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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

Senate Rules Committee 5/7/97 12:25 pm

Commuter Rule

Final Rule

- ◆ **Brings airplanes with 10 or more passenger seats and all turbojets operated in scheduled passenger service under Part 121**
- ◆ **Provides operational and airplane certification, equipment and performance upgrades**

Commuter Rule

Operational Highlights

- ◆ **Commuter rule and associated rules address human factors which is most significant accident cause**
- ◆ **Requires compliance with all Part 121 operational requirements**
 - Dispatch requirements and certificated dispatchers
 - Age 60 -- 4 year implementation schedule
 - New flight and duty proposal -- commuter rule allows affected commuter operators to continue to operate under Part 135 flight and duty rules until separate rule is finalized -- NPRM issued today (12/95)
 - Manuals and procedures for flight and ground personnel
 - All cabin safety and flight attendant requirements for 20 - 30 seat airplanes
 - Maintenance duty limits
 - Training rule issued today requires Part 121 training and qualification
- ◆ **New Part 119 consolidates carrier certification requirements, provides new definitions, and requires new management and safety officer positions for Part 121**

Commuter Rule

Equipment Highlights

- ◆ **Requires compliance with Part 121 equipment requirements with limited exceptions for some 10 - 19 seat airplanes**
- ◆ **Requires:**
 - Exterior emergency exit markings
 - First aid kits and emergency medical kits
 - Wing ice light
 - Weather radar
 - Protective breathing equipment
 - Locking cockpit doors (20 - 30)
 - Flight attendant portable and first aid oxygen
 - Distance measuring equipment
 - Lavatory fire protection
 - Pitot heat indication system
 - Landing gear aural warning system
 - Additional life rafts
 - Additional flashlights

Commuter Rule

Equipment Highlights

- ◆ **Limited exceptions for 10 - 19 seat airplanes if functionally equivalent to Part 121**
 - **Examples:**
 - ◆ **Floor Proximity Lighting**
 - ◆ **Cockpit door retrofit**
 - ◆ **Crash ax**
 - ◆ **Certain cabin safety equipment**
 - ◆ **Aircraft certification items requiring redesign of aircraft or extensive engineering to retrofit**

Commuter Rule

Equipment Highlights

- ◆ **Extended compliance schedules for some equipment requirements**
 - **Examples:**
 - ◆ **Passenger seat cushion flammability (10 - 19)**
 - ◆ **Pitot heat indication systems**
 - ◆ **Lavatory fire protection**
 - ◆ **Third attitude indicator (phase-in for existing 10 - 19 seat fleet)**
- ◆ **Certain equipment requirements apply to airplanes in production**
 - **Single point inertial pilot shoulder harness**

Commuter Rule

Non-Transport Category (10 - 19 seat) Airplanes in Commuter Service

<u>Group 1</u> Commuter Category		<u>Group 2</u> SFAR 41		<u>Group 3</u> FAR 23 (with Special conditions), SFAR 23, FAR 135 Appendix A, CAR 3 Certification Categories	
Model	Number	Model	Number	Model	Number
Super Jetstream	113	Jetstream 3103	93	Twin Otter	54
Beech 1900D	AT 100+	Beech 1900-C	170	Beech 99	38
		Fairchild Metro (SA227)	123	Beech 200	8
				Early Metro (SA226)	9
				EMB-110	3
Total	160	Total	386	Total	112

Commuter Rule

Airplane Performance Highlights

- ◆ **20-30 seat airplanes currently meet all Part 121 and Part 25 transport category performance requirements**
- ◆ **All 10 - 19 seat commuter category airplanes meet Part 121 performance requirements**
- ◆ **15 year phase-in period for older, 10 - 19 seat airplanes**

- ◆ **Performance decisions**
 - Provide continuation of safe transportation in turbine airplanes
 - Will require older airplanes to meet Part 121 performance or be phased out of scheduled passenger service
 - Provide higher standard for the future

