



NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

[Docket No. NTSB-AS-2012-0001]

RIN 3147-AA11

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule; confirmation of effective date.

SUMMARY: The NTSB publishes confirmation of an amendment to its regulations concerning notification and reporting requirements with regard to aircraft accidents or incidents, titled, "Immediate notification." The regulation requires reports of Airborne Collision and Avoidance System (ACAS) resolution advisories issued under certain specific circumstances. In a Direct Final Rule published December 15, 2015, the NTSB narrowed the ACAS reporting requirement, consistent with the agency's authority to issue non-controversial amendments to rules. The NTSB also updated its contact information for notifications. This document confirms the changes and the effective date.

DATES: The final rule published December 15, 2015 (80 FR 77586) becomes effective February 16, 2016.

ADDRESSES: A copy of this final rule, published in the *Federal Register*, is available for inspection and copying in the NTSB's

public reading room, located at 490 L'Enfant Plaza, SW, Washington, D.C. 20594-2000. Alternatively, a copy of the rule is available on the NTSB website, at <http://www.ntsbt.gov>, and at the government-wide website on regulations, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Scott Dunham, National Resource Specialist - ATC, Office of Aviation Safety, (202) 314-6387.

SUPPLEMENTARY INFORMATION:

As described in the NTSB's preamble summarizing the direct final rule, in 2010, the NTSB added a requirement for notification of reports of Airborne Collision Avoidance System (ACAS) resolution advisories issued either (i) when an aircraft is being operated on an instrument flight rules (IFR) flight plan and compliance with the advisory is necessary to avert a substantial risk of collision between two or more aircraft, or (ii) to an aircraft operating in class A airspace. 75 FR 922 (Jan. 7, 2010).

In collecting such reports since 2010, the NTSB has determined it no longer needs reports of ACAS resolution advisories issued to an aircraft operating in class A airspace. This final rule confirms the NTSB will now only require reports of such resolution advisories when an aircraft operating on an IFR flight plan my comply with the advisory in order to avert a

substantial risk of collision between two or more aircraft. As a result, pursuant to its regulations governing rulemaking, the NTSB issued a direct final rule to amend 49 CFR 830.5(a)(10), as described above. 80 FR 77586 (Dec. 15, 2015).

In addition to the removal of a portion of section 830.5(a)(10), the NTSB also amended a footnote that accompanies the first paragraph of section 830.5. The footnote previously contained outdated contact information for NTSB regional offices. The NTSB has updated this footnote to refer the public to www.nts.gov or the NTSB Response Operations Center at 844-373-9922 or 202-314-6290, should the operators need to contact the NTSB to inform the agency of an accident or incident. This document confirms both the change to section 830.5(a)(10) and the updated text of the footnote.

The NTSB's rule on the direct final rulemaking procedure, codified at 49 CFR 800.44, states a direct final rule makes changes to a regulation which will take effect on a certain date unless the NTSB receives an adverse comment or a notice of intent to file an adverse comment. Id. § 800.44(d). Section 800.44 also defines "adverse comment" for purposes of the direct final rulemaking procedure. Comments on the NTSB's change to section 830.5(a)(10) and the updated footnote accompanying section 830.5 were due by January 14, 2016. The NTSB did not receive any comments. Therefore, as indicated in the direct

final rule, the changes will become effective on February 16, 2016.

Legal Analyses and Effective Date

This final rule is not a significant regulatory action under Executive Order 12866, "Regulatory Planning and Review." Therefore, Executive Order 12866 does not require a Regulatory Assessment, and the Office of Management and Budget (OMB) has not reviewed this proposed rule under Executive Order 12866.

This rule does not require an analysis under the Unfunded Mandates Reform Act, 2 United States Code (U.S.C.) 1501-1571, or the National Environmental Policy Act, 42 U.S.C. 4321-4347. The NTSB has also analyzed these amendments in accordance with the principles and criteria contained in Executive Order 13132, "Federalism." This final rule does not contain any regulations that would: (1) have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; (2) impose substantial direct compliance costs on state and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The NTSB is also aware that the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each agency to review its rulemaking to assess the potential impact on small entities,

unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. The NTSB certifies this final rule will not have a significant economic impact on a substantial number of small entities.

Regarding other Executive Orders and statutory provisions, this final rule also complies with all applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform," to minimize litigation, eliminate ambiguity, and reduce burden. In addition, the NTSB has evaluated this rule under: Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights"; Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks"; Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments"; Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"; and the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note. The NTSB has concluded this rule does not contravene any of the requirements set forth in these Executive Orders or statutes, nor does it prompt further consideration with regard to such requirements.

List of Subjects in 49 CFR Part 830

Aircraft accidents, Aircraft incidents, Aviation safety,
Overdue aircraft notification and reporting, Reporting and
recordkeeping requirements.

Christopher A. Hart,
Chairman
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