PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E. O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.09B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AWP CA D Redding, CA [Revised]
Redding Municipal Airport, CA
(Lat. 40°30′32″ N, long. 122°17′30″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.3-mile radius of the Redding Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on January 6, 1995.

Richard R. Lien,

Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 95–1268 Filed 1–18–95; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Part 258

[Dockets No. 47546, 49511, 49512, and 49513; Notice 95–3]

RIN 2105–AC17

Disclosure of Change-of-Gauge Services

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In order to ensure that prospective airline consumers are given pertinent information on the nature of change-of-gauge services, *i.e.*, services with one flight number that require a change of aircraft, the Department of Transportation is proposing to codify and augment its current disclosure requirements. The Department is requesting comments on the following three proposed requirements, which would apply to U.S. air carriers, foreign air carriers, and where appropriate, ticket agents (including travel agents) doing business in the United States: (1) that transporting carriers include notice of required aircraft changes in their written and electronic schedule information provided to the public, to the *Official Airline Guide* and comparable publications, and to computer reservations systems, (2) that consumers be given reasonable and timely notice before they book transportation that a particular service with a single slight number entails a change of aircraft *en route,* and (3) that written notice of the aircraft change be provided at the time of sale. This proposal constitutes the department's response to the petition of American Airlines in Docket 47546 to ban the practice of ''funnel flights,'' a type of change-of gauge service. The Department is also dismissing the complaints of TACA International Airlines, Aviateca, and Nicaraguense de Aviacion (''NICA'') in Dockets 49511, 49512, and 49513, respectively, against Continental Airlines for operating funnel flights.

DATES: The Department requests comments by March 20, 1995 and reply comments by April 19, 1995. The Department will consider late-filed comments only to the extent practicable.

ADDRESSES: Comments should be filed with the Docket Clerk, U.S. Department of Transportation, Room 4107, Docket No. 47546, 400 Seventh Street SW, Washington, DC 20590. To facilitate consideration of the comments, we ask commenters to file twelve copies of each submission. We also encourage commenters to submit electronic versions of their comments to the Department through the Internet; our e-mail address is dot__dockets@postmaster.dot.gov.[1] Please note, however, that at this time the Department considers only the paper copies filed with the Docket Clerk to be official comments. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday. For acknowledgment of receipt of comments, include a stamped, self-addressed postcard, which the Docket Clerk will date-stamp and mail.

FOR FURTHER INFORMATION CONTACT: Betsy L. Wolf, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings (202–366–9356), Office of the General Counsel, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590.

[1] Our X.400 e-mail address is as follows: G=dot/S=dockets/OU1=qmail/O=hq/p=gov+dot/a=attmail/c=us.

SUPPLEMENTARY INFORMATION:

Introduction

A change-of-gauge service is a type of scheduled passenger air transportation for which the operating carrier uses one single flight number even though passengers do not travel in the same aircraft from origin to destination but must change planes at an intermediate stop. One-flight-to-one flight change-of-gauge service differs from ordinary connecting service in that the carrier will usually hold the second aircraft for the arrival of the first one. *Computer Reservations System (CRS) Regulations, Final Rule, 57 FR* 43780, 43804 (September 22, 1992).

''Change-of-gauge service is a long-established practice in transportation. The term itself originate with the railroads when passengers had to change trains due to differences in the size of tracks. Change-of-gauge services have been used in aviation for decades. In 1972, the Civil Aeronautics Board rejected the contention that change-of-gauge services were an unfair or deceptive practice or an unfair method of competition, as long as notice was given, and it changed its rules to accommodate them. Internationally, in 1978, the United States won an international arbitration brought when France attempted to limit the right of a U.S. carrier to operate change-of-gauge service. The tribunal found that the agreement between the United States and France permitted change-of-gauge service by giving each country wide discretion over operational aspects of flight. Change-of-gauge services are constantly used in cargo transportation, where they sometimes entail changes from one mode of transportation to another. The policy of the United States has been to permit intermodal changes of gauge as long as shippers are not mislead as to actual service.

