DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1562

[Docket No. TSA–2005–20118]

RIN 1652–AA39

Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC, Metropolitan Area Flight Restricted Zone

AGENCY: Transportation Security Administration (TSA), Department of Homeland Security.

ACTION: Interim final rule; request for comments.

SUMMARY: This action transfers responsibility for ground security requirements and procedures at three Maryland airports that are located within the Washington, DC, Metropolitan Area Flight Restricted Zone, and for individuals operating aircraft to and from these airports, from the Federal Aviation Administration (FAA) to TSA. These requirements and procedures were previously issued by the FAA, in coordination with TSA, in Special Federal Aviation Regulation (SFAR) 94. TSA is assuming responsibility for these requirements and procedures because TSA and FAA agree that they are best handled under TSA's authority over transportation security. These requirements and procedures will continue to enhance the security of the critical infrastructure and Federal government assets in the Washington, DC, Metropolitan Area.

DATES: *Effective Date:* This rule is effective February 13, 2005.

Comment Date: Comments must be received by April 11, 2005.

ADDRESSES: You may submit comments, identified by the TSA docket number to this rulemaking, using any one of the following methods:

Comments Filed Electronically: You may submit comments through the docket Web site at *http://dms.dot.gov*. Please be aware that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Comments Submitted by Mail, Fax, or In Person: Address or deliver your written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001; Fax: 202–493–2251.

Comments that include trade secrets, confidential commercial or financial information, or sensitive security information (SSI) should not be submitted to the public regulatory docket. Please submit such comments separately from other comments on the rule. Comments containing trade secrets, confidential commercial or financial information, or SSI should be appropriately marked as containing such information and submitted by mail to the individual(s) listed in **FOR FURTHER INFORMATION CONTACT**.

Reviewing Comments in the Docket: You may review the public docket containing comments on this interim final rule in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is located on the plaza level of the NASSIF Building at the Department of Transportation address above. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: *For policy questions:* Robert Rottman, Office of Aviation Security Policy, Transportation Security Administration Headquarters, East Building, Floor 11, 601 South 12th Street, Arlington, VA 22202; telephone: 571–227–2289; e-mail: *Robert.Rottman@dhs.gov*.

For technical questions: Dirk Ahle, Aviation Operations, Transportation Security Administration Headquarters, East Building, Floor 9, 601 South 12th Street, Arlington, VA 22202; telephone: 571–227–1504; e-mail: *Dirk.Ahle@dhs.gov*.

For legal questions: Dion Casey, Office of Chief Counsel, Transportation Security Administration Headquarters, East Building, Floor 12, TSA–2, 601 South 12th Street, Arlington, VA 22202; telephone: 571–227–2663; e-mail: *Dion.Casey@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

This interim final rule is being adopted without prior notice and prior public comment. However, to the maximum extent possible, operating administrations within DHS will provide an opportunity for public comment on regulations issued without prior notice. Accordingly, TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from this rulemaking. *See* **ADDRESSES** above for information on where to submit comments.

Comments that include trade secrets, confidential commercial or financial information, or SSI should not be submitted to the public regulatory docket. Please submit such comments separately from other comments on the rule. Comments containing this type of information should be appropriately marked and submitted by mail to the individual(s) listed in **FOR FURTHER INFORMATION CONTACT** section. Upon receipt of such comments, TSA will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold them in a separate file to which the public does not have access, and place a note in the public docket that TSA has received such materials from the commenter. If TSA receives a request to examine or copy this information, TSA will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's FOIA regulation found in 6 CFR part 5.

With each comment, please include your name and address, identify the docket number at the beginning of your comments, and give the reason for each comment. The most helpful comments reference a specific portion of the rule, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, by mail, or fax as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in two copies, in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you want the TSA to acknowledge receipt of your comments on this rulemaking, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Except for comments containing confidential information and SSI, we will file in the public docket all comments we receive, as well as a report summarizing each substantive public contact with TSA personnel concerning this rulemaking. The docket

is available for public inspection before and after the comment closing date.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late to the extent practicable. We may change this rule in light of the comments we receive.

Availability of Rulemaking Document

You may obtain an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*; or

(3) Visiting the TSA's Law and Policy Web page at *http://www.tsa.dot.gov/public/index.jsp*.

In addition, copies are available by writing or calling any of the individuals in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information or advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the persons listed in the **FOR FURTHER INFORMATION CONTACT** section for information or advice. You can get further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advo/laws/law_lib.html.*

Good Cause for Immediate Adoption

TSA is issuing this interim final rule without prior notice and opportunity to comment pursuant to its authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes the agency to issue a rule without notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' TSA finds that notice and public comment to this interim final rule are impracticable, unnecessary, and contrary to the public interest for the following reasons.

First, after the September 11, 2001 attacks, three airports in Maryland—College Park Airport, Potomac Airfield, and Washington Executive/Hyde Field (the Maryland Three Airports)—were closed for a sustained period because of their proximity to important National Capitol Region assets and because of the restrictions on aircraft operations in the airspace that overlies those airports. The airports were not permitted to reopen until the FAA, in coordination with TSA, issued SFAR 94 on February 19, 2002 (67 FR 7538). According to comments that the FAA received, this sustained closure placed significant financial burdens on the Maryland Three Airports. SFAR 94 is set to expire on February 13, 2005. If TSA does not issue this IFR immediately, the Maryland Three Airports may be required to close again until TSA completes this rulemaking. Such a closure could cause the Maryland Three Airports significant financial burdens that are not necessary from a security perspective.

Second, in this interim final rule TSA is largely adopting the security measures and procedures that were required under SFAR 94. The Maryland Three Airport operators, and pilots who operate to and from those airports, have been operating under the SFAR 94 requirements since February 19, 2002. In addition, because TSA is largely adopting the SFAR 94 requirements, the airport security procedures that were approved under SFAR 94 for each of the Maryland Three Airports will be approved by TSA under this interim final rule. Thus, TSA believes that the interim final rule will not present any surprises or impose any additional burdens on the Maryland Three Airport operators or the pilots who operate to and from those airports. In fact, in response to comments on SFAR 94 and FAA Notice to Airmen (NOTAM) 3/0853, this interim final rule relaxes one of the major burdens imposed under NOTAM 3/0853—the requirement that aircraft approved to operate to or from any of the Maryland Three Airports be based at one of those airports—without relaxing security. Under this interim final rule, TSA may permit transient aircraft to operate to or from any of the Maryland Three Airports if the pilot complies with the requirements of the interim final rule. This change will reduce costs without relaxing security.

Finally, TSA notes that the FAA first issued these requirements as SFAR 94 on February 19, 2002. SFAR 94 was set to expire one year from that date. The FAA requested and received public comments on SFAR 94. On February 14, 2003, the FAA published a final rule extending the expiration date of SFAR 94 for an additional two years (68 FR 7684). In the 2003 final rule, the FAA, in coordination with TSA, responded to the public comments that it received after the publication of SFAR 94 in 2002. The FAA did not receive any additional comments after publishing the final rule extending the expiration date of SFAR 94 in 2003. Consequently, TSA believes that the issues involved in this rulemaking have already been addressed through the prior FAA rulemakings.

For these reasons, TSA finds that notice and public comment to this interim final rule are impracticable, unnecessary, and contrary to the public interest. However, TSA is inviting public comments on all aspects of the interim final rule. If, based upon information provided in public comments, TSA determines that changes to the interim final rule are necessary to address transportation security more effectively, or in a less burdensome but equally effective manner, the agency will not hesitate to make such changes.

Abbreviations and Terms Used in This Document

ADIZ—Air Defense Identification Zone
ATC—Air Traffic Control
ATSA—Aviation and Transportation Security Act
CFR—Code of Federal Regulations
CHRC—Criminal History Records Check
CIA—Central Intelligence Agency
DHS—Department of Homeland Security
DOD—Department of Defense
DOT—Department of Transportation
FAA—Federal Aviation Administration
FBI—Federal Bureau of Investigation
FRZ—Flight Restricted Zone
GA—General Aviation
IFR—Instrument Flight Rules
NM—Nautical Mile
NOTAM—Notice to Airmen
PIN—Personal Identification Number
SFAR—Special Federal Aviation Regulation
TFR—Temporary Flight Restriction
TSA—Transportation Security Administration
VFR—Visual Flight Rules
VOR/DME—Very High Frequency Omnidirectional Range/Distance Measuring Equipment

Background

After the September 11, 2001, terrorist attacks against four U.S. commercial aircraft resulting in the tragic loss of human life at the World Trade Center, the Pentagon, and in southwest Pennsylvania, the FAA immediately prohibited all aircraft operations within the territorial airspace of the U.S., with the exception of certain military, law enforcement, and emergency related aircraft operations. This general prohibition was lifted in part on September 13, 2001. In the Washington,

DC, Metropolitan Area, however, aircraft operations remained prohibited at all civil airports within a 25 nautical mile (NM) radius of the Washington Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). This action was accomplished via the U.S. NOTAM system. The FAA issued several NOTAMs under 14 CFR 91.139, Emergency Air Traffic Rules, and implemented temporary flight restrictions (TFRs) under 14 CFR 91.137, Temporary Flight Restrictions in the Vicinity of Disaster/Hazard Areas.

