” issued December 30, 2009, that requires certificated air carriers that account for at least 1 percent of domestic scheduled passenger revenues (reporting carriers) to provide certain flight delay data on their Web sites. Under that provision, a reporting carrier must display on its Web site flight delay information for each flight it operates and for each flight its U.S. code-share partners operate for which schedule information is available. More specifically, the provision requires that reporting carriers provide on their Web sites the following on-time performance information: (1) Percentage of arrivals that were on time—i.e., within 15 minutes of scheduled arrival time; (2) the percentage of arrivals that were more than 30 minutes late (including special highlighting if the flight was late more than 50 percent of the time); and (3) the percentage of flight cancellations if 5 percent or more of the flight’s operations were canceled in the month covered. As published, the effective date of the rule is April 29, 2010.

The Department proposed this extension of time in response to requests by the Air Transport Association of America (ATA), the Regional Airline Association (RAA) and the Air Carrier Association of America (ACAA) that the Department of Transportation extend the compliance date for publishing flight delay information on airlines’ Web sites by 90 days. The carrier associations stated that an additional 90 days time is needed for airlines to reprogram their computerized reporting systems and displays. Interested parties can read the carrier associations’ requests to extend the compliance date in their entirety at DOT-OST-2010-0039. In the NPRM, the Department tentatively agreed that some extension of time in the compliance date for publishing flight delay data on airlines’ Web sites may be warranted but was not persuaded that a 90-day extension is justified.

#### Comments and DOT’s Response

The Department received a total of five comments on the NPRM. Two were from members of industry and the others came from consumers and consumer associations. On the consumer side, Flyersrights.org, a consumer advocacy organization, filed comments, as did two individuals. As for industry commenters, Flights Stats, a business that provides flight statistics

data, and the Air Transport Association filed comments.

Of the individual comments, one states generally that the Department should not delay the implementation of any of the provisions in the passenger protection final rule. The second individual notes that carriers have developed and implemented more complex computer systems in shorter periods of time, and urges the Department to reject the “wholesale request of ATA” for an extension while supporting the consideration of individual airlines applying for an extension. Flyersrights.org, on the other hand, does not oppose the Department granting the requested extension and states that “airline passenger and their airlines share the objective of wanting accurate, verified information about the timeliness or cancellation rate of flight operations to be available to passengers.” The organization notes that airlines should provide the required information on their Web sites as soon as accurate information is available to them, even if that is prior to any new compliance date granted by the Department.

It is not clear whether or not FlightStats supports the carrier associations’ requests for an extension of the compliance date. It states that it is ready and able to help carriers fulfill the intention of the rule as it concerns flight performance data collection, processing and publishing, and can serve as a third party entity through which carrier and codeshare data can be secured. FlightStats also asserts that it can provide flight performance information to carriers in a form that enables them to easily display the required data on their Web sites but explains that it cannot assume the liability associated with data errors or omissions.

ATA states appreciation for the Department’s recognition that carriers need additional time to comply with this requirement and also renews its request for a 90-day extension. ATA reiterates its concern that 45 days is not enough time for carriers to make the changes necessary to ensure compliance with the additional flight time disclosure requirements and again notes that compliance with this new regulation will require work in several company disciplines that must be completed in succession. Finally, ATA reminds the Department that it recognized the difficulty in modifying carrier reporting systems and the importance of ensuring data integrity in allowing longer periods of time for a carrier to comply with past changes to 14 CFR part 234.

After fully considering the comments received, the Department has determined that some extension of time in the compliance date for publishing flight delay data on airlines’ Web sites is warranted. The Department is also persuaded that carriers need more than a 45-day extension. As such, the Department is revising 14 CFR 234.11 to extend the compliance date of sections 234.11(b) and (c) by an additional 60 days until June 29, 2010. We believe this revised compliance date, which affords carriers a total of 180 days time after issuance of the rule, provides the airlines adequate time to comply with the requirement to provide certain flight delay data on their Web sites. As noted in the NPRM, this extension of time is limited to the portion of our “Enhancing Airline Passenger Protections” rule described above dealing with publication on carrier Web sites of flight delay data and the compliance date for the other provisions is April 29, 2010.