In addition to one-flight-to-one flight change-of-gauge services, change-of-gauge services can also involve aircraft changes between multiple flight on one side of the change point and one single flight on the other side. Change-of-gauge services with multiple origins or destinations are called ''Y'' (*i.e.*, two-for-one), ''W'' (*i.e.*, three-for-one), or ''starburst'' (*i.e.*, unrestricted) changes of gauge, depending on the shape of the route patterns. Popularly, they are also called ''funnel flights.'' The United States has taken the lead in persuading our bilateral aviation partners to move beyond one-for-one change-of-gauge services to allow carriers the flexibility to operate multiple changes of gauge. As with one-for-one change-of-gauge services, the carrier assigns a single

flight number for the passenger's entire itinerary even though the passenger changes planes, but in addition, the single flight to or from the exchange point itself has multiple numbers: one for each segment with which it connects and one for the local market in which it operates. That flight is thus listed in CRSs under different numbers in different city-pair markets. As an example, an airline might operate three flights to London from three European cities: Flight 100 from Frankfurt, Flight 200 from Paris, and Flight 300 from Rome. In London, passengers from all three flights board a single aircraft bound for New York. The London-New York flight would carry all three flight numbers plus its own number. Schedules would show direct or through flights to New York from Frankfurt, Paris, and Rome as well as the nonstop flight from London.

49 U.S.C. § 41712, formerly section 411 of the Federal Aviation Act, authorizes the Department to identify and ban unfair or deceptive practices or unfair methods of competition on the part of air carriers, foreign air carriers, and ticket agents. Under § 41712, the Department has adopted various regulations and policies to prevent unfair or deceptive practices or unfair methods of competition, such as the CRS rules (14 CFR Part 255) and our policy on fare advertising (14 CFR § 399.84), for example., The Department's current CRS rules, adopted in September of 1992, require that CRS displays give notice of any flight that involves a change of aircraft *en route Id* at 43835; 14 CFR 255.4(b)(2). In addition the Department requires as a matter of policy that consumers be given notice of aircraft changes for change-of-gauge flights. *See* Order 89–1–31 at 5.

Petition for Rulemaking

On May 16, 1991, American Airlines, Inc., filed a petition for rulemaking to prohibit funnel flights, claiming that they deceive consumers and prejudice airline competition. American maintains that uninformed consumers are harmed when they decide to buy transportation on funnel flights, because they mistakenly believe that they will be traveling from origin to destination on one plane, thus avoiding the risk that they or their baggage will miss connections. American maintains that competing carriers suffer harm in two ways. First, they fail to sell their own connecting services of equivalent quality to the misinformed passengers. Second, in CRS displays for any city-pair, they have only one listing for their connecting services, whereas a funnel flight is listed twice, both as a direct flight with a single flight number and as a connecting service. According to American, this double listing not only gives undue exposure to the funnel flights but also pushes competitive connecting services to later CRS screens where they are less likely to be sold.

American acknowledges that CRSs in the United States attempt to call funnel flights to the attention of their travel agent subscribers by including the notation ''CHG'' with these flights' CRS listings. (The adoption of 14 CFR 255.4(b)(2) *supra*, occurred after American filed its petition.) Despite this precaution, however, American claims that many consumers still buy tickets on funnel flights without understanding that they will be making a connection and not remaining on one plane throughout their journey. American states that confusion may result for a number of reasons: the travel agent may fail to explain matters adequately to the traveler; the person making the reservation may not be the person taking the trip, and even if the former understands the situation, he or she may fail to explain matters adequately to the latter; or the traveler may become confused upon receiving just one flight coupon instead of the two that one would normally expect for a connection.