On October 4, 2001, limited air carrier operations were permitted to resume at Ronald Reagan Washington National Airport (DCA).

On October 5, 2001, the FAA issued NOTAM 1/0989, which authorized instrument flight rules (IFR) operations and limited visual flight rules (VFR) operations within an 18 to 25 NM radius from the DCA VOR/DME in accordance with emergency air traffic rules issued under 14 CFR 91.139. Exception to the restrictions affecting aircraft operations under 14 CFR part 91 (part 91 operations) in the Washington, DC, area issued since September 11, 2001, were made to permit the repositioning of aircraft from airports within the area of the TFR and to permit certain operations conducted under waivers issued by the FAA.

On December 19, 2001, the FAA cancelled NOTAM 1/0989 and issued NOTAM 1/3354 that, in part, set forth special security instructions under 14 CFR 99.7 and created a new TFR for the Washington, DC, area. NOTAM 1/3354 also created TFRs in the Boston and New York City areas. That action significantly decreased the size of the area subject to the earlier prohibitions on part 91 operations in the Washington, DC, area and permitted operations at Freeway (W00), Maryland (2W5), and Suburban (W18) airports.

As security concerns were resolved, most general aviation (GA) operations resumed with varying degrees of restriction. However, due to their proximity to important National Capitol Region assets, the Maryland Three Airports remained closed for a sustained period following the September 11 attacks because of the restrictions on aircraft operations in the airspace that overlies those airports. In addition, most part 91 operations in the airspace that overlies the Maryland Three Airports remained prohibited under NOTAM 1/3354.

On February 14, 2002, the FAA cancelled NOTAM 1/3354 and issued NOTAM 2/1257, which provided flight plan filing procedures and air traffic control (ATC) arrival and departure procedures for pilots operating from the Maryland Three Airports in accordance with SFAR 94. The FAA updated and reissued NOTAM 2/1257 as NOTAM 2/2720 on December 10, 2002. NOTAM 2/2720 permitted pilots vetted at any one of the Maryland Three Airports to fly into any of the Maryland Three Airports. NOTAM 3/0853 replaced NOTAM 2/2720 on February 1, 2003. NOTAM 3/0853 remains in effect as of the date of this interim final rule.

Aviation and Transportation Security Act

The events of September 11, 2001, led Congress to enact the Aviation and Transportation Security Act (ATSA), which created TSA.[1] ATSA required TSA to assume many of the civil aviation security responsibilities that the FAA maintained prior to that date. On February 22, 2002, TSA published a final rule transferring the bulk of the FAA's civil aviation security regulations to TSA and adding new standards required by ATSA.[2]

FAA and TSA Authority

The FAA has broad authority to regulate the safe and efficient use of the navigable airspace.[3] The FAA is also authorized to issue air traffic rules and regulations to govern the flight of aircraft, the navigation, protection, and identification of aircraft for the protection of persons and property on the ground, and for the efficient use of the navigable airspace. Additionally, pursuant to 49 U.S.C. 40103(b)(3), the FAA has the authority, in consultation with the Department of Defense (DOD), to ''establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security.'' Such provisions may include establishing airspace areas the FAA decides are necessary in the interest of national defense; and by regulation or order, restricting or prohibiting flight of civil aircraft that the FAA cannot identify, locate, and control with available facilities in those areas. The FAA has broad statutory authority to issue regulations in the interests of safety in air commerce and national security.[4]

TSA has broad authority over civil aviation security.[5] TSA is responsible for developing policies, strategies, and plans for dealing with threats to transportation security, as well as other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the U.S. government.[6] TSA is also authorized to work in conjunction with the FAA with respect to any actions or activities that may affect aviation safety.[7]

The FAA retains authority over airspace, including the authority to issue airspace restrictions. FAA issued SFAR 94 under that authority. However, because some of the requirements in SFAR 94 deal primarily with security (including background checks for pilots operating to or from the Maryland Three Airports and security procedures for the airports), and because TSA's primary mission is civil aviation security, the FAA and TSA have determined that ground security procedures (including security threat assessments for pilots and airport security coordinators) for the Maryland Three Airports are best handled under TSA's authority. TSA also notes that TSA inspectors have conducted inspections of Maryland Three Airports for compliance with the airports' approved security procedures. For these reasons, the ground security requirements and procedures for the Maryland Three Airports as well as the security threat assessments for individuals operating aircraft to and from those airports are being placed in TSA regulations. The airspace security restrictions in NOTAM 3/0853 remain under FAA authority.

SFAR 94

The FAA issued SFAR 94 as a final rule on February 19, 2002.[8] SFAR 94 defined the restricted airspace over the Washington, DC, Metropolitan Area and established rules for all pilots operating aircraft to or from any of the Maryland Three Airports. It also established security procedures for the Maryland Three Airports. SFAR 94 had a one-year effective period and was set to expire on February 13, 2003. However, the FAA, in consultation with TSA and other Federal agencies, reissued SFAR 94 on February 14, 2003, with an expiration date of February 13, 2005.[9]

Security Justification for the Interim Final Rule

Because of its status as home to all three branches of the Federal government, as well as numerous Federal buildings, foreign embassies, multinational institutions, and national monuments of iconic significance, the

[1] Pub. L. 107–71, November 19, 2001, 115 Stat. 597.

[2] 67 FR 8340, February 22, 2002.

[3] See 49 U.S.C. 40103(a).

[4] See 49 U.S.C. 44701(a)(5).

[5] See 49 U.S.C. 114(d)(1).

[6] See 49 U.S.C. 114(f)(3) and (4).

[7] See 49 U.S.C. 114(f)(13).

[8] 67 FR 7537.

[9] 68 FR 7683.

Washington, DC, Metropolitan Area continues to be an obvious high priority target for terrorists.

Although there is no information suggesting an imminent plan by terrorists to use airplanes to attack targets in the Washington, DC, Metropolitan Area, the success of the September 11, 2001, attack on the Pentagon and reports demonstrating terrorist groups' enduring interest in aviation-related attacks indicate the need for continued vigilance in aviation security.

For example, the April 2004 arrest of Waleed bin Attash and the subsequent discovery of a plot to crash an explosive-laden small aircraft into the U.S. Consulate in Karachi, Pakistan, illustrates terrorist groups' continued interest in using aircraft to attack U.S. interests. Other information—such as documents found in Zacarias Moussaoui's possession that outlined crop duster operations—suggests that terrorist groups may have been considering other domestic aviation attack plans in addition to the September 11, 2001, attacks.

In addition, recent press reporting on the debriefings of detained terrorist leader Khalid Shaykh Muhammad not only hints at the complexity of planning involved in the September 11, 2001, attacks but also suggests the group was likely planning follow-on operations inside the United States, possibly including inside the Washington, DC, Metropolitan Area.

While DHS has no specific information that terrorist groups are currently planning to use GA aircraft to perpetrate attacks against the U.S., it remains concerned that (in light of completed and ongoing security enhancements for commercial aircraft and airports) terrorists may turn to GA as an alternative method for conducting operations.[10]

To protect against a potential threat to the Washington, DC, Metropolitan Area, FAA, in consultation with TSA and other Federal agencies, implemented a system of concentric airspace rings and complementary airspace control measures via NOTAM 3/0853 in February 2003. The dimensions of this protected airspace were determined after considering such factors as the average speed of likely suspect aircraft and minimum launch time and speed of intercept aircraft. After extensive coordination among Federal agencies, the dimensions for this protected airspace were established along with the requirements to enter and operate in the airspace. The outer lateral boundary is the same as the outer lateral boundary for the Tri-Area Class B airspace in the Washington-Baltimore area. This outer boundary is, at certain places, more than 40 nautical miles from the Washington Monument. The Government conditioned entry into this airspace on the identification of all aircraft operators within the airspace in order to ensure the security of protected ground assets. This airspace is called an Air Defense Identification Zone (ADIZ). Within the ADIZ airspace is an inner ring, called a Flight Restricted Zone (FRZ), which has a radius of approximately 15 NM centered on the Washington (DCA) VOR/DME. In order to enter and operate in FRZ airspace, more stringent access and security procedures are applied.