We took a number of factors into consideration in deciding to extend until June 29, 2010, the compliance date for the requirements pertaining to publishing delay data on carriers’ Web sites. We agree with Flyersrights.org, a major proponent of passengers’ rights, that it is important that sufficient time be provided to carriers to enable them to post accurate information on their Web sites. The posting of flight delay data would not be beneficial to consumers if the carriers are not able to implement and design their systems to reflect accurate information. With respect to ATA’s assertion that carriers need a 90-day extension in which to comply with this provision, the Department notes that at least one company, Flightstats, appears to have much of the required flight delay data available and states that the data can be made available to the carriers. Further, by extending the compliance date for the provision in the rule that requires airlines to publish detailed flight delay information on their Web site until June 29, 2010, carriers will have more than 80 days time after the original effective date of the rule to load the required flight delay information into their internal reservation systems. This is because the rule requires carriers to upload information into their internal reservation system between the 20th and 23rd day of the month after the month for which the information is being provided. By granting the carriers a 60-day extension in the compliance date of the provision in question (i.e., until June 29, 2010), carriers will have until between July 20 and 23, 2010, or at least 81 days after April 29, 2010, to

ensure compliance with the flight time disclosure requirements in the rule. Taking into consideration all the comments, including the fact that there are limited objections to ATA's request for an extension of time, the Department believes this timeline adequately balances the benefit of having accurate and complete flight delay data available to consumers with the capability of airlines to comply with the additional requirements being imposed upon them in a reasonable timeframe.

### Regulatory Analyses and Notices

#### A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. Accordingly, this final rule has not been reviewed by the Office of Management and Budget (OMB).

#### B. Regulatory Flexibility Act

Pursuant to section 605 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), DOT certifies that this final rule does not have a significant impact on a substantial number of small entities. The final rule does not impose any duties or obligations on small entities.

#### C. Executive Order 13132 (Federalism)

This Final Rule does not have a substantial direct effect 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, and therefore does not have federalism implications.

#### D. Executive Order 13084

This Final Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because the rule does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

#### E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA

section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. DOT has determined that there are no new information collection requirements associated with this final rule. The final rule allows an additional 60 days to comply with a regulatory provision whose paperwork impact has already been analyzed by the Department.

#### F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this Final Rule.

Issued this March 30, 2010, in Washington, DC.

**Ray LaHood,**

*Secretary of Transportation.*

#### List of Subjects in 14 CFR Part 234

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Department further amends 14 CFR part 234 as amended in the final rule published December 30, 2009 (74 FR 69002), effective April 29, 2010, as follows:

#### PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

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

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

■ 2. In § 234.11, as amended in the final rule published December 30, 2009 (74 FR 69002), effective April 29, 2010, add paragraph (d) to read as follows:

#### § 234.11 Disclosure to consumers.

\* \* \* \* \*

(d) A reporting carrier must meet the requirements of paragraphs (b) and (c) of this section by June 29, 2010.

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**BILLING CODE P**

### DEPARTMENT OF COMMERCE

#### Bureau of Industry and Security

#### 15 CFR Parts 740, 748, 750, and 762

[Docket No. 0907201151-0114-02]

RIN 0694-AE66

#### Issuance of Electronic Documents and Related Recordkeeping Requirements

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule enables BIS to eliminate the paper versions of most export and reexport licenses, notices of denial of license applications, notices of return of a license application without action, notices of results of classification requests, License Exception AGR notification results, and encryption review request results. This rule also changes certain recordkeeping requirements associated with the elimination of paper documents. BIS is making these changes to reduce mailing costs and to free up staff time currently devoted to mailing these documents for use in other tasks.

**DATES:** This rule is effective May 5, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Andrukonis, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202 482 6393 or e-mail [tandrukoi@bis.doc.gov](mailto:tandrukoi@bis.doc.gov)

#### SUPPLEMENTARY INFORMATION:

#### Background

The Bureau of Industry and Security administers an export licensing program pursuant to the Export Administration Regulations. As part of this program, BIS issues various documents in response to applications and notifications submitted to BIS by the public. Those documents include export licenses, reexport licenses, notices that an export or reexport license application has been denied, notices that an export or reexport license application is being returned to the applicant without action, responses to License Exception AGR notifications, notices of the results of classification requests, and notices of the results of encryption review requests. Collectively, these documents are referred to in this preamble as "license related documents."

Currently, BIS issues license related documents in two ways: Electronically in BIS's Simplified Network Application Processing Redesign system (SNAP-R) and on paper. Most license related documents are issued in both electronic and paper form. However, a few such documents are issued only on paper. On December 4, 2009, BIS issued a proposed rule that would allow it to eliminate the paper version of the license related documents that it currently issues both electronically in SNAP-R and on paper (74 FR 63685, December 4, 2009). The last day of the comment period for that proposed rule was February 2, 2010. BIS received no public comments on that proposed rule. Accordingly, this final rule adopts the