Commuter Rule

Aircraft Certification Highlights 10 - 19 Seat Airplanes

- ◆ All new type certifications after March 1995 must meet Part 25 Transport Category standards
- ◆ Airplanes in production can be manufactured with no production time limit -- airplanes must meet upgraded equipment requirements
- ◆ Existing fleet can continue to operate -- must meet upgraded equipment requirements

Commuter Rule

Timeline

- ◆ December 14, 1994 Commitment to Commuter Rule
- ◆ March 24, 1995 Issued NPRM
- ◆ June 27, 1995 Comment period ends
- ◆ December 14, 1995 Final rule -- display at Federal Register
- ◆ December 20, 1995 Publication date for commuter rule and associated rulemakings
- ◆ March 1997..... Complete recertification of affected carriers

§ 11.69

(4) Arguments and oral statements are limited to the subject named in the notice of proposed rule making.

(5) Written information, views, arguments, or briefs may be offered for the record, but may not be accepted after the hearing unless good cause is shown or the submission is requested by the presiding officer or the Director.

(e) The presiding officer of a hearing may deviate from the procedures prescribed in this section to assure a more complete and informative record.

§ 11.69 Adoption of rules or orders.

(a) After the closing date for submitting written comments on a notice or, if a hearing is held; after the hearing, the Office having substantive responsibility for the subject involved studies the entire matter of a proposed rule or order. The Chief Counsel determines whether legal justification exists for the proposed action, and thereafter prepares an appropriate rule, order, or notice of denial. The rule, order, or notice of denial is then submitted to the Director for his action.

(b) Each rule or order issued by the Director is published in the FEDERAL REGISTER and in such other publications as the Director considers desirable. Each notice of denial is sent to the person who made the proposal and to such other interested persons as the Director considers desirable.

(c) Each rule or order issued under this subpart becomes effective not less than 30 days after it is published, except in an emergency, or when it is impractical, unnecessary, or contrary to the public interest.

(Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964)

§ 11.71 Exemptions.

(a) A petition for an exemption from any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) may be filed with the Director. Such a petition must be in triplicate and state clearly the nature of the requested exemption and the reasons why it should be granted.

(b) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or

deny any petition filed under this section and shall notify the petitioner of his action.

§ 11.73 Petitions for rehearing or reconsideration of rules or orders.

(a) Any interested person may petition the Administrator for a rehearing, or for reconsideration of, any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Such a petition must be filed, in triplicate, within 30 days after the rule or order is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule or order is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose, and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

§ 11.75 Petitions for revoking or modifying rules or orders.

(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director and must clearly state the information, views, and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as the original proposal, or in any other manner that the Director considers necessary or desirable.

(Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964)

Subpart E—Processing of Airworthiness Directives

SOURCE: Docket No. 7162, 31 FR 13697, Oct. 25, 1966, unless otherwise noted.

§ 11.81 Scope.

(a) This subpart prescribes the procedures to be followed in rule making proceedings for Airworthiness Directives issued pursuant to Part 39 and in granting or denying exemptions from Airworthiness Directives. It also designates the persons that are authorized to act for the Administrator in connection with those proceedings and exemptions.

(b) For the purposes of this subpart, "Director" means the Director, Aircraft Certification Service, or a Manager of an Aircraft Certification Directorate (Directorate Manager).

(c) The authority for issuing Airworthiness Directives is limited to the following persons:

(1) The Director, Aircraft Certification Service; and

(2) Managers of the Aircraft Certification Directorates for products under the authority of those directorates, as determined by the Administrator.

(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel or an Assistant Chief Counsel for a region or directorate, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Assistant Chief Counsel for a region has delegated his authority in the matter concerned.

(Doc. No. 7162, 31 FR 13697, Oct. 25, 1966, as amended by Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-21, 45 FR 80815, Dec. 8, 1980; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989)

§ 11.83 Processing of petitions for rule making or exemption.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Director having Airworthiness Directive responsibility for the product involved.

§ 11.85 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the Director may, with the approval of the Chief Counsel, issue the notice provided for in § 11.27. In addition, he may grant or deny petitions for extension of the

deny any petition filed under this section and shall notify the petitioner of his action.