The Maryland Three Airports are located within the FRZ. Therefore, aircraft operating to or from one of the Maryland Three Airports must be subject to special rules. TSA notes that under SFAR 94 and NOTAM 3/0853, aircraft operations permitted in the FRZ are limited to U.S. Armed Forces, law enforcement, aeromedical services, air carriers that operate under 14 CFR part 121, and certain types of general aviation aircraft operations that receive an FAA waiver after the waiver applications are reviewed and cleared by TSA. The pilots of these operations have successfully completed a threat assessment prior to operating in the FRZ.

Discussion of the Interim Final Rule

TSA is adopting most of the security requirements and procedures that are currently in SFAR 94. TSA requests comment on each of the requirements discussed below. In the interim final rule, TSA has reorganized the paragraph structure of the requirements in SFAR 94 to help clarify the requirements.

In keeping with SFAR 94, the interim final rule applies to the three Maryland airports (College Park Airport (CGS), Potomac Airfield (VKX), and Washington Executive/Hyde Field (W32)) that are located within the airspace designated as the Washington, DC, Metropolitan Area FRZ, as defined in FAA NOTAM or regulations. These airports are referred to as the Maryland Three Airports. The interim final rule also applies to individuals who operate an aircraft to or from those airports.

Airport Operator Requirements

SFAR 94 required each Maryland Three Airport operator to adopt security procedures that met minimum requirements in SFAR 94 and were approved by the FAA Administrator. This interim final rule carries over that requirement, except that the airport security procedures must be approved by TSA. The minimum-security procedures are discussed in greater detail below. TSA notes that because the agency is making only minor revisions to the SFAR 94 requirements, the airport security procedures that were approved by FAA under SFAR 94 for each of the Maryland Three Airports will be approved by TSA under this interim final rule.

The interim final rule requires the airport operator to maintain at the airport a copy of the airport's TSA-approved security procedures, and to permit officials authorized by TSA to inspect the airport, the airport's TSA-approved security procedures, and any other documents required under the interim final rule. These requirements will help increase awareness of, and compliance with, the airport's approved security procedures, as well as facilitate the proper administration and oversight of the security procedures at each airport. SFAR 94 contained a similar provision at paragraph 4(a)(7).

The interim final rule also requires the airport operator to maintain at the airport a copy of each FAA NOTAM and rule that affects security procedures at the Maryland Three Airports. SFAR 94 did not contain this requirement. TSA is adding this requirement to help increase pilots' awareness of, and compliance with, the FAA's requirements for operating in the FRZ.

In addition, the interim final rule requires the airport operator to appoint an airport employee as the airport security coordinator. The airport security coordinator will be responsible for ensuring that the airport's security procedures are implemented and followed. The airport security coordinator must be approved by TSA. To obtain TSA approval, an airport security coordinator is required to undergo the same security threat assessment and criminal history records check as pilots who are approved to operate to or from a Maryland Three Airport. Accordingly, the airport

[10] TSA has taken several actions to enhance GA security. For example, TSA, in partnership with GA associations, implemented a GA Hotline (1–866–GA SECURE) that is tied to an Airport Watch Program. This provides a mechanism to enable any GA pilot to report suspicious activity at his or her airport to one central Federal Government focal point. The Hotline, which is operated by the National Response Center and managed by the U.S. Coast Guard, became operational on December 2, 2002. The Airport Watch program has extended the Neighborhood Watch concept to airports. Pilots, airport workers, and aircraft maintainers are asked to call the Hotline to report any suspicious activity. In addition, TSA has released guidelines to provide GA airport owners, operators, and users with a set of Federally-endorsed security enhancements and methods for determining implementation. The guidelines are available on the TSA Web site at *http://www.tsa.gov/public/interapp/editorial/editorial_1113.xml.*

security coordinator is required to present to TSA his or her name, social security number, date of birth, address, phone number, and fingerprints. These requirements, though not contained specifically in SFAR 94, were contained in the airport security procedures approved by TSA and FAA under SFAR 94.

The interim final rule imposes on airport security coordinators who are approved by TSA a continuing obligation to meet these requirements. If TSA determines that an airport security coordinator poses a threat to national or transportation security, or a threat of terrorism, after TSA has approved the airport security coordinator, TSA may withdraw its approval of the airport security coordinator. In addition, if an airport security coordinator is convicted or found not guilty by reason of insanity of any of the listed disqualifying crimes after receiving TSA approval, the airport security coordinator must report the conviction or finding of not guilty by reason of insanity within 24 hours of the decision. TSA may withdraw its approval of the airport security coordinator as a result of the conviction or finding of not guilty by reason of insanity.

TSA intends to issue a form that airport security coordinators can use to submit all of this information to TSA.[11] TSA notes that airport security coordinators who were approved under SFAR 94 may continue in their capacity as airport security coordinators without resubmitting to TSA the information described above.

Security Procedures

To be approved by TSA, an airport's security procedures must meet the minimum requirements set forth in the interim final rule. As noted above, TSA is making only minor revisions to the minimum requirements established in SFAR 94. Therefore, the airport security procedures that were approved by FAA under SFAR 94 for each of the Maryland Three Airports will be approved by TSA under the interim final rule. TSA requests comment on these minimum requirements. The minimum requirements are as follows.

First, as required under SFAR 94 at paragraph 4(a)(1), the interim final rule requires an airport's security procedures to contain basic airport information, outline the hours of operation, and identify the airport security coordinator who is responsible for ensuring that the security procedures are implemented and followed. Such information will help ensure accountability for compliance with the security procedures at each airport. The interim final rule also requires the airport security coordinator to present to TSA, in a form and manner acceptable to TSA, his or her name, social security number, date of birth, and fingerprints, and to successfully complete a TSA terrorist threat assessment, including a criminal history records check, that is the same as the threat assessment pilots will have to successfully complete to be approved to operate to or from any of the Maryland Three Airports. Airport security coordinators who were approved under SFAR 94 will continue to be approved under the interim final rule.

Second, the interim final rule requires an airport's security procedures to contain a current record of the individuals and aircraft authorized to operate to or from the airport. This will help ensure that only individuals who have been properly vetted by TSA operate aircraft to or from the Maryland Three Airports. SFAR 94 contained similar provisions at paragraphs 4(a)(2) and (3).

Third, the interim final rule requires an airport's security procedures to contain procedures to monitor the security of aircraft at the airport during operational and non-operational hours, and to alert aircraft owners and operators, the airport operator, and TSA of unsecured aircraft. Such procedures will help prevent aircraft located at the airport from being stolen and used for unauthorized purposes. SFAR 94 contained this provision at paragraph 4(b)(5).

Fourth, as required under paragraph 4(b)(6) of SFAR 94, the interim final rule requires an airport's security procedures to contain procedures to ensure that security awareness procedures are implemented and maintained at the airport. Such procedures will help ensure that airport employees and pilots operating to and from the airport are aware of, and comply with, the security procedures in place at the airport, and that they are able to recognize suspicious behavior or activity at the airport.

Fifth, the interim final rule requires an airport's security procedures to contain TSA-approved procedures for approving pilots who violate the Washington, DC, Metropolitan Area Flight Restricted Zone and are forced to land at an airport. For example, if a pilot who was not vetted by TSA to take off or land at one of the Maryland Three Airports did so, the security procedures would be used to allow the pilot to take off from the airport after he or she had been vetted by TSA.[12] The interim final rule requires that the pilot comply with all applicable FAA and TSA aircraft operator requirements before he or she is permitted by FAA to take off from the airport. Thus, the interim final rule requires the airport's security procedures to contain the requirements that the pilot would have to satisfy before he or she could receive a limited TSA approval. SFAR 94 contained a similar provision at paragraph 4(b)(4). That provision required airport security procedures to contain airport arrival and departure route descriptions, air traffic control clearance procedures, flight plan requirements, communications procedures, and procedures for transponder use.

Finally, the interim final rule requires an airport's security procedures to contain any additional procedures necessary to provide for the security of aircraft operations to or from the airport. This will allow TSA to work with each of the Maryland Three Airports to implement any additional security procedures that may be necessary to enhance secure aircraft operations at a particular airport, and allow TSA to amend an airport's security procedures in response to threat information or elevated threat levels. SFAR 94 contained this provision at paragraph 4(b)(9).

