

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 235

Docket No. DOT-OST-2010-0211

RIN No. 2105-AE07

Reports by Air Carriers on Incidents Involving Animals During Air Transport

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

ACTION: Extension of comment period on proposed rule.

SUMMARY: This action extends the comment period of an NPRM on the reporting of incidents involving animals during air transport that was published in the Federal Register on June 29, 2012. See 77 FR 38747. The Department of Transportation is extending the period for interested persons to submit comments on this rulemaking from August 28, 2012, to September 27, 2012. This extension is a result of a request to extend the comment period for the proposal.

DATES: Comments must be received by September 27, 2012. Comments received after this date will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2010-0211 by any of the following methods:

- Federal eRulemaking Portal: go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

Instructions: You must include the agency name and docket number DOT-OST-2010-0211 or Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review DOT's complete Privacy Act statement in the Federal Register published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Vinh Q. Nguyen, Trial Attorney, 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), vinh.nguyen@dot.gov. You may also contact Blane A. Workie, Deputy Assistant General Counsel, 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.

SUPPLEMENTARY INFORMATION: On June 29, 2012, the Department published a Notice of Proposed Rulemaking (NPRM) concerning the requirement for air carriers to report to the Department incidents involving the loss, injury, or death of an animal during air transport. The NPRM proposed to: (1) expand the reporting requirement to U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats; (2) expand the definition of “animal” to include all cats and dogs transported by the carriers, regardless of whether the cat or dog is transported as a pet by its owner or as part of a commercial shipment (e.g., shipped by a breeder); and (3) require all covered carriers to provide in their December reports for each year the total number of animals that were lost, injured, or died during air transport for the calendar year. We also sought comment on requiring carriers to report the total number of animals transported in the calendar year in the December reports. Comments on the matters proposed were to be received 60 days after publication of the NPRM, or by August 28, 2012.

Request for Comment Period Extension

We received a joint request for an extension of time in the comment period for this rulemaking from Airlines for America (A4A), the Regional Airline Association (RAA), the Air Carrier Association of America, Inc. (ACAA), and their respective members (the petitioners). According to the request, the extension of time is needed so interested parties have sufficient time to review and comment on the preliminary regulatory analysis (PRA). The petitioners state that as of July 20, 2012, the docket associated with this rulemaking did not yet include the Department’s PRA, which provides the cost and benefit analysis underpinning the proposal. The

petitioners state that comment development cannot progress until the PRA is available. The PRA was posted in the docket on July 24, 2012.

Under the circumstances, we concur with the request for an extension of the comment period. We have decided to grant an extension of 30 days, or until September 27, 2012, for the public to comment on the NPRM. In doing so, we have balanced the stated need for additional time for comments with the need to proceed expeditiously with this important rulemaking. We take note of the fact that with the additional 30 days we are granting here, interested parties will have more than two months to comment on the PRA, which we believe is adequate time for analysis and coordination regarding the proposals. Accordingly, the Department finds that good cause exists to extend the time for comments on the proposed rule from August 28, 2012, to September 27, 2012. We do not anticipate any further extension of the comment period for this rulemaking. Comments received after September 27, 2012, will be considered to the extent practicable.

Request for Clarification

In addition to requesting that the comment period be extended, the petitioners posed a number of questions to the Department concerning the proposed requirement that carriers report the total number of animals transported during a calendar year with that year's December reports, the cost to carriers of amending the definition of "animal" for reporting purposes, and the number of carriers affected by the reporting requirement.

Issues Concerning the Proposed Requirement that Carriers Report the Total Number of Animals Transported in the Calendar Year in the December Reports

The petitioners state that there are conflicting statements between the NPRM summary and the NPRM Regulatory Analyses and Notices (RAN) section with respect to the proposed requirement that carriers report the total number of animals transported in the calendar year in the December reports. They state that while the RAN section indicates that carriers would be required to report only during the months where the carriers experience a reportable animal incident, the preamble asks whether carriers should be required to file reports in months when no incident takes place. The petitioners seek clarification on this issue and request that the RAN section of the preamble be clarified if the proposal is that carrier be required to file negative reports.

As stated in the RAN section, in addition to proposing that covered carriers report the total number of animals transported in the calendar year in their December reports, the Department proposed that covered carriers only submit a report during the months when the carriers have a reportable animal incident. However, we also sought comment on whether to require carriers to file reports even if the carriers did not have any incidents involving the loss, injury, or death of an animal during a particular month. This is not inconsistent. The NPRM is not proposing that carriers file a negative report but is soliciting comment on this point so we can determine whether the final rule should include a general requirement that covered carriers must submit reports each month even if the carriers do not have any reportable incidents during a particular month or perhaps a requirement that carriers must file a December report regardless of whether any incidents occurred in that month to cover the total number of animals transported that year.

Issues Concerning the Cost to Covered Carriers of Amending the Definition of Animal

The petitioners state that for the 15 carriers that are currently required to report incidents involving the loss, injury, or death of an animal during air transport, the RAN is incorrect in stating that there would be no additional costs associated with amending the definition of “animal” for reporting purposes to include all cats and dogs transported by the carrier regardless of whether the cat or dog is transported as a pet by its owner or as part of a commercial shipment. They state that the 15 carriers already subject to the reporting requirement would likely incur additional costs, and the Department should correct the RAN.

The statement in the RAN that there would be no additional costs to the 15 carriers that already collect information on incidents involving loss, injury, or death of an animal refers to costs associated with actually filing monthly reports. The Department acknowledges that there would be costs associated with collecting more information to report, i.e., not only on incidents involving pets but also incidents involving dogs and cats that are shipped commercially. In the NPRM, the Department states that it believes the cost of the proposed expanded definition of an animal covered by the reporting rule would impact airlines but the cost would still be minimal. We encourage comments and data about expected costs resulting from the expansion of the definition of “animal.”

Issues Concerning the Scope of the Reporting Requirement

The petitioners state that although the RAN states that the scope of the carriers covered by the animal incident reporting requirements would expand under the NPRM proposal from 15 to 36 carriers, the NPRM does not list the carriers so there is no way to verify if the list is accurate. They point out that presumably the PRA lists the potentially impacted carriers and that informed comment cannot progress until the PRA and that information is available.

The PRA does in fact list the carriers that would be affected by the NPRM and, as noted above, the PRA was posted in the docket on July 24, 2012. The public is invited to comment on the accuracy of that list.

Issued this 28th day of August, 2012, in Washington, D.C. under authority delegated in 14 CFR Part 1.

Robert S. Rivkin
General Counsel