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(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose, and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

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(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director and must clearly state the information, views, and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as an original proposal, or in any other manner that the Director considers necessary or desirable.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964]

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(b) For the purposes of this subpart, "Director" means the Director, Aircraft Certification Service, or a Manager of an Aircraft Certification Directorate (Directorate Manager).

(c) The authority for issuing Airworthiness Directives is limited to the following persons:

(1) The Director, Aircraft Certification Service; and

(2) Managers of the Aircraft Certification Directorates for products under the authority of those directorates, as determined by the Administrator.

(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel or an Assistant Chief Counsel for a region or directorate, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Assistant Chief Counsel for a region has delegated his authority in the matter concerned.

[Doc. No. 7162, 31 FR 13697, Oct. 25, 1966, as amended by Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-21, 45 FR 80815, Dec. 8, 1980; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

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Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Director having Airworthiness Directive responsibility for the product involved.

§ 11.85 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the Director may, subject to the approval of the Chief Counsel with respect to form and legality issue the notice provided for in § 11.29. In addition, he may grant or deny petitions for extension of the

time for comments on the notice, filed under § 11.29(c).

§ 11.87 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the Director determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.89 Adoption of final rules.

In any case in which a notice of proposed rule making was issued, the Director completes his analysis and evaluation of the information, views, and arguments submitted with respect to the proposed rule and studies the entire matter. In any case in which the subject matter is, for good cause, submitted to the rule-making process without notice, the Director initiates the procedure. The Chief Counsel determines whether legal justification exists for the action proposed, and thereafter prepares an appropriate rule or notice of denial. The rule or notice of denial is then submitted to the Director for his action.

§ 11.91 Grant or denial of exemption.

(a) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption from an Airworthiness Directive.

(b) Whenever a petition is granted or denied under this section, the Director prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

§ 11.93 Petitions for reconsideration of rules.

(a) Any interested person may petition the Administrator for a rehearing, or for reconsideration of, any Airworthiness Directive. Such a petition must be filed, in duplicate, within 30 days after the rule is published in the

§ 11.101

14 CFR Ch. I (1-1-96 Edition)

FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations.

(b) *Display.*

14 CFR part or section identified and described	Current OMB control No.
Part 21	2120-0018
§ 34.7	2120-0508
Part 39	2120-0056
Part 43	2120-0020
§ 45.13	2120-0508
§§ 47.3, 47.5	2120-0029
§ 47.7	2120-0029, 2120-0042
§ 47.8	2120-0042
§ 47.9	2120-0029, 2120-0042
§§ 47.11 thru 47.47	2120-0042
§ 47.63	2120-0024
Part 49	2120-0043
§ 61.3	2120-0034
§§ 61.13 thru 61.197	2120-0021
Part 63	2120-0007
Part 65	2120-0022
§ 67.11	2120-0034, 2120-0052, 2120-0059, 2120-0069
§ 67.19	2120-0052, 2120-0059, 2120-0069
§ 67.23	2120-0002
Part 77	2120-0001
§ 91.1	2120-0028