American contends that funnel flights offer no offsetting benefit to the traveling public to justify their existence. American also contends that no carrier will forgo the practice as long as any of its competitors maintains it. Therefore, except in the case of ''true'' change-of-gauge flights that are specifically authorized or required by bilateral agreements to have a single flight number, American urges that funnel flights be prohibited. It proposes that the Department adopt the following language as a new paragraph (c) to § 399.81 of our regulations, ''Unrealistic or deceptive scheduling'' (14 CFR 399.81):

> (c) Except as otherwise expressly approved by the Department, it is the policy of the Department to regard as an unfair or deceptive practice, and an unfair method of competition, the use by an air carrier, commuter air carrier, or foreign air carrier of multiple flight numbers for a single aircraft operating on any given day in a single city-pair for interstate, overseas, or foreign air transportation.

American proposes that this rule take effect 90 days after its adoption in order to allow for an orderly transition.

Comments and Reply Comments

Seven air carriers (Lufthansa German Airlines, British Airways PLC, Delta Air Line, Inc., Swissair [Swiss Air Transport Company, Ltd.], Air France, Virgin Atlantic Airways, Ltd., and Sabena Belgian World Airlines), one group of fourteen airlines (the Orient Airlines Association), two other groups (the American Society of Travel Agents, Inc. [ASTA] and the Dallas/Fort Worth Parties), one individual (Donald L. Pevsner, Esq.), and one travel agency (Magic Carpet Travel Agency) filed comments in response to American's petition. Three carriers (American Trans Air, Inc., Air Canada, and American) filed reply comments. All of these pleadings may be reviewed in the docket. In reaching our decision to propose the rule discussed below, the Department has considered the information provided and arguments advanced by the commenters.

To summarize the pleadings, all commenters except Air Canada support a prohibition of funnel flights, although some suggest variations on American's proposed language that would more clearly permit code-sharing and blocked space arrangements or that would ban all change-of-gauge flights that are not required by bilateral agreements. Some suggest addressing funnel flights through the CRS rules rather than by amending our policy statement on unrealistic or deceptive scheduling. Several foreign carriers take the position that foreign carriers are particularly harmed by funnel flights and that this practice violates the spirit if not the letter of certain bilateral agreements. Mr. Pevsner also asks the Department to go so far as to ban all ticketing of two or more flight segments on a single-coupon, whether in interstate or foreign air transportation.

Funnel Flight Complaints Against Continental

On April 18, 1994, three foreign air carriers filed nearly identical complaints in which they ask the Department to order Continental Airlines, Inc. to cease and desist from operating funnel flights between the United States and Latin America. TACA International Airlines, S.A., Aviateca, S.A., and Nicaraguense de Aviacion, S.A. (''NICA'') filed their complaints in Dockets 49511, 49512, and 49513, respectively. The three complainants argue that Continental's funnel flights deceive and confuse consumers and harm competition. Specifically, they maintain that the funnel flights keep consumers from buying the most convenient transportation and give them the mistaken impression that Continental offers far more flights to Latin America than it actually does. They also maintain that Continental's funnel flights harm competition not

only by misleading consumers but by unfairly outranking other equivalent services in CRS displays and displacing such services to later CRS screens where they are less likely to be sold. The complainants also maintain that Continental's funnel flights deprive them of a fair and equal opportunity to compete.

Apart from the issue of funnel flights, TACA charges Continental with attempting to dominate the Texas-Latin America market by unilaterally terminating a prorate agreement between the two carriers in the El Salvador-Houston market, by engaging in predatory pricing, by opposing TACA's expansion of service through Honduran flights, and by opposing TACA's expansion of service at Dallas/Fort Worth.

United and American both filed consolidated answers supporting the complaints but urging the Department to ban funnel flights as a practice industrywide rather than merely acting on individual complaints.