TSA notes that it may need to be able to quickly amend a particular airport's security procedures in response to threat information, an elevation in the threat level, noncompliance with the security procedures, or other circumstances. Thus, the interim final rule provides that airport security procedures approved by TSA remain in effect unless TSA determines that operations at the airport have not been conducted in accordance with the approved security procedures, or the airport's security procedures must be amended to provide for the security of aircraft operations to or from the airport. SFAR 94 contained a similar provision at paragraph 4(b) providing that an airport's security procedures remain in effect unless TSA determines that operations at the airport have not been conducted in accordance with the security procedures.

[11] This form will be issued in accordance with the requirements of the Paperwork Reduction Act.

[12] TSA recognizes that a pilot who violates the Flight Restricted Zone would not receive TSA approval to operate to or from any of the Maryland Three Airports because the pilot would have a record of an airspace violation under the interim final rule. However, TSA notes that the approval granted under this provision would be for a one-time operation for the pilot to take off from the airport and leave the Flight Restricted Zone. The approval granted under this provision would not allow the pilot to continuously operate to or from the Maryland Three Airports.

Pilot Requirements

The interim final rule prohibits a pilot from operating an aircraft to or from any of the Maryland Three Airports unless he or she is approved by TSA. To receive TSA approval, a pilot must meet the following requirements. As with the airport operator requirements, TSA is making only minor revisions to requirements that are currently in effect under SFAR 94. TSA also notes that pilots who were approved to operate to or from any of the Maryland Three Airports under SFAR 94 may continue to operate using the PIN issued to them by TSA. Such pilots do not have to reapply for TSA approval under the interim final rule.

First, the interim final rule requires a pilot to present to TSA[13] the following: (1) The pilot's name, social security number, date of birth, address, and phone number; (2) the pilot's current and valid airman certificate; (2) the pilot's current medical certificate; (3) one form of Government issued picture identification of the pilot; (4) the pilot's fingerprints, in a form and manner acceptable to TSA; and (5) a list containing the make, model, and registration number of each aircraft that the pilot intends to operate to or from the airport. These requirements will help establish a pilot's identification and permit TSA to conduct the required security threat assessment as well as check the pilot's FAA record. SFAR 94 contained a similar provision at paragraph 3(b)(1).[14] TSA intends to issue a form that pilots can use to submit all of this information to TSA.[15]

Second, the interim final rule requires pilots to submit their fingerprints to TSA in a form and manner acceptable to TSA. Paragraph 3(b)(2) of SFAR 94 required pilots to successfully complete a background check by a law enforcement agency, which could include submission of fingerprints and the conduct of a criminal history records check. Under SFAR 94, individuals who sought approval to operate to or from one of the Maryland Three Airports were required to submit their fingerprints at Ronald Reagan Washington National Airport (DCA) and pay the appropriate fee to the entity collecting the fingerprints as well as a fee to the Federal Bureau of Investigation (FBI) for processing the fingerprints. TSA did not charge any additional fee. TSA intends to continue using this process under the interim final rule.

Third, the interim final rule requires pilots to successfully undergo a terrorist threat assessment. This may include a check of terrorist watchlists and other databases relevant to determining whether a pilot poses a security threat or that confirm a pilot's identity. A pilot will not receive TSA approval under this analysis if TSA determines or suspects the individual of posing a threat to national or transportation security, or a threat of terrorism. The interim final rule imposes on pilots who are approved by TSA a continuing obligation to meet this requirement. If a pilot who is approved to operate to or from any of the Maryland Three Airports is determined by TSA to pose a threat to national or transportation security, or a threat of terrorism, TSA may withdraw its approval of the pilot.

Fourth, pilots are required to undergo a criminal history records check. A pilot may not be approved by TSA if he or she has been convicted or found not guilty by reason of insanity, in any jurisdiction, during the ten years prior to the date of the pilot's request to operate to or from any of the Maryland Three Airports, or while authorized to do so, of any crime specified in 49 CFR 1542.209 or 1572.103. These crimes are: (1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; (2) interference with air navigation; (3) improper transportation of a hazardous material; (4) aircraft piracy; (5) interference with flight crew members or flight attendants; (6) commission of certain crimes aboard aircraft in flight; (7) carrying a weapon or explosive aboard aircraft; (8) conveying false information or threats; (9) aircraft piracy outside the special aircraft jurisdiction of the U.S.; (10) lighting violations involving transporting controlled substances; (11) unlawful entry into an aircraft or airport area that serves air carrier or foreign air carriers contrary to established security requirements; (12) destruction of an aircraft or aircraft facility; (13) murder; (14) assault with intent to murder; (15) espionage; (16) sedition; (17) kidnapping or hostage taking; (18) treason; (19) rape or aggravated sexual abuse; (20) unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive, explosive device, firearm, or other weapon; (21) extortion; (22) armed or felony unarmed robbery; (23) distribution of, or intent to distribute, a controlled substance; (24) felony arson; (25) a felony involving a threat; (26) a felony involving: willful destruction of property; importation or manufacture of a controlled substance; burglary; theft; dishonesty, fraud, or misrepresentation; possession or distribution of stolen property; aggravated assault; bribery; or illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year; (27) violence at international airports; (28) a crime listed in 18 U.S.C. Chapter 113B—Terrorism, or a State law that is comparable; (29) a crime involving a transportation security incident; (30) immigration violations; (31) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, *et seq.*, or a State law that is comparable; or (32) conspiracy or attempt to commit any of these criminal acts.

With the exception of four of the crimes listed above, these are the same crimes that were considered disqualifying under paragraph 3(b)(4) of SFAR 94. TSA also notes that these crimes are considered disqualifying under 49 CFR 1544.229 for TSA security screeners and under § 1542.209 for individuals with unescorted access authority to a security identification display area (SIDA). TSA understands the unique nature of GA and that in many instances those security measures in place for commercial aviation would not be appropriate for GA facilities. However, the unique nature and security concerns surrounding the national capital region require additional security enhancements, such as requirements for disqualifying offenses similar to those used for individuals with SIDA access, that are more robust than those at other GA airports.

TSA is adding the disqualifying crimes listed in 49 CFR 1572.103. In developing that list of crimes, TSA consulted with the Department of Justice and Department of Transportation to include those offenses that are reasonably indicative of an individual's predisposition to engage in violent or deceptive behavior that may be predictive of a security threat. TSA notes that there is considerable overlap in the crimes listed in 49 CFR 1572.103 and 1542.209. The additional crimes listed in 49 CFR 1572.103 are the crimes listed above in (28), (29), (30), and (31), as well as the addition of the following language to the crimes listed in (20): ''explosive device'' and ''purchase,

[13] The airport security procedures approved by TSA and FAA under SFAR 94 required the airport operator to collect this information from pilots. TSA intends to continue that collection process under the interim final rule. In addition, TSA intends to issue a form that pilots can use to submit this information to the airport operator, who will submit the form to TSA.

[14] Although SFAR 94 did not specifically require pilots to submit their name, date of birth, or social security number, the airport security procedures approved by TSA and FAA under SFAR 94 did require pilots to submit that information.

[15] This form will be issued in accordance with the requirements of the Paperwork Reduction Act.

receipt, transfer, shipping, transporting, import, export, storage of, and dealing in''.

The listed crimes would be considered grounds for disqualification whether civilian or military authorities prosecute them. If a pilot has been convicted within the ten years preceding the individual's request to operate to or from any of the Maryland Three Airports, the pilot will be disqualified.[16]

The interim final rule also imposes on pilots who are approved by TSA a continuing obligation to meet this requirement. If a pilot is convicted or found not guilty by reason of insanity of any of the listed disqualifying crimes after receiving TSA approval, the pilot must report the conviction or finding of not guilty by reason of insanity within 24 hours of the decision. TSA may withdraw its approval of the pilot as a result of the conviction or finding of not guilty by reason of insanity. Paragraph 3(b)(4) of SFAR 94 required that pilots not be convicted or found not guilty by reason of insanity of any of the disqualifying crimes ''while authorized to operate to or from the airport.''

TSA invites comment from all interested parties concerning this list of disqualifying crimes. TSA must balance its responsibility to ensure the security of the critical infrastructure and Federal government assets in the Washington, DC, Metropolitan Area against the knowledge that individuals may participate in criminal acts but subsequently become trusted citizens. TSA wishes to minimize the adverse impact this interim final rule may have on individuals who have committed criminal offenses and served their sentences, without compromising the security of the infrastructure and assets in the nation's capitol.