14 CFR part or section identified and described	Current OMB control No.
§ 91.3	2120-0005
§ 91.18	2120-0027
§§ 91.24 thru 91.34 (except § 91.30)	2120-0005
§ 91.30	2120-0522
§ 91.39	2120-0027
§§ 91.41 thru 91.55	2120-0005
§ 91.63	2120-0027
§ 91.75	2120-0005
§ 91.83	2120-0036
§§ 91.97 thru 91.217	2120-0045
Part 91, Subpart E	2120-0042
§§ 91.851 thru 91.875	2120-0553
Part 93, Subpart S	2120-0524
Part 101	2120-0027
Part 105	2120-0027
Part 107	2120-0075
Part 108	2120-0098
Part 121 (except as below)	2120-0008
§§ 121.3 thru 121.155	2120-0008, 2120-0028
§ 121.585	2120-0542
§ 121.683	2120-0585
§ 121.715	2120-0523
§ 121.723	2120-0008, 2120-0025
Part 123	2120-0028
Part 125	2120-0085
Part 127	2120-0028
Part 133	2120-0044
Part 135 (except as below)	2120-0039
§§ 135.11 thru 135.17	2120-0008, 2120-0039
§ 135.43	2120-0025, 2120-0039
§ 135.63	2120-0585
§ 135.129	2120-0542
§ 1335.415	2120-0003, 2120-0039
Part 137	2120-0049
Part 139	2120-0063
Part 141	2120-0009
Part 143	2120-0021
Part 145 (except as below)	2120-0010
§ 145.63	2120-0003, 2120-0010
Part 147	2120-0040
Part 149	2120-0012
§§ 150.21 and 150.23	2120-0517
Part 152	2120-0065, 2120-0060
Part 157	2120-0036
§ 159.13	2120-0061
§ 159.93	2120-0084
Part 171	2120-0014
§ 183.11	2120-0002, 2120-0039, 2120-0035
§§ 183.15 thru 183.17	2120-0033
§§ 183-25 thru 183.31	2120-0035
Part 198	2120-0514
Part 199	2120-0081
SFAR 44-S Appendix	2120-0502
SFAR 36	2120-0507

[Doc. No. 23738, 48 FR 39449, Aug. 31, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 11.101, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Federal Aviation Administration, DOT

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

SPECIAL FEDERAL AVIATION REGULATIONS

BFAR No. 72

Subpart A—Investigative Procedures

- § 13.1 Reports of violations.
- § 13.3 Investigations (general).
- § 13.5 Formal complaints.
- § 13.7 Records, documents and reports.

Subpart B—Administrative Actions

- § 13.11 Administrative disposition of certain violations.

Subpart C—Legal Enforcement Actions

- § 13.13 Consent orders.
- § 13.15 Civil penalties: Federal Aviation Act of 1958 as amended, involving an amount in controversy in excess of \$50,000; an in rem action; seizure of aircraft; or injunctive relief.
- § 13.16 Civil penalties: Federal Aviation Act of 1958, involving an amount in controversy not exceeding \$50,000; Hazardous Materials Transportation Act.
- § 13.17 Seizure of aircraft.
- § 13.19 Certificate action.
- § 13.20 Orders of compliance, cease and desist orders, orders of denial, and other orders.
- § 13.21 Military personnel.
- § 13.23 Criminal penalties.
- § 13.25 Injunctions.
- § 13.27 Final order of Hearing Officer in certificate of aircraft registration proceedings.

Subpart D—Rules of Practice for FAA Hearings

- § 13.31 Applicability.
- § 13.33 Appearances.
- § 13.35 Request for hearing.
- § 13.37 Hearing Officer's powers.
- § 13.39 Disqualification of Hearing Officer.
- § 13.41 [Reserved]
- § 13.43 Service and filing of pleadings, motions, and documents.
- § 13.44 Computation of time and extension of time.
- § 13.45 Amendment of notice and answer.
- § 13.47 Withdrawal of notice or request for hearing.
- § 13.49 Motions.
- § 13.51 Intervention.
- § 13.53 Dispositions.
- § 13.55 Notice of hearing.
- § 13.57 Subpoenas and witness fees.
- § 13.59 Evidence.
- § 13.61 Argument and submittals.
- § 13.63 Record.