Continental filed individual answers opposing the complaints. Continental maintains that its funnel flights are entirely legal, as are the other activities of which TACA complains. The carrier also denies that its funnel flight service receives preference over other on-line connecting services in CRSs other than SystemOne. As an affirmative defense, Continental notes that the Department has not acted on American's petition for rulemaking to ban funnel flights. In addition, Continental asserts that TACA owns a 30 percent share of Aviateca and a 49 percent share of NICA, and it maintains that the complaints represent a concerted response to its own opposition to TACA's requests for extra-bilateral authority to serve Dallas/Fort Worth and all points in Honduras and to its own complaint about lack of access to jetways at San Salvador as well. Continental also characterizes the complaints as a concerted effort to limit Continental's ability to compete in the U.S.-Central America market.

Notice of Proposed Rulemaking

Proposed Rule: By this notice, we propose to require U.S. air carriers, foreign air carriers, and, where applicable, ticket agents (including travel agents) doing business in the United States to make the following disclosures of all change-of-gauge services, or services with a single flight number that require changes of aircraft *en route* (including funnel flights):

(1) notice by carriers of required aircraft changes in written and electric schedule information provided to the public, to the *Official Airline Guide* and comparable publications, and to computer reservations systems,

(2) in any direct oral communication with a consumer concerning a change-of-gauge service, notice before booking transportation that the service requires a change of aircraft *en route,* and

(3) written notice at the time of sale of such service stating the following:

Notice: Change of Aircraft Required

For at least one of your flights, you must change aircraft *en route* even though your ticket may show only one flight number and have only one flight coupon for that flight. Further, in the case of some travel, one of your flights may not be identified at the airport by the number on your ticket, or it may be identified by other flight numbers in addition to the one on your ticket. At your request, the seller of this ticket will give you details of your change of aircraft, such as where it will occur and what aircraft types are involved.

We are thus proposing to codify explicit requirements that all sellers of air transportation make effective disclosure to consumers that change-of-gauge itineraries, including funnel flights, require a change of aircraft. The contentions of American and the various commenters, as confirmed by our Consumer Affairs office, tentatively persuades us that even with our current policy requiring disclosure of aircraft changes, too many consumers may be buying transportation on these services without realizing that they will be changing planes. Also, despite our adoption in 1992 of a rule requiring that CRS displays must identify single-number flights requiring a change of aircraft, it appears that travelers are still not always informed of *en route* aircraft changes, resulting in confusion and hardship.

We tentatively find that the failure to disclose required aircraft changes in scheduled passenger air transportation constitutes an unfair or deceptive practice or an unfair method of competition within the meaning of 49 U.S.C. 41712 (formerly section 411 of the Federal Aviation Act). We intend for the disclosure requirements proposed here to complement our CRS rule. The proposed rule should alleviate problems of passenger deception or confusion and any resultant harm to competition, and it should enable all consumers to make well-informed decisions when purchasing travel.

We are not persuaded that we should ban either single or multiple change-of-gauge services. The Department has generally declined to foreclose carriers' marketing and service innovations unless these violate 49 U.S.C. 41712 or otherwise contravene the public interest. We do not agree with American and the commenters that funnel flights or other change-of-gauge services violate 49 U.S.C. 41712 or contravene the public interest in and of themselves. We tentatively find that any problems of passenger deception or confusion that can be attributed to the absence of effective disclosure to prospective passengers can and should be solved by our proposed rule.

In calling for a ban on funnel flights and other change-of-gauge services, American and the commenters ignore the public benefits that these services provide. One-for-one change-of-gauge services are superior to ordinary online connections, because with the former, the carrier will usually hold the second aircraft for the arrival of the first one. Both American Trans Air, which argues that change-of-gauge services can promote economic efficiency, and Delta oppose banning these services. Multiple change-of-gauge services can promote economic efficiency by raising load factors on the funnel segments. Higher load factors in turn can enable carriers to charge lower fares, serve more markets, and increase frequency. A higher level and scope of service translate into increased competition, which also benefits consumers. If, as American argues, multiple change-of-gauge services really provide no benefits for consumers, then with effective disclosure, consumers will stop using them, so carriers will stop offering them.