Fifth, a pilot is required to receive a briefing acceptable to FAA and TSA that describes procedures for operating to and from the airport. These procedures will be contained in the airport's approved security procedures. SFAR 94 contained this requirement at paragraph 3(b)(3). Pilots comply with the requirement by viewing a videotaped FAA/TSA briefing. In the near term, TSA intends to continue to use that videotape for compliance with the TSA rule. However, in the future TSA intends to update that videotape or provide an alternate briefing. This requirement will help ensure that individuals are aware of, and comply with, the proper procedures for operating to and from the airport, and will help prevent inadvertent violations of those procedures.

Sixth, a pilot is required to undergo a check of his or her FAA record for certain violations. A pilot will not receive TSA approval if, in TSA's discretion, he or she has a record of a violation of: (1) A prohibited area designated under 14 CFR part 73; (2) a flight restriction established under 14 CFR 91.141; (3) special security instructions issued under 14 CFR 99.7; (4) a restricted area designated under 14 CFR part 73; (5) emergency air traffic rules issued under 14 CFR 91.139; (6) a temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145; or (7) an area designated under 14 CFR 91.143. In view of the critical need to protect the critical infrastructure and national assets in the Washington, DC, Metropolitan Area, TSA will not approve pilots who have a record of violating restricted airspace.[17] SFAR 94 contained a similar provision at paragraph 3(b)(5).

TSA notes that there may be special circumstances in which TSA may approve an individual who has a record of a violation of restricted airspace. TSA will review such circumstances on a case-by-case basis.

The interim final rule imposes upon pilots who are approved by TSA a continuing obligation to meet this requirement. If a pilot who is approved by TSA to operate to or from the Maryland Three Airports commits any of the violations described above, the pilot must notify TSA within 24 hours of the violation. TSA, in its discretion, may withdraw its approval of the pilot as a result of the violation. TSA notes that this obligation is slightly different from the requirement for a pilot who is applying for access to the Maryland Three Airports. In reviewing a pilot's application for access to the Maryland Three Airports, TSA will consider only final FAA determinations of violations to be disqualifying. However, if a pilot who has received TSA approval to operate to or from the Maryland Three Airports subsequently commits any of the violations described above, TSA, in its discretion, may withdraw its approval without waiting for a final FAA determination. This is necessary to ensure that TSA can immediately withdraw its approval of a pilot who commits one or more serious airspace violations.

The interim final rule also requires pilots who have received TSA approval to operate to and from the Maryland Three Airports to adhere to the following security measures.

First, the interim final rule requires a pilot to protect from unauthorized disclosure any identification information issued by TSA for the conduct of operations to or from the airport. SFAR 94 contained a similar provision at paragraph 3(b)(7). Under SFAR 94, TSA would issue a personal identification number (PIN) to each individual approved to operate to or from any of the Maryland Three Airports. TSA will continue to do so under this interim final rule. This requirement will help allow for the ready identification of individuals who have met the background check requirements and been approved for operations to or from any of the Maryland Three Airports.

Second, the interim final rule requires a pilot to secure the aircraft after returning to the airport from any flight. This requirement will help prevent aircraft from being stolen and used for terrorist and other criminal purposes. SFAR 94 contained this provision at paragraph 3(b)(14).

Finally, a pilot is required to comply with any other requirements for operating to or from the airport specified by the FAA or TSA. For example, in the event the national threat level is elevated to Orange, TSA may coordinate with local law enforcement officers to positively identify a pilot operating from one of the Maryland Three Airports by checking his or her identification or pilot's certificate before permitting the individual to take off. SFAR 94 contained a similar provision at paragraphs 3(b)(15) and (16).

The interim final rule allows a pilot who is approved by TSA to operate an aircraft to or from one of the Maryland Three Airports to operate an aircraft to any of the Maryland Three Airports, provided that the pilot: (1) Files an IFR or VFR flight plan with Leesburg Automated Flight Service Station; (2) obtains an ATC clearance with a discrete transponder code; and (3) follows any arrival/departure procedures required by the FAA. This was also permitted under SFAR 94.

TSA notes that under SFAR 94 and NOTAM 3/0853, only pilots and aircraft that were based at one of the Maryland Three Airports were permitted to operate to or from the Maryland Three Airports. Transient aircraft were not permitted to operate to or from any of the Maryland Three Airports. Based on comments to SFAR 94, TSA has determined that this restriction may be

[16] Pilots who were vetted in accordance with the requirements of SFAR 94 will not be required to reapply for approval under the interim final rule.

[17] TSA will consider only final FAA determinations of a violation of restricted airspace, not any pending enforcement actions. TSA will consider an FAA determination to be final if the matter has been fully and finally adjudicated or the time for filing an appeal has expired.

relaxed without degrading security. Therefore, under the interim final rule, TSA may approve transient aircraft to operate to or from any of the Maryland Three Airports if the pilot complies with all of the requirements described above, including submitting his or her fingerprints at DCA and successfully completing the TSA security threat assessment and terrorist threat analysis.

The interim final rule permits U.S. armed forces, law enforcement, and aeromedical services aircraft to operate to or from any of the Maryland Three Airports, provided that the pilot operating the aircraft complies with any procedures specified by FAA or TSA. These requirements include complying with the ATC procedures and aircraft equipment requirements specified in applicable FAA regulations, and complying with any other requirements for operating to or from the airport specified by TSA or FAA.

Below is a table comparing the requirements contained in SFAR 94 with the requirements in this interim final rule and the requirements that remain in NOTAM 3/0853 or may be included in any NOTAM or rule that the FAA issues to replace NOTAM 3/0853. As noted above, the requirements in this interim final rule are intended to replace the security requirements in SFAR 94, which will expire on February 13, 2005. The requirements in NOTAM 3/0853 will remain in effect until the FAA removes them or replaces them with another NOTAM or a rule.

AIRPORT OPERATOR REQUIREMENTS

SFAR 94	TSA interim final rule	NOTAM 3/0853
Identify and provide contact information for the manager responsible for ensuring that security procedures are implemented and maintained. 4(a)(1).	Appoint an airport employee as the airport security coordinator and provide contact information for him or her. § 1562.3(a)(1) and (c)(1).	
Identify aircraft eligible to be authorized for operations to or from the airport, and maintain a current record of those persons authorized to conduct operations to or from the airport and the aircraft in which the person is authorized to conduct those operations. 4(a)(2) and (3).	Maintain a current record of the individuals and aircraft authorized to operate to or from the airport. § 1562.3(c)(2).	
Maintain airport arrival and departure route descriptions, air traffic control clearance procedures, communications procedures, and procedures for transponder use. 4(a)(4).	Maintain procedures for limited approval of pilots who violate the Washington, DC, Metropolitan Area Flight Restricted Zone and are forced to land at the airport. § 1562.3(c)(5).	
Maintain procedures to monitor the security of aircraft at the airport during operational and non-operational hours and to alert aircraft owners and operators, airport operators, and the FAA of unsecured aircraft. 4(a)(5).	Maintain procedures to monitor the security of aircraft at the airport during operational and non-operational hours and to alert the aircraft owner(s) and operator(s), the airport operator, and TSA of unsecured aircraft. § 1562.3(c)(3).	
Maintain procedures to ensure that security awareness procedures are implemented and maintained at the airport. 4(a)(6).	Implement and maintain security awareness procedures at the airport. § 1562.3(c)(4).	
Ensure that a copy of the approved security procedures is maintained at the airport and can be made available for inspection upon FAA request, and provide FAA with the means necessary to make any inspection to determine compliance with the approved security procedures. 4(a)(7) and (8).	Maintain at the airport a copy of the airport's TSA-approved security procedures and permit officials authorized by TSA to inspect the security procedures. § 1562.3(a)(3) and (5).	
Maintain any additional procedures necessary to provide for the security of aircraft operations to or from the airport. 4(a)(9).	Maintain any additional procedures required by TSA to provide for the security of aircraft operations to or from the airport. § 1562.3(c)(6).	

