

71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed 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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Rutherford County Airport, Rutherfordton, NC.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U,

Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO NC E5 Rutherfordton, NC [Amended]

Rutherford County Airport, NC
(Lat. 35°25'44" N., Long. 81°56'06" W.)

That airspace extending upward from 700 feet above the surface within an 11.6-mile radius of the Rutherford County Airport.

Issued in College Park, Georgia, on May 13, 2011.

Barry A. Knight,

*Acting Manager, Operations Support Group,
Eastern Service Center, Air Traffic
Organization.*

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 217, 241, 298

(Docket Nos OST–98–4043)

RIN 2105–AC71

Aviation Data Modernization

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: The Department of Transportation (the Department) is withdrawing a Notice of Proposed Rulemaking (NPRM) issued on February 17, 2005 (70 FR 8140 *et seq.*) that proposed revisions to the rules governing the nature, scope, source of and means for collecting and processing aviation traffic data.

We are withdrawing this NPRM because, after review of all comments, we have determined that the approach we proposed to solve the identified problems does not adequately address a number of aspects, including measures that could both enhance the utility, integrity and accuracy of the data and reduce the cost of reporting. This action is being taken to allow for later revision and refinement of a proposed methodology for aviation data modernization.

DATES: June 1, 2011.

FOR FURTHER INFORMATION CONTACT: Richard Pittaway, Office of Aviation Analysis, 1200 New Jersey Ave., SE., Room W86–461, Washington, DC 20590, (202) 366–8856.

Electronic Access: You can view and download related documents and public comments by going to the Web site <http://www.regulations.gov>. Enter the docket number DOT–OST–1998–4043 in the search field.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 1998, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) (63 FR 28128) requesting comment on a variety of issues related to aviation economic data collection. The ANPRM noted that the Origin-Destination Survey of Airline Passenger Traffic (O&D Survey) and Form 41, Schedule T–100—U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-flight Market and Form 41, and Schedule T–100(f)—Foreign Air Carrier Traffic and Capacity Data by Nonstop Segment and On-flight Market (the last two are known collectively as the T–100/T–100(f)) O&D Survey and the T–100/T–100(f) may not provide sufficiently reliable data in some circumstances to ensure that the Department can meet its obligation to disseminate information that enables the transportation system to adapt to the present and future needs of the American public. At that time, we stated our concern that the aviation data systems should be reviewed and modernized in order to meet our statutory responsibilities.

Also, because of difficulties private industry would have in assembling these data, the need for scheduled air traffic information cannot be satisfied other than through governmental means. However, while there are no other sources of comprehensive traffic data available in the aviation industry, a significant market exists in supplying services to supplement the Department's information offerings using the service provider's own statistical insight and experience. The public, academics, manufacturers, airports, air carriers, local, state and various branches of the Federal government all remain dependent on the reliability of this commercially enhanced data.

Approximately 50 comments were filed in response to the ANPRM by airlines, airports, trade associations, unions, and private citizens who use this data. Commenters confirmed that these data are not only critical to the work of both private and public aviation stakeholders (including the reporting airlines themselves), but that there are universal concerns about the capability and accuracy of the existing data collection to satisfy the changing needs of the industry and its stakeholders. The respondents overwhelmingly agreed

that the O&D Survey and the T100 segment data were essential. Commenters repeatedly mentioned that the current data elements collected were insufficient to meet the data needs of the public and the aviation industry now and in the future. There was near universal agreement that the data suffer from lack of quality and lack of consistency. Deficiencies in the O&D Survey and in the T-100/T-100(f) further reduce the ability of the data to meet the needs of the aviation community.

On February 17, 2005, OST published a notice of proposed rulemaking (NPRM) (70 FR 8140 *et seq.*) as part of the Department's effort to revise the requirements for aviation data to modernize the way we collect, process, and disseminate aviation data. The NPRM reflected analysis of the O&D Survey and T-100/T-100(f) data, and it documented the use of that data by the government, the airline industry, consumers, and other stakeholders. We proposed revisions to the rules governing the nature, scope, source of and means for collecting and processing this aviation traffic data.