The carriers who favor a ban on single and multiple change-of-gauge services also ignore the costs of banning these services. First, a ban on multiple change-of-gauge services could lead to higher fares in a significant number of international city-pairs. The Department exercises some control over the upward movement of fares in international air transportation on single-flight-number services, since it can block—and has blocked—fare increases that exceed the levels allowable under the Standard Foreign Fare Level for itineraries with one flight number. Such regulatory control does not extend to fares for itineraries held out under two or more flight numbers.

Second, a ban on multiple change-of-gauge services would sacrifice valuable international route rights, to the detriment of both the carriers and the traveling public. The United States has negotiated with our bilateral trading partners—and paid by making various concessions—for the rights to have its carriers conduct change-of-gauge services in foreign air transportation. Many bilateral agreements not only allow U.S. carriers to operate change-of-gauge services to and from points beyond foreign gateways but actually

require the beyond flights to be continuations of flights that originate in the United States or earlier legs of flights that are destined for the United States. Our bilateral agreement with Great Britain expressly requires that U.S. carriers use the same flight numbers for all change-of-gauge sectors, for example. This and similar restrictions make through flight numbers a necessity if U.S. carriers are to redeem international route rights to many points beyond foreign gateways. Banning multiple change-of-gauge services would sacrifice these rights and deprive the traveling public of U.S. carrier service. Moreover, most of the bilateral agreements that allow multiple change-of-gauge services do so for both parties and specifically authorize multiple flight numbers for a single operation. To prohibit foreign flag carriers from operating multiple change-of-gauge services in the United States would breach these agreements. To sacrifice U.S. carriers' rights unilaterally would contravene the public interest as a matter of principle and in practice could put U.S. carriers at a competitive disadvantage.

The pleadings indicate that the problems associated with change-of-gauge services lie not with the services in and of themselves but with the failure to inform passengers effectively that these services entail a change of aircraft *en route*. This failure, as stated above, we tentatively find to be an unfair or deceptive practice or an unfair method of competition. The disclosure rules that we are proposing should alleviate not only most of the consumer problems detailed by the commenters but also whatever competitive problems may now result from consumers' mistaken belief that they are purchasing single-plane transportation. For the reasons discussed below, the other concerns voiced by the commenters—*i.e.*, CRS display issues, the single-coupon ticketing, the effects on foreign air carriers, and the incomplete flight displays at airports associated with funnel flights and change-of-gauge services—do not, in our view, warrant a ban on these practices.

Those who comment on this notice should be aware that the tentative conclusions and analysis set forth here do not reflect any of the comments filed in Docket 49702, *Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases, Notice of Proposed Rulemaking, 59 FR 40836 et seq.* (August 10, 1994). Rather, to the extent that they may bear on this rulemaking, we will consider these comments, as well as our disposition of them in our final action in the code-sharing rulemaking, before we adopt any final rule on disclosure of change-of-gauge services.

In light of our tentative conclusion that funnel flights do not violate 49 U.S.C. 41712 in and of themselves and should not be banned, we dismiss the complaints of TACA, Aviateca, and NICA against Continental in Dockets 49511, 49512, and 49513, respectively. Continental appears, moreover, to be complying with our policy requiring that passengers be informed of aircraft changes. After reviewing the complaints, we asked our Officer of Consumer Affairs to investigate Continental's compliance by making anonymous test calls, and that office informs us that in all of its calls, the aircraft change was disclosed. We also dismiss TACA's complaint because the carrier has provided no evidence in support of its charge of predatory pricing and because the other acts with which its charges Continental do not violate 49 U.S.C. 41712, any other provision of title 49 of the U.S. Code, or the bilateral agreement between the United States and El Salvador.