PILOT REQUIREMENTS

SFAR 94	TSA interim final rule	NOTAM 3/0853
Prior to obtaining authorization to operate to or from the airport, present to FAA: (1) Current and valid airman certificate; (2) current medical certificate; (3) one form of Government issued picture identification; and (4) the make, model, and registration number of each aircraft the pilot intends to operate to or from the airport. 3(b)(1). Note that the airport security procedures approved by TSA and FAA under SFAR 94 required pilots to submit to FAA their: name, social security number, date of birth, address, phone number, and fingerprints.	To obtain TSA approval to operate to or from the airport, present to TSA: (1) Name; (2) social security number; (3) date of birth; (4) address; (5) phone number; (6) current and valid airman certificate or student pilot certificate; (7) current medical certificate; (8) one form of Government issued picture identification; (9) the make, model, and registration number of each aircraft the pilot intends to operate to or from the airport; and (10) fingerprints. § 1562.3(e)(1).	

PILOT REQUIREMENTS—Continued

SFAR 94	TSA interim final rule	NOTAM 3/0853
Successfully complete a background check by a law enforcement agency, which may include submission of fingerprints and the conduct of a criminal history records check. 3(b)(2).	Successfully complete a TSA terrorist threat assessment and a criminal history records check. § 1562.3(e)(2) and (4).	
Attend a briefing acceptable to FAA that describes procedures for operating to or from the airport. 3(b)(3).	Receive a briefing acceptable to TSA and FAA that describes procedures for operating to or from the airport. § 1562.3(e)(3).	
Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to being authorized to operate to or from the airport, or while authorized to operate to or from the airport, of those crimes specified in 14 CFR 108.229(d). 3(b)(4).	Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to applying for authorization to operate to or from the airport, or while authorized to operate to or from the airport, of any crime specified in 49 CFR 1542.209 or 1572.103. § 1562.3(e)(4).	
Not have a record on file with the FAA of: (1) a violation of a prohibited area designated under 14 CFR part 73, a flight restriction established under 14 CFR 91.141, or special security instructions issued under 14 CFR 99.7; or more than one violation of a restricted area designated under 14 CFR part 73, emergency air traffic rules issued under 14 CFR 91.139, a temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145, an area designated under 14 CFR 91.143, or any combination thereof. 3(b)(5).	Not have a record on file with the FAA of a violation of: a prohibited area designated under 14 CFR part 73; a flight restriction established under 14 CFR 91.141; special security instructions issued under 14 CFR 99.7; a restricted area designated under 14 CFR part 73; emergency air traffic rules issued under 14 CFR 91.139; a temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145; or an area designated under 14 CFR 91.143. § 1562.3(e)(5).	
Be authorized by the FAA to conduct operations to or from the airport. 3(b)(6).	Be approved by TSA. § 1562.3(e)	
Protect from unauthorized disclosure any identification information issued by FAA for the conduct of operations to or from the airport. 3(b)(7).	Protect from unauthorized disclosure any identification information issued by TSA for the conduct of operations to or from the airport. § 1562.3(f)(1).	
Operate an aircraft that is authorized by FAA for operations to or from the airport. 3(b)(8).	.....	
File an IFR or VFR flight plan telephonically with Leesburg AFSS prior to departure and obtain an ATC clearance prior to entering the FRZ. 3(b)(9).	.....	Part 2 of NOTAM 3/0853 requires each pilot to file an IFR or VFR flight plan with Leesburg AFSS for all arrivals and departures via telephone.
Operate the aircraft in accordance with an open IFR or VFR flight plan while in the FRZ, unless otherwise authorized by ATC. 3(b)(10).	.....	NOTAM 3/0853 contains specific flight plan procedures pilots must follow while operating in the FRZ.
Maintain two-way communications with an appropriate ATC facility while in the FRZ. 3(b)(11).	.....	Part 2 of NOTAM 3/0853 requires pilots to maintain two-way radio communication with ATS while in the FRZ.
Ensure that the aircraft is equipped with an operable transponder with altitude reporting capability and use an assigned discrete beacon code while operating in the FRZ. 3(b)(12).	.....	NOTAM 3/0853 requires aircraft to be equipped with an operational Mode C transponder, and pilots to remain on their assigned discrete beacon code until they land.
Comply with any instructions issued by ATC for the flight. 3(b)(13).	.....	NOTAM 3/0853 requires pilots to fly as assigned by ATC until they leave the FRZ.
Secure the aircraft after returning to the airport from any flight. 3(b)(14).	Secure the aircraft after returning to the airport from any flight. § 1562.3(f)(2).	
Comply with all additional safety and security requirements specified in applicable NOTAMs. 3(b)(15). Comply with any TSA or law enforcement requirements to operate to or from the airport. 3(b)(16).	Comply with any other requirements for operating to or from the airport specified by TSA or FAA. § 1562.3(f)(3).	

Waivers

Under the interim final rule, TSA, in coordination with FAA, the United States Secret Service, and any other relevant Federal agency, may permit an operation to or from any of the Maryland Three Airports if TSA finds that such action would be in the public interest and provide the level of security required under the interim final rule. Any waiver issued will be a temporary waiver for a single operation, such as an aircraft that is conducting aerial photography or an aircraft that is being moved from one of the Maryland Three Airports after maintenance. TSA will not issue any permanent waivers for continued operations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that a Federal agency 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.

This rulemaking contains information collection activities subject to the PRA. The FAA initially required this collection under SFAR 94 (now 49 CFR part 1562) and cleared under OMB control number 2120–0677. The responsibility for the collection has been transferred to TSA and assigned OMB control number 1652–0029.

As protection provided by the PRA, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, TSA has determined that the interim final rule's benefits outweigh its costs. TSA also has determined that the interim final rule will impose a significant economic impact on a substantial number of small entities. However, TSA believes that the requirements of a regulatory flexibility analysis were met in the FAA analysis of the 2-year extension of SFAR 94. The interim final rule is not expected to adversely affect international trade or impose unfunded mandates costing more than $100 million in a year on state, local, or tribal governments or on the private sector. These analyses, available in the rulemaking docket, are summarized below.

Economic Analyses

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. This rulemaking is not ''significant'' under the Executive Order. However, TSA has prepared a full regulatory evaluation for this rulemaking, which is available for review in the docket of this matter. The results of the evaluation are summarized here.

Costs

The interim final rule results in costs for the Maryland Three airports and for government agencies enforcing the requirements. Pilots that operate to and from the airports may also incur costs. However, TSA believes that the cost of the security requirements for pilots were incurred by practically all covered pilots during the first year of SFAR 94. Any additional costs imposed will be only for new pilots attracted to the airports. TSA believes that because of the security restrictions, new pilots attracted to these airports will be limited to pilots of transient operations, which will be allowed to return to these airports as a result of this interim final rule. TSA believes that given the security restrictions and three years experience with local based operations, transient operations at these airports is likely to be limited. Therefore, TSA assumed that minimal to no cost will be imposed for pilots as a result of the interim final rule. Therefore, TSA assumed for this analysis that minimal to no new costs will be imposed for pilots as a result of the interim final rule.

The cost impact of codifying the requirements and procedures of SFAR 94 result either from costs associated with the security-related provisions of TSA, or from the cost of flight restrictions imposed by the FAA. With regard to airports, security-related costs are imposed for: compliance with the physical security provisions of the interim final rule; preparation of security briefings for pilots and employees; and airport security program preparation, modification, and maintenance. Lost revenue as a result of operational restrictions will also be a cost for airports.

Although most costs could be identified as resulting either from TSA requirements or FAA requirements without much difficulty, it may be difficult to determine whether lost revenue from operational restrictions is totally the result of closures due to security restrictions, or the result of FAA flight restrictions. For that reason, the annual costs of codifying the requirements of SFAR 94 are summarized in two tables. Table ES–1 shows the estimated costs of the rule (in 2002 dollars) with the value of lost revenue from operational restrictions included, while Table ES–2 shows the estimated cost excluding lost revenue.

TABLE ES–1.—COST OF COMPLIANCE FOR SFAR–94 (2002 DOLLARS)

[With cost of operational restrictions]

Entity	Cost of security requirements	Cost of operational restrictions	Total costs
College Park	$181,500	$1,624,400	$1,805,900
Potomac Airfield	63,100	1,633,300	1,696,400
Washington Executive/Hyde	78,600	1,598,100	1,678,600
Total airport costs	323,200	4,855,800	5,179,000
Government Agencies	10,200	.....	10,200
Total cost per year	333,400	4,855,800	5,189,200

TABLE ES–2.—COST OF COMPLIANCE FOR SFAR–94 (2002 DOLLARS)

[Without cost of operational restrictions]

Entity	Cost of security requirements	Total costs
College Park	$181,500	181,500
Potomac Airfield	63,100	63,100
Washington Executive/Hyde	78,600	78,600
Total Airport Costs	323,200	323,200
Government Agencies	10,200	10,200
Total cost per year	333,400	333,400

Lost revenue as a result of operational restrictions is included as a cost in the FAA regulatory evaluation of its notice of proposed rulemaking (NPRM) to codify the airspace restrictions of SFAR 94. To avoid double counting those costs, the cost of operational restrictions is not included in the TSA estimates of total costs in this analysis. Based on the above, TSA estimated first year cost of compliance of the interim final rule at $0.3 million, and the 10-year undiscounted cost at $3.3 million. The present value of those costs is $2.3 million as shown in Table ES–3 below.