DATE	TYPE	GEAR	FSDO	FATAL	REMARKS
5/31/95	AS350	H	5		PAX WERE BOARDED WHEN THE AIRCRAFT SLID INTO A DEPRESSION
10/12/96	BE18	W	1		LANDED GEAR UP AT ORV
12/18/95	BE18		1		CRASHED ON TAKE OFF
7/5/96	BE8T	W	1		RAN OFF LEFT SIDE OF RUNWAY, NOSE AND LEFT MAIN GEAR COLLAPSED
5/21/96	BE99	W	1		BIRD STRIKE
9/13/96	BH206	H	3		ENCOUNTERED LOW CEILING IN PASS, COLLIDED WITH TERRAIN DURING TURN
6/24/95	CE172	W	5		NOSE GEAR COLLAPSED ON LANDING
12/4/96	CE172	W	3		ACFT FAILED TO CLIMB, SMELL OF OVERHEATED ELECTRICAL REPORTED
8/3/96	CE177		3		LANDED NOSE GEAR UP AT MRI
8/30/96	CE180	W	3		CRASHED ENROUTE MULCHATNA RVR TO PORT ALSWORTH, LOW FUEL
5/25/95	CE185	S	3		DURING T.O. AFTER A 6' SNOW, ENCOUNTER SOFT SNOW AND NOSED OVER
8/2/96	CE185	W	1		ACFT BOUNCED ON LANDING, THEN NOSED WHEN BRAKES WERE APPLIED
6/30/95	CE185	S	3		TURNING AROUND A DOWNDRAFT FORCED AIRCRAFT TO THE GLACIER
8/4/96	CE185	W	3		PULLED UP ABRUPTLY TO AVOID COLLISION, ANOTHER ACFT DID FLY-BY TO EVALUATE DAMAGE, LANDED
3/4/96	CE185	S	1		LEFT MAIN GEAR COLLAPSED ON LANDING, POSSIBLY CAUGHT IN RUT
3/13/96	CE185	W/S	3		SLID INTO TREES ON LANDING DUE TO ICY CONDITIONS
7/28/96	CE185	S	3		ENGINE SURGED FROM FULL TO ALMOST NO POWER, ACFT SETTLED, COLLIDED W/CREVASSE
2/1/95	CE185	F	3		POSSIBLE HIT SEA MAMMAL, LOST DIRECTIONAL CONTROL WHILE COMING OFF THE STEP
11/30/96	CE185	W	3	Y	APPEARS ACFT STALLED WHILE CONDUCTING MOOSE SURVEY, STRUCK GROUND
9/23/96	CE206	F	3	Y	RT FLOAT HIT POWER LINES ON TAKEOFF, ACFT FLIPPED TO INVERTED POSITION, CRASHED TO GROUND,
3/29/95	CE206	W	3		25KT WIND VARIATION, STALLED ABOVE THE RUNWAY, STALLED, HIT TAIL HARD
12/10/95	CE206		1		PILOT RAN OFF END OF RUNWAY AFTER ABDORTING TAKE OFF
9/2/96	CE206	F	3		FLEW INTO NARROW CANYON, NOT ENOUGH ROOM TO DO 180, ELECTED TO LAND ON MUSKEG, NOSED OVER
8/2/95	CE206	F	3		ENGINE QUIT, CRASHED ON TAKE OFF
5/25/95	CE206	W	3		ENGINE FAILED, CRASHED ON TUNDRA
9/3/96	CE206	F	3		CRASHED ON TAKEOFF WHEN WIND DIED OR SHIFTED
1/27/96	CE206	W	1		PILOT LOST CONTROL ON TAXI AFTER LANDING DUE TO GUSTY WINDS
11/6/95	CE206		3		HIT BUOY ON T.O.
11/6/95	CE207		3		CRASHED ON DEPARTURE
2/25/95	CE207	W	1	Y	PILOT AS SPOTTING WOLVES, FLEW AT A LOW ALTITUDE INTO STEEPLY RISING TERRAIN
3/20/95	CE207	W	3		DEP BET WA SVFR, ENCOUNTER IMC, TURNED AROUND DESCENDED INTO TERRAIN
3/10/95	CE207	W	5		VFR INTO IMC, HIT TREES WHILE IN OBSURATION
4/17/96	CE207	W	1		PILOT COLLIDED WITH TERRAIN AFTER DEPARTING ON SVFR CLEARANCE
3/4/96	CE207	W	3		PILOT ELECTED TO ABORT TAKE OFF DUE TO LACK OF POWER, NOSED OVER
1/2/95	CE208	F	5		HIT LOG WHILE LANDING-SUNK UP TO WINGS
11/26/96	CE208	W	3	Y	CRASHED INTO SNOW-COVERED TERRAIN AFTER TAKE OFF.
11/10/95	CE441	W	3		HIT RUNWAY LIGHT ON ROLLOUT
7/19/96	DH2	F	5	Y	CRASHED UNDER UNKNOWN CIRCUMSTANCES, ACFT DESTROYED
12/12/96	DHC2	F	5	Y	CRASHED INTO WATER AFTER TAKEOFF, SANK
10/13/95	DHC2	F	5	Y	STRUCK SIDE OF STEEP CANYON AT 2800'
9/24/95	DHC2	F	3		INSUFFICIENT ROOM TO LIFT OFF AFTER PILOT FAILED TO DUST SNOW OFF WINGS
7/13/95	DHC3	A	5		PART OF SERVO TAB SEPARATED IN FLIGHT, LANDING SUCCESSFUL
8/2/95	DHC4	W	3		CRASHED ON LANDING WHEN NOSE GEAR COLLAPSED