At the time the notice was published, we noted that the Department has a statutory responsibility to collect and disseminate information about aviation transportation in the U.S. The Department must, at minimum, collect information on the origin and destination of passengers and information on the number of passengers traveling by air between any two points in air transportation, 49 U.S.C. sec. 329(b). Additionally, the Department is charged with maintaining a sound regulatory system that is responsive to the needs of the public, and must disseminate information to make it easier to adapt the air transportation system to the present and future needs of the commerce of the United States (49 U.S.C. 40101(a) (7)).

We also acknowledged the Department's responsibility to maximize the quality, objectivity, utility, and integrity of influential statistical information it disseminates. Although the O&D Survey collected quarterly and the T-100/T-100(f) collected monthly are the means by which the Department disseminates aviation traffic information, the NPRM identified various technical deficiencies and limitations in the data.

In the 2005 NPRM, we also proposed a plan to create the O&D Survey using a fundamentally different collection methodology and considered commensurate changes in the collection of the T-100/T-100(f). In addition to seeking comments on the change of

methodology, we sought input into other key topics such as information about what kind of data should be withheld from release for reasons of competitive sensitivity.

Discussion of Comments

In response to the 2005 NPRM, the Department received substantive comments from ten organizations or groups, and limited comments from twelve additional groups or organizations. Most of the commenters were airlines or aviation trade associations, but some of the other users of the data also provided comments. While there was opposition to certain aspects of the Department's proposed methodology for collecting data, no comments filed in response to the NPRM disputed the Department's authority to gather aviation information, the Department's review of the data's current deficiencies, the Department's assessment of the data's limitations, or the Department's assertion that the current traffic statistics had outlived the economic model for which it was designed. We, therefore, conclude that there is support for obtaining and disseminating accurate aviation traffic data by aligning it with modern airline business practices, but that the methodology we proposed may not have been the best solution to repair the deficiencies in the system.

The Department's proposal for collecting aviation traffic data continued to rely on the airline passenger revenue accounting system as the principal source of data. However, we proposed changing the carrier designated to report the data, increasing the scope and volume of data collected, and reducing the number of reporting exemptions. The NPRM also sought comments on several specific issues to achieve greater uniformity in statistical reporting in light of the industry's divergent business models. We believed that changing the carrier responsible for reporting a ticket to the ticket issuing carrier would be a significant simplification in the airline's process of reporting and would, therefore, result in a reduction of reporting costs. While there was considerable support for these changes, the comments indicated that some believed that the burdens of reporting the data would still be disproportionately high.

We proposed a specific set of data elements that we anticipated would be necessary in the new methodology to define one-way trips, and asked for comment on how to construct the one-way trips. However, no one-way trip methodology appeared in the record, leading a number of commenters to

claim that the Department had not sufficiently articulated a rationale for collecting the newly proposed data elements.

Similarly, the Department proposed that the public supply guidance regarding how the Department should safeguard competitively sensitive information, but no such safeguards were suggested in the comments. With no specific proposals for safeguards in the record, a number of commenters asserted that the Department had not made sufficient plans to safeguard competitively sensitive information.

In addition, the Department pointed to evidence that the current ticket sample methodology produces a sample that could be impacted by decisions at travel agencies to assign ticket numbers at their own convenience for their own reasons. We have no authority to regulate such activities of travel agents, and so the Department proposed to either change the method of creating the sample or to do away with sampling and collect a census of data. Despite evidence presented in the NPRM that the current 10% sampling system produces a biased sample of inconsistent size and inadequate scope, and the Department's calculation indicating that to ensure reasonable accuracy the target sample size should be a minimum of 24.34% of the total enplaned passengers, several airlines commented that a 20% sample with no change in collection methodology would be easier to implement and therefore preferable to the Department's proposal.