TABLE ES–3.—TOTAL COST OF COMPLIANCE OF INTERIM FINAL RULE SECURITY REQUIREMENTS

Year	College Park	Potomac Airfield	Washington Executive	Government	Total annual costs	7% discount factor	Net present value
2005	$181,500	$63,100	$78,600	$10,200	$333,400	0.9346	$311,600
2006	181,500	63,100	78,600	10,200	333,400	0.8734	291,200
2007	181,500	63,100	78,600	10,200	333,400	0.8163	272,200
2008	181,500	63,100	78,600	10,200	333,400	0.7629	254,400
2009	181,500	63,100	78,600	10,200	333,400	0.7130	237,700
2010	181,500	63,100	78,600	10,200	333,400	0.6663	222,100
2011	181,500	63,100	78,600	10,200	333,400	0.6227	207,600
2012	181,500	63,100	78,600	10,200	333,400	0.5820	194,000
2013	181,500	63,100	78,600	10,200	333,400	0.5439	181,300
2014	181,500	63,100	78,600	10,200	333,400	0.5083	169,500
Total	1,815,000	631,000	786,000	102,000	3,334,000	.....	2,341,600

When added to air space-related costs, as calculated by FAA, of $6.06 million annually and $60.6 million over 10 years, the total ten-year cost of codifying SFAR 94 is estimated at $63.9 million.[18]

Benefits

TSA believes that allowing transient operations at the airports will reduce some of the lost revenue shown in Table ES–1 as a result of this interim final rule. However, the primary benefit of the rule will be enhanced protection for a significant number of vital government assets in the National Capital Region, while keeping the airports operational. Without these measures, the Maryland Three Airports would have to be closed due to the FAA requirements. The security provisions contained in this rule are an integral part of the effort to identify and defeat the threat posed by members of foreign terrorist groups to vital U.S. assets and security. The TSA believes that the rule will reduce the risk that an airborne strike initiated from an airport moments away from vital national assets will occur. The TSA recognizes that such an impact may not cause substantial damage to property or a large structure; however, it could potentially result in an undetermined number of fatalities and injuries and reduced tourism. The resulting tragedy would adversely impact the regional economies. Thus, TSA has concluded that the benefits associated with the interim final rule vastly exceed the costs.

Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980, as amended, requires Federal agencies to consider the impact of regulatory actions on small entities. To that end, the RFA requires agencies to perform a review to determine whether a proposed or final rule will have ''a significant economic impact on a substantial number of small entities.'' Section 603(a) of the RFA requires that agencies prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) for rulemakings subject to the notice and comment requirements of the Administrative Procedure Act (APA). Section 604(a) of the RFA requires a final regulatory flexibility analysis (FRFA) for final rules issued subsequently.

TSA is issuing this interim final rule without prior notice and opportunity to comment pursuant to its authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes the agency to issue a rule without notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' TSA finds that notice and public comment to the interim final rule are impracticable, unnecessary, and contrary to the public interest for the following reasons.

The Maryland Three Airport operators, and pilots who operate to and from those airports, have been operating

[18] The FAA estimate is based on information in the FAA regulatory evaluation of the codification of airspace requirements of SFAR 94.

under the SFAR 94 requirements since February 19, 2002. TSA is largely adopting the security measures and procedures that were required under SFAR 94. As a result, TSA believes that the interim final rule will not present any surprises or impose any additional burdens on the Maryland Three Airport operators or the pilots who operate to and from those airports. SFAR 94, however, is set to expire on February 13, 2005. Consequently, if TSA does not issue this interim final rule immediately, The Maryland Three Airports may be required to close until TSA completes this rulemaking.

The FAA issued SFAR 94 without prior notice and public comment, but did consider and respond to comments in its two-year extension of SFAR 94. The FAA also performed a Regulatory Flexibility Analysis, which addressed the following requirements of an IRFA:

1. *Reasons why the rule was considered.* In the wake of the catastrophic events of September 11, 2001, there was an awareness of the need to take steps to safeguard critical national assets and counter the increased threat level, while restoring operations at the Maryland Three Airports, which are located within a few minutes of vital civilian and military control centers.

2. *Objective.* To restore operations at the affected airports, while attempting to counter the threat of a possible terrorist airborne attack on vital national assets located within the National Capital Region. The legal basis is found in 49 U.S.C. 44901 and 49 U.S.C. 40101(d).

3. *Description and number of small entities regulated.* The IFR regulates two small (based on the SBA Office of Size Standards criteria of less than $6.0 million in annual receipts) privately-owned general aviation airports (Potomac Airfield and Washington Executive Airport). In total, three airports are regulated, but the third is owned by two governmental jurisdictions with a combined population of 1.7 million (well above the 50,000 SBA threshold population for small governmental jurisdictions), and thus was not considered a small entity for the analysis.

4. *Compliance requirements.* The FAA analysis discussed the airspace flight restrictions imposed and the cost of compliance and lost revenue as a result. In addition, the analysis described the security requirements to maintain a security program and to modify and submit security procedures to TSA upon request. The cost of flight restrictions, lost revenue, and security procedures is estimated at $290,700 annually for Washington Executive Airport and $220,700 for the Potomac Airfield Airport;[19] these costs increase to $333,100 and $252,200, respectively when the anticipated airport revenue losses are increased by 20 percent, as discussed in the full regulatory evaluation. The analysis further described the estimated time and cost requirements for modifying and submitting security procedures to TSA at 16 hours and $672 for Potomac, and 15 hours and $600 for Washington Executive.

5. *Duplication/Overlap.* The FAA is unaware of any Federal rules that duplicate, overlap, or were in conflict with SFAR 94.

The FAA Regulatory Flexibility Analysis also discussed the following alternatives: (1) Rescind the rule; (2) Maintain the status quo (SFAR 94); and (3) Close the airports permanently. Of those alternatives, maintaining the status quo (SFAR 94) is preferred because rescinding the rule would increase the vulnerability and diminish the level of protection now in place, while closing the airports permanently causes the greatest financial burden on the airports.

The FAA analysis also addressed the additional elements required for the FRFA. As required in the FRFA, FAA summarized and addressed significant issues raised by public comments, in addition to providing a summarized assessment of those issues. Further, in response to one of those issues raised as an alternative, this IFR relaxes one of the major burdens imposed—the requirement that aircraft approved to operate to or from any of the Maryland Three Airports be based at one of those airports. As a result, through this IFR, TSA may permit transient aircraft to operate to or from any of the Maryland Three Airports if the pilot complies with the requirements of the interim final rule. TSA believes that this change will reduce the burden on the airports without relaxing security.

For the reasons stated above, TSA believes that the requirements of both the IRFA and the FRFA have already been satisfied.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the TSA has assessed the potential effect of this interim final rule and has determined that it will have only a domestic impact and therefore no affect on any trade-sensitive activity.

Unfunded Mandates Assessment

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires TSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows TSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This interim final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or

[19] The full regulatory evaluation shows revenue losses and security costs broken down between actual airport costs and those incurred by other airport entities. The costs applicable here are only those incurred by the airports. For Potomac, revenue losses are $157,600 (Table 6 in full regulatory evaluation) and security costs are $63,100 (Table 7), summing to $220,700. For Washington Executive/Hyde, revenue losses are estimated at $212,100 and are calculated by summing $69,200 (Table 10) with the average of airport-only costs (excluding fuel and landing fees) from Tables 2 (College Park) and 6 (Potomac). The revenue losses from those two tables are $209,300 and $76,500, respectively, resulting in an average of $142,900 (($209,300 + $76,500 = $285,800) (÷ 2 = $142,900). Therefore, total revenue losses for Washington Executive are estimated at $212,100 ($69,200 + $142,900 = $212,100). With security costs at $78,600 (Table 11), the cost of compliance sums to $290,700 for Washington Executive ($212,100 + $78,600 = $290,700).

by the private sector, of more than $100 million annually. Thus, TSA has not prepared a written assessment under the UMRA.