005

Era Aviation, Inc.

DATE	TYPE	GEAR	FSDO	FATAL	REMARKS
8/11/86	G21	AMP	3	Y	CRASHED ENROUTE ANDERSON BAY - DUT
7/26/86	G21	AMP	3		HIT BYSTANDER WHILE TAXIING NEAR SHORE
7/31/85	G44	A	3		WHEEL SHEARED ON TAKE OFF, A/C GROUND LOOPED
3/26/95	HE285	S	1		SNOW IMPEDED T.O. SETTLED BACK DOWN & HIT RT SKI. GEAR COLLAPSED ON LANDING
8/4/96	HU50	H	3		COLLIDED WITH 6248E, LACK OF VIGILANCE ON BOTH PILOTS' PARTS
7/18/85	HU500	H	3		LOST PARTIAL POWER, CRASHED DURING EMERGENCY LANDING
9/8/95	M7	W	3		T.O. FROM 750 FT STRIP, SETTLED BACK DOWN AFTER LIFT OFF
8/20/85	M7	F	3		HIT DOWN DRAFT AFTER T.O. LANDED IN THE TUNDRA
8/26/85	PA18	W	1	Y	ASSUMED TO CRASHED WHILE LOOKING AT SHEEP
9/1/86	PA28	W	3		PROP SEPARATED FROM ENG IN FLIGHT, FORCED LANDING ON SAND BAR. ENCOUNTERED SOFT MUD
5/8/95	PA31	W	3		MAIN GEAR KNOCKED OFF ON TAKEOFF AT TOKSOOK, LANDED GEAR UP IN DLG
5/27/96	PA31	W	1		BAGGAGE FELL FROM NOSE STORAGE AREA INTO LEFT PROP, CRASHED ON DEPT, LANDED ON ICE FLOW
9/23/86	PA31		3		
12/5/95	PA31	W	3		SLID OFF RWY WHILE LANDING. RAN RT FUEL TANK DRY.
6/30/95	PA32	W	3	Y	CRASHED INTO MOUNTAINOUS TERRAIN DURING VFR FLIGHT
7/7/95	PA32	W	5	Y	STALL SPIN ON SIDE OF A HILL, TOURIST VIEWING A BEAR.
12/10/95	PA32	W	3		ADVERSE WINDS MAY HAVE CAUSED DRO IN ALTITUDE ON FINAL TO RUNWAY
8/3/96	PA32	W	3		VIEW BLOCKED BY NOSE OF ACFT, HIT RAMP WORKER MOVING BOXES OUT OF ACFT'S WAY
9/1/96	PA32	W	5		BEGAN TURN WHEN APPROACHING FOG BANK, HIT GLACIER OBSCURED BY FOG
1/20/95	PA32	W	3		THE PILOT ABORTED T.O. AND THE A/C RAN OFF THE END OF THE RUNWAY
3/2/96	PA32	W	1		PILOT HIT MOUNTAIN DURING FLIGHT IN WHITE-OUT CONDITIONS.
5/3/98	SA227	W	3		RIGHT MAIN LANDING GEAR AND NOSE LANDING GEAR COLLAPSED
6/5/95	SA28	W	1		CRASHED ON LANDING WHEN HIT SOFT SPOT ON AIRSTRIP/NOSE GEAR COLLAPSED, PROP STRIKE/BURNED
8/11/95	SC7	W	3		IN-FLIGHT ELECTRICAL FIRE, FUEL BARRELS WERE LEAKING, FIRE EXTINGUISHED ON GROUND BY PILO

02/20/97 16:17

SUBCHAPTER B—PROCEDURAL RULES

PART 11—GENERAL RULE-MAKING PROCEDURES

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AUTHORITY: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701-44702, 44711, 46102.