Passenger Confusion and Deception: In requiring operators of change-of-gauge services to disclose aircraft changes in their schedules and in requiring all sellers of scheduled passenger air transportation to make oral disclosure of aircraft changes to prospective passengers before booking travel and to provide written notice at the time of sale, we mean to eliminate instances in which passengers choose these types of transportation under a mistaken impression that they will remain on the same plane throughout their journeys. We understand that in some cases, passengers have only learned that they must change aircraft after they have begun their travel. The written notice should also eliminate any misunderstanding as to the nature of the transportation that might otherwise result from the receipt of only one flight coupon for an itinerary that entails a change of planes. It should eliminate or reduce as well any confusion that passengers might otherwise experience if they see multiple flight numbers listed at the airport for the same flight, with or without their own flight number. We have recently addressed analogous concerns regarding the sharing of airline designator codes by proposing to require sellers of air transportation to give passengers oral and written notice of such arrangements. *See Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases, Notice of Proposed Rulemaking, supra.*

The disclosure requirements proposed here should thus address the problems associated with passengers' misunderstanding of the nature of their transportation. Two other consumer-related concerns cited by some commenters do not, in our view, justify a ban on one-for-one or multiple change-of-gauge services. First, that passengers are issued just one flight coupon and therefore cannot switch automatically to another carrier in the event that the ongoing segment of their transportation is cancelled or seriously delayed does not justify banning one-for-one or multiple change-of-gauge services. This restriction is not unique to those services. Many widely-used discount fares are not automatically transferrable from one carrier to another, either, but instead must be specially endorsed by the issuing carrier in order to be accepted by another carrier. Second, we do not agree that we must sacrifice the public benefits of multiple change-of-gauge flights in order to eliminate whatever confusion may result from their incomplete listing in some airports' displays. This is an issue that affected airports should address. In any event, the written notice that our proposed rule would require would alert passengers to the possibility of incomplete airport displays.

Competition: To the extent that competition among airlines may be affected when passengers reject other connecting services in favor of one-for-one or multiple change-of-gauge services under the mistaken belief that they will thereby avoid changing planes, our proposed disclosure requirements should correct this distortion.

American and the commenters also cite padded displays in CRSs as a competitive concern that warrants banning these practices outright. We do not agree, because the legitimacy of change-of-gauge services in and of themselves is a separate issue from the way that such services are displayed in CRSs. In fact, the issue of multiple CRS listings has been raised in two recent petitions for rulemaking: American and Trans World Airlines have filed petitions in Dockets 49620 and 49622, respectively, for a CRS rule prohibiting multiple listing of code-sharing services. In that context, the Department will consider the issue of display practices as it involves both code-sharing services and change-of-gauge services.

American and the commenters also complain that funnel flights are improperly given preference in CRSs over on-line connecting services. As noted above, though, Continental claims that even though its funnel flights to Latin America are displayed in CRSs as

direct services with a change of equipment no CRS except System One gives them a preference over other international on-line connecting services. Moreover, out CRS rules allow vendors to include change-of-gauge services with connecting services on a nondiscriminatory basis.

Effects on Foreign Air Carriers: Several commenters argue that we should ban multiple change-of-gauge services because they disproportionately harm foreign air carriers and because, in violation of various bilateral agreements, they deprive foreign air carriers of a fair and equal opportunity to compete. As we found in the CRS rulemaking, however, ''the right to a fair and equal opportunity to compete does not guarantee foreign air carriers the exact same opportunities that U.S. carriers have. [citations omitted]. . . U.S. and foreign carriers must each contend with the practical advantages of route structure and market identity that competing carriers have within their own countries.'' *Computer Reservations System (CRS) Regulations, Final Rule, supra,* at 43892–43893 (''Prescribed Algorithm''). For example, any one foreign carrier can generally offer change-of-gauge and on-line connecting service to the United States from far more points behind its homeland gateways than any U.S. carrier can serve. *Cf. id.* at 43803 (''On-Line Preference''). Furthermore, in an era of increasing code-sharing arrangements between U.S. and foreign air carriers—arrangements which enable the participants to offer the equivalent of change-of-gauge and on-line service between U.S. and foreign points behind and beyond the participants' gateways—foreign carriers now have additional opportunities to compete at interior-U.S. points. *See Disclosure of Code-Sharing Arrangements and Long-term Wet Leases, Notice of Proposed Rulemaking, supra,* 59 *FR* at 40837.