Executive Order 13132, Federalism

Executive Order 13132 requires TSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects 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.'' Under the Executive Order, TSA may construe a Federal statute to preempt State law only where, among other things, the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

This interim final rule will not have substantial direct effects 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. Thus, TSA has determined that this interim final rule will not have sufficient Federalism implications to warrant the preparation of a Federal Assessment.

National Environmental Policy Act

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

TSA has assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). TSA has tentatively determined that this interim final rule will not be a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1562

Airports, Flight restricted zone, General aviation, Security threat assessment.

The Amendments

■ For the reasons set forth in the preamble, the Transportation Security Administration amends Chapter XII, subchapter C, of Title 49, Code of Federal Regulations, by adding a new part 1562 to read as follows:

PART 1562—GENERAL AVIATION

Subpart A—Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC, Metropolitan Area Flight Restricted Zone

Sec.
1562.1 Scope and definitions.
1562.3 Operating requirements.

Authority: 49 U.S.C. 114, 40113.

§ 1562.1 Scope and definitions.

(a) *Scope.* This subpart applies to the following airports, and individuals who operate an aircraft to or from those airports, that are located within the airspace designated as the Washington, DC, Metropolitan Area Flight Restricted Zone by the Federal Aviation Administration:

(1) College Park Airport (CGS);

(2) Potomac Airfield (VKX); and

(3) Washington Executive/Hyde Field (W32).

(b) *Definitions.* For purposes of this section:

Airport security coordinator means the official at a Maryland Three Airport who is responsible for ensuring that the airport's security procedures are implemented and followed.

Maryland Three Airport means any of the airports specified in paragraph (a) of this section.

§ 1562.3 Operating requirements.

(a) *Airport operator requirements.* Each operator of a Maryland Three Airport must:

(1) Appoint an airport employee as the airport security coordinator;

(2) Maintain and carry out security procedures approved by TSA;

(3) Maintain at the airport a copy of the airport's TSA-approved security procedures;

(4) Maintain at the airport a copy of each Federal Aviation Administration Notice to Airmen and rule that affects security procedures at the Maryland Three Airports; and

(5) Permit officials authorized by TSA to inspect—

(i) The airport;

(ii) The airport's TSA-approved security procedures; and

(iii) Any other documents required under this section.

(b) *Airport security coordinator requirements.* Each airport security coordinator for a Maryland Three Airport must be approved by TSA. To obtain TSA approval, an airport security coordinator must:

(1) Present to TSA, in a form and manner acceptable to TSA, his or her—

(i) Name;

(ii) Social Security Number;

(iii) Date of birth;

(iv) Address;

(v) Phone number; and

(vi) Fingerprints.

(2) Successfully complete a TSA terrorist threat assessment; and

(3) Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to applying for authorization to operate to or from the airport, or while authorized to operate to or from the airport, of any crime specified in 49 CFR 1542.209 or 1572.103.

(c) *Security procedures.* To be approved by TSA, an airport's security procedures, at a minimum, must:

(1) Identify and provide contact information for the airport's airport security coordinator.

(2) Contain a current record of the individuals and aircraft authorized to operate to or from the airport.

(3) Contain procedures to—

(i) Monitor the security of aircraft at the airport during operational and non-operational hours; and

(ii) Alert the aircraft owner(s) and operator(s), the airport operator, and TSA of unsecured aircraft.

(4) Contain procedures to implement and maintain security awareness procedures at the airport.

(5) Contain procedures for limited approval of pilots who violate the Washington, DC, Metropolitan Area Flight Restricted Zone and are forced to land at the airport.

(6) Contain any additional procedures required by TSA to provide for the security of aircraft operations to or from the airport.

(d) *Amendments to security procedures.* Airport security procedures approved by TSA remain in effect unless TSA determines that—

(1) Operations at the airport have not been conducted in accordance with those procedures; or

(2) The procedures must be amended to provide for the security of aircraft operations to or from the airport.

(e) *Pilot requirements for TSA approval.* Except as specified in paragraph (g) of this section, each pilot of an aircraft operating to or from any of the Maryland Three Airports must be approved by TSA. To obtain TSA approval, a pilot must:

(1) Present to TSA—

(i) The pilot's name;

(ii) The pilot's Social Security Number;

(iii) The pilot's date of birth;

(iv) The pilot's address;

(v) The pilot's phone number;

(vi) The pilot's current and valid airman certificate or current student pilot certificate;

(vii) The pilot's current medical certificate;

(viii) One form of Government-issued picture identification of the pilot;

(ix) The pilot's fingerprints, in a form and manner acceptable to TSA; and

(x) A list containing the make, model, and registration number of each aircraft that the pilot intends to operate to or from the airport.

(2) Successfully complete a TSA terrorist threat assessment.

(3) Receive a briefing acceptable to TSA and the Federal Aviation Administration that describes procedures for operating to and from the airport.

(4) Not have been convicted or found not guilty by reason of insanity, in any jurisdiction, during the 10 years prior to applying for authorization to operate to or from the airport, or while authorized to operate to or from the airport, of any crime specified in 49 CFR 1542.209 or 1572.103.

(5) Not, in TSA's discretion, have a record on file with the Federal Aviation Administration of a violation of—

(i) A prohibited area designated under 14 CFR part 73;

(ii) A flight restriction established under 14 CFR 91.141;

(iii) Special security instructions issued under 14 CFR 99.7;

(iv) A restricted area designated under 14 CFR part 73;

(v) Emergency air traffic rules issued under 14 CFR 91.139;

(vi) A temporary flight restriction designated under 14 CFR 91.137, 91.138, or 91.145; or

(vii) An area designated under 14 CFR 91.143.

(f) *Additional pilot requirements.* Except as specified in paragraph (g) of this section, each pilot of an aircraft operating to or from any of the Maryland Three Airports must:

(1) Protect from unauthorized disclosure any identification information issued by TSA or the Federal Aviation Administration for the conduct of operations to or from the airport.

(2) Secure the aircraft after returning to the airport from any flight.

(3) Comply with any other requirements for operating to or from the airport specified by TSA or the Federal Aviation Administration.

(g) *Operations to any of the Maryland Three Airports.* A pilot who is approved by TSA in accordance with paragraph (d) of this section may operate an aircraft to any of the Maryland Three Airports, provided that the pilot—

(1) Files an instrument flight rules or visual flight rules flight plan with Leesburg Automated Flight Service Station;

(2) Obtains an Air Traffic Control clearance with a discrete transponder code; and

(3) Follows any arrival/departure procedures required by the Federal Aviation Administration.

(h) *U.S. Armed forces, law enforcement, and aeromedical services aircraft.* An individual may operate a U.S. Armed Forces, law enforcement, or aeromedical services aircraft on an authorized mission to or from any of the Maryland Three Airports provided that the individual complies with any requirements for operating to or from the airport specified by TSA or the Federal Aviation Administration.

(i) *Continuing responsibilities.* (1) If an airport security coordinator, or a pilot who is approved to operate to or from any of the Maryland Three Airports, is convicted or found not guilty by reason of insanity, in any jurisdiction, of any crime specified in 49 CFR 1542.209 or 1572.103, the airport security coordinator or pilot must notify TSA within 24 hours of the conviction or finding of not guilty by reason of insanity. TSA may withdraw its approval of the airport security coordinator or pilot as a result of the conviction or finding of not guilty by reason of insanity.

(2) If a pilot who is approved to operate to or from any of the Maryland Three Airports commits any of the violations described in paragraph (e)(5) of this section, the pilot must notify TSA within 24 hours of the violation. TSA, in its discretion, may withdraw its approval of the pilot as a result of the violation.

(3) If an airport security coordinator, or a pilot who is approved to operate to or from any of the Maryland Three Airports, is determined by TSA to pose a threat to national or transportation security, or a threat of terrorism, TSA may withdraw its approval of the airport security coordinator or pilot.

(j) *Waivers.* TSA, in coordination with the Federal Aviation Administration, the United States Secret Service, and any other relevant agency, may permit an operation to or from any of the Maryland Three Airports, in deviation from the provisions of this section, if TSA finds that such action—

(1) Is in the public interest; and

(2) Provides the level of security required by this section.

Issued in Arlington, Virginia, on February 4, 2005.

David M. Stone,

Assistant Secretary.

[FR Doc. 05–2630 Filed 2–9–05; 8:45 am]

BILLING CODE 4910–62–P