SOURCE: Docket No. 1242, 27 FR 9586, Sept. 28, 1962, unless otherwise noted.

Subpart A—General

§ 11.1 Applicability.

This part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including: (a) Proposals, (b) notices of proposed rule making, (c) written material received in response to notices, (d) petitions for rule making and exemptions, (e) written material received in response to summaries of petitions for rule making and exemptions, (f) petitions for rehearing or reconsideration, (g) petitions for modification or revocation, (h) notices denying petitions for rule making, (i) notices granting or denying exemptions, (j) summaries required to be published under § 11.27, (k) special condi-

tions required, as prescribed under § 21.16 or § 21.101(b)(2), (l) written material received in response to published special conditions, (m) reports of proceedings conducted under § 11.47 (n) notices denying proposals, and (o) final rules or orders are maintained in current docket form in the Office of the Chief Counsel. A public docket relating to rule making actions taken by each Regional Administrator on petitions for exemption filed under Part 139 of this chapter is maintained in the office of the Assistant Chief Counsel for that region. Unless a request for comment indicates otherwise, a public docket relating to rule-making actions taken by Regional Administrators under Subparts D and E of this part is maintained in the office of the Assistant Chief Counsel. Any interested person may examine any docketed material at that office, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-4, 29 FR 15074, Nov. 7, 1964; Amdt. 11-6, 31 FR 13697, Oct. 25, 1966; Amdt. 11-12, 37 FR 19354, Sept. 20, 1972; Amdt. 11-16, 44 FR 6900, Feb. 5, 1979; Amdt. 11-20, 45 FR 60170, Sept. 11, 1980; Amdt. 11-32, 54 FR 30229, Sept. 29, 1989]

§ 11.13 Delegation of authority.

All agency officials, with regulatory issuance authority, may exercise the authority of the Administrator to make certifications, findings and determinations under the Regulatory Flexibility Act (Pub. L. 96-354) with regard to any rulemaking document for which issuance authority is delegated by other sections in this part.

[Doc. No. 22081, 46 FR 41488, Aug. 17, 1981]

§ 11.15 Emergency exemptions.

If, as a result of enemy attack on the United States, communication with Washington headquarters of FAA is or may be disrupted or materially impaired, petitions for exemptions from any rule issued under Titles III or VI of the Federal Aviation Act of 1958 (air safety rules and air traffic and airspace

R B—PROCEDURAL RULES

MAKING Subpart E—Processing of Airworthiness Directives

- 11.81 Scope.
- 11.83 Processing of petitions for rule making or exemption.
- 11.85 Issue of notice of proposed rule making.
- 11.87 Proceedings after notice of proposed rule making.
- 11.89 Adoption of final rules.
- 11.91 Grant or denial of exemption.
- 11.93 Petitions for reconsideration of rules.

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

- 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701-44702, 44711, 46102.

SOURCE: Docket No. 1242, 27 FR 9586, Sept. 28, 1962, unless otherwise noted.

Subpart A—General

§ 11.1 Applicability.