Request for Comments

We invite comments not only on the merits of our proposed disclosure requirements but also on the feasibility and costs of implementing them. Comments should be supported by concrete data. Any economic analysis should contain enough detail to allow the Department to make an independent evaluation of the position advocated.

Regulatory Analyses and Notices

The Department has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. The Department has placed a regulatory evaluation that examines the estimated costs and effects of the proposal in the docket.

The Department certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. Although many ticket agents and some air carriers are small entities, the Department believes that the costs of notification will be minimal. The Department seeks comment on whether there are effects on small entities that should be considered. If comments provide information that there are significant effects on small entities, the Department will prepare a regulatory flexibility analysis at the final rule stage.

The Department does not believe that the proposed rule has sufficient federalism implications to warrant the preparation of a federalism assessment.

Paperwork Reduction Act

The proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 2507 *et seq.*).

List of Subjects in 14 CFR Part 258

Air carriers, Foreign air carriers, Ticket agents, and Consumer protection.

For the reasons set forth in the preamble, the Department proposes to amend Title 14, Chapter II, Subchapter A by adding a new Part 258, to read as follows:

PART 258—DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Sec.
258.1 Purpose.
258.2 Applicability.
257.3 Definitions.
258.4 Unfair and Deceptive Practice.
258.5 Notice Requirement.

Authority: 49 U.S.C. 40113(a) and 41712.

§ 258.1 Purpose.

The purpose of this part is to ensure that consumers are adequately informed before they book air transportation or embark on travel involving change-of-gauge services that these services require a change of aircraft *en route.*

§ 258.2 Applicability.

This rule applies to the following:

(a) direct air carriers and foreign air carriers that sell or issue tickets in the United States for scheduled passenger air transportation on change-of-gauge services or that operate such transportation; and

(b) ticket agents doing business in the United States that sell or issue tickets for scheduled passenger air transportation on change-of-gauge services.

§ 258.3 Definitions.

(a) *Air transportation* has the meaning ascribed to it in 49 U.S.C. § 40102(5).

(b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or U.S.C. 40102(21), respectively, that engages directly in scheduled passenger air transportation.

(c) *Change-of-gauge service* means a service that requires a change of aircraft *en route* but has only a single flight number.

(d) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(40).

§ 258.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation that involves change-of-gauge service is prohibited as an unfair or deceptive practice or an unfair method of competition within the meaning of 49 U.S.C. § 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

§ 258.5 Notice requirement.

(a) *Notice in Schedules.* Carriers operating-of-gauge services to, from, or within the United States shall ensure that in the written and electronic schedule information they provide to the public, to the *Official Airline Guide* and comparable publications, and to computer reservations systems, these services are shown as requiring a change of aircraft.

(b) *Oral Notice to Prospective Consumers.* In any direct oral communication with a consumer in the United States concerning a change-of-gauge service, any carrier or ticket agent doing business in the United States shall tell the consumer before booking scheduled passenger air transportation to, from, or within the United States that the service requires a change of aircraft *en route.*

(c) *Written Notice.* At the time of sale in the United States of a change-of-gauge service, the selling carrier or ticket agent shall provide written notice stating the following:

Notice: Change of Aircraft Required

For at least one of your flights, you must change aircraft *en route* even though your ticket may show only one flight number and have only one flight coupon for that flight. Further, in the case of some travel, one of your flights may not be identified at the airport by the number on your ticket, or it may be identified by other flight numbers in addition to the one on your ticket. At your request, the seller of this ticket will give you details of your change of aircraft, such as

where it will occur and what aircraft types are involved.