Although many stakeholders provided comments on the manner in which data could be collected, it is the airlines who must supply the data and are, therefore, in the best position to effectively comment on the difficulty of producing the data. Some airlines questioned certain aspects of the rulemaking's data collection proposal, characterizing the changes as potentially expensive and cumbersome. No airline, however, suggested an alternative, statistically defensible proposal for collection of data that would be less expensive and less cumbersome while simultaneously producing the desired improvements in the utility of the data.

Reason for Withdrawal

The stated purposes of this rulemaking were to (1) Reduce the long-term reporting burden on the Participating Carriers, (2) make the O&D Survey more relevant and useful, (3) reduce the time it takes to disseminate the information and (4) achieve 95% statistical correlation between the O&D Survey and the T-100/T-100(f).

In light of the responses to the NPRM, we have determined that it will be in the public interest to significantly modify our proposal to modernize aviation data products. We have also determined that an additional request for public comment based on the current proposal would not provide us with the information we need in order to accomplish our purpose.

We have engaged a contractor with expertise in the industry to identify necessary and useful system features, and to address how data collection can be aligned with modern airline information technology so as to minimize the data-reporting burden on air carriers. Further, the contractor will assist the Department in assessing alternatives to the Department's proposal as stated in the NPRM that will help all stakeholders realize a better value for the investment in the data modernization effort.

Although this rulemaking is being withdrawn, the Department anticipates the issuance at a later date of a new NPRM and will continue to involve the public in its effort to increase efficiency, effectiveness, integrity, quality, and utility of the aviation traffic information available, in a way that is also sensitive to the information collection costs that would be imposed on the carriers.

Issued in Washington, DC on May 25, 2011.

Susan L. Kurland,
Assistant Secretary.

[FR Doc. 2011-13554 Filed 5-31-11; 8:45 am]

BILLING CODE 4910-9X-P

FEDERAL TRADE COMMISSION

16 CFR Part 309

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission seeks public comment on its Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles (“Alternative Fuels Rule” or “Rule”). As part of its systematic review of all FTC rules and guides, the Commission requests public comment on the overall costs, benefits, necessity, and regulatory and economic impact of the Alternative Fuels Rule. The Commission also seeks comment on whether to merge its alternative fueled vehicle (AFV) labels with fuel economy labels proposed by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA); add new definitions for AFVs contained in recent legislation; and change labeling requirements for used AFVs.

DATES: Written comments must be received on or before July 25, 2011.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Regulatory Review for Alternative Fuels Rule, (16 CFR part 309, Matter No. R311002, Program Code M04)” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/altfuelsreviewanpr>, by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2889.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Policy Act of 1992 (EPA Act 92 or Act)¹ established federal programs that encourage the development of alternative fuels and alternative fueled vehicles (AFVs). Section 406(a) of the Act directed the Commission to establish uniform labeling requirements for alternative fuels and AFVs. Under the Act, such labels should provide “appropriate information with respect to costs and benefits [of alternative fuels and AFVs], so as to reasonably enable the consumer to make choices and comparisons.”² In addition, the required labels must be “simple and, where appropriate, consolidated with other labels providing information to the consumer.”³

In response to EPA Act 92, the Commission published the Alternative Fuels Rule in 1995, addressing both alternative fuels and AFVs.⁴ The Rule requires labels on fuel dispensers for *non-liquid* alternative fuels, such as electricity, compressed natural gas, and hydrogen.⁵ The labels for electricity provide the dispensing system's kilowatt capacity, voltage, and other related information. The labels for other non-liquid fuels disclose the fuel's commonly used name and principal component (expressed as a percentage).⁶ Examples of the fuel labels appear below.

¹ Public Law 102-486, 106 Stat. 2776 (1992).

² 42 U.S.C. 13232(a).

³ *Id.* The provision also states that the Commission “shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors.”

⁴ 60 FR 26926 (May 19, 1995).

⁵ The Commission's Fuel Labeling Rule, 16 CFR Part 306, addresses labeling for liquid alternative fuels, such as ethanol and liquefied natural gas.

⁶ The Rule requires fuel importers, producers, or distributors to have a reasonable basis for the information disclosed on the label, maintain records, and provide certifications when transferring fuel. 16 CFR 309.11-14.