Issued under authority delegated in 49 CFR 1.56a(h)(2) in Washington, D.C. on January 12, 1995.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–1331 Filed 1–18–95; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM95–5–000]

Release of Firm Capacity on Interstate Natural Gas Pipelines

January 12, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend its capacity release regulations to permit firm shippers of natural gas to negotiate prearranged releases of capacity for a full calendar month without compliance with the Commission's advance posting and bidding requirements. The amendment would make it easier to negotiate short-term capacity release transactions and would ease the reporting burden on industry.

DATES: Comments are due February 21, 1995.

ADDRESSES: An original and 14 copies of comments must be filed and refer to Docket No. RM95–5–000. Comments should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2294

Joseph Vasapoli, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–0620.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street NE., Washington DC 20426.

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Notice of Proposed Rulemaking

January 12, 1995.

In Order No. 636,[1] the Federal Energy Regulatory Commission (Commission) established a mechanism under which firm holders of capacity could release unneeded capacity they held on interstate pipelines to other shippers needing that capacity. The Commission is proposing to amend one provision of its capacity release regulations, § 284.243(h), to extend to one month the time period for which shippers can release firm capacity without having to comply with the Commission's advance posting and bidding requirements. The current regulations restrict this ability to less than one calendar month.

I. Reporting Requirements

The proposed rule affects the information required to be maintained on pipeline electronic bulletin boards (EBBs). The public reporting burden for EBBs is contained in the information requirement FERC–549(B), ''Gas Pipeline Rates: Capacity Release Information.'' If adopted, the proposed rule would eliminate the need for the industry to continue the current practice of using two capacity release postings (a less-than-one month release coupled with a one-day release) to complete a full month release transaction. Under the proposed rule, full month releases could be accomplished with only one such posting. The Commission estimates that approximately 1,500 paired release transactions occur per year. At an average burden of one hour per posting, the annual reduction in burden as a result of this rule is approximately 1,500 hours.

A copy of this proposed rule is being provided to the Office of Management and Budget (OMB). Interested persons may send comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for further reductions of this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415, FAX (202) 208–2425]. Comments on the requirements of this proposed rule may also be sent to the Office of Information and Regulatory Affairs of OMB, Washington, D.C. 20503 [Attention: Desk Officer for Federal Energy Regulatory Commission (202) 395–6880, FAX (202) 395–5167].

II. Background

Under the regulations promulgated in Order No. 636, holders of firm capacity on pipelines could reassign that capacity in two ways. The releasing shipper could choose to have the pipeline post the notice of release on the pipeline's Electronic Bulletin Board (EBB) so other shippers could submit bids for that capacity, with the capacity awarded to the highest bidder. Or, the releasing shipper could enter into a pre-arranged deal with another shipper (replacement shipper) for the release of capacity. For a pre-arranged release at less than the maximum rate, the pipeline had to post the release on its EBB to permit other shippers to bid for that capacity. If a shipper bid more than the pre-arranged release rate, the designated replacement shipper was given the opportunity to match that bid to retain the capacity.

In Order No. 636–A, several petitioners requested an exemption from the bidding process for short-term pre-arranged release transactions, contending that the requirements for advance posting and bidding are too administratively difficult for such transactions and could inhibit the efficient allocation of capacity.[2] In response, the Commission promulgated § 224.243(h), permitting firm shippers to

[1] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 57 FR 13267 (Apr. 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (Apr. 8, 1992), *order on reh'g,* Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), III FERC Stats. & Regs. Preambles ¶ 30,950 (Aug. 3, 1992), *order on reh'g,* Order No. 636–B, 57 FR 57911 (Dec. 8, 1992), 61 FERC ¶ 61,272 (1992), *appeal re-docketed sub nom.*, Atlanta Gas Light Company and Chattanooga Gas Company, *et al.* v. FERC, No. 94–1171 (D.C. Cir. May 27, 1994).

[2] Order No. 636–A, III FERC Stats. & Regs. Preambles at 30,553.