This part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including: (a) Proposals, (b) notices of proposed rule making, (c) written material received in response to notices, (d) petitions for rule making and exemptions, (e) written material received in response to summaries of petitions for rule making and exemptions, (f) petitions for rehearing or reconsideration, (g) petitions for modification or revocation, (h) notices denying petitions for rule making, (i) notices granting or denying exemptions, (j) summaries required to be published under § 11.27, (k) special condi-

tions required, as prescribed under § 21.16 or § 21.101(b)(2), (l) written material received in response to published special conditions, (m) reports of proceedings conducted under § 11.47 (n) notices denying proposals, and (o) final rules or orders are maintained in current docket form in the Office of the Chief Counsel. A public docket relating to rule making actions taken by each Regional Administrator on petitions for exemption filed under Part 139 of this chapter is maintained in the office of the Assistant Chief Counsel for that region. Unless a request for comment indicates otherwise, a public docket relating to rule-making actions taken by Regional Administrators under Subparts D and E of this part is maintained in the office of the Assistant Chief Counsel. Any interested person may examine any docketed material at that office, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-4, 29 FR 15074, Nov. 7, 1964; Amdt. 11-6, 31 FR 13697, Oct. 25, 1966; Amdt. 11-12, 37 FR 19354, Sept. 20, 1972; Amdt. 11-16, 44 FR 6900, Feb. 5, 1979; Amdt. 11-20, 45 FR 60170, Sept. 11, 1980; Amdt. 11-32, 54 FR 39289, Sept. 29, 1989]

§ 11.13 Delegation of authority.

All agency officials, with regulatory issuance authority, may exercise the authority of the Administrator to make certifications, findings and determinations under the Regulatory Flexibility Act (Pub. L. 96-354) with regard to any rulemaking document for which issuance authority is delegated by other sections in this part.

[Doc. No. 22081, 46 FR 41488, Aug. 17, 1981]

§ 11.15 Emergency exemptions.

If, as a result of enemy attack on the United States, communication with Washington headquarters of FAA is or may be disrupted or materially impaired, petitions for exemptions from any rule issued under Titles III or VI of the Federal Aviation Act of 1958 (air safety rules and air traffic and airspace

rules) may also be filed at the nearest FAA Regional Office, air traffic control facility or office, Flight Standards District Office, Aircraft Certification Directorate, Aircraft Certification Office, International Field Office or FAA Representative in the Europe, Africa, and Middle East Region, or in the Pacific Region. The procedural requirements of §§ 11.53, 11.71, and 11.91, and the publication and comment procedures of § 11.27 need not be followed. Under these emergency conditions, the FAA inspectors or officers in charge of these offices may grant, in whole or in part and subject to reasonable conditions or limitations, such exemptions or may deny petitions for such exemptions; may issue such exemptions to named persons or in blanket form on their own initiative; and may limit or terminate exemptions so issued by them or by offices whose jurisdiction they may have assumed. Exemptions issued under these circumstances are at all times subject to modification and termination by the Regional Administrator or Acting Regional Administrator or officer in charge of the Region concerned, subject to ultimate action by the Director or Acting Director of the Service concerned.

[Amdt. 11-2, 29 FR 7091, May 29, 1964, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-10, 33 FR 17850, Nov. 30, 1968; Amdt. 11-11, 36 FR 3463, Feb. 25, 1971; Amdt. 11-16, 44 FR 6901, Feb. 5, 1979; Amdt. 11-32, 54 FR 39289, Sept. 25, 1989]

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

(a) This subpart applies to substantive rules, other than those relating to airspace assignment and use.

(b) Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rule-making proceedings involving a substantive rule.

(c) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive

§ 11.23

rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(d) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a substantive rule.

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

§ 11.25 Petitions for rule making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for a temporary or permanent exemption from any rule issued by the Federal Aviation Administration under statutory authority.

(b) Each petition filed under this section must—

(1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate—

(i) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport, in the case of any petition for exemption filed under Part 139 of this chapter;

(ii) To the Director having Airworthiness Directive responsibility for the product involved in the case of petitions filed in accordance with Subpart D of this part.

(iii) To the Federal Air Surgeon (AAM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, in the case of a petition for exemption filed under Part 67 of this chapter; and

(iv) To the Rules Docket (AGC-10), Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, in all other cases.

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule or statute from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption;

(5) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought; and

(6)(i) In the case of a unit of Federal, state, or local government that is applying for an exemption from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the statutory change in the definition of public aircraft made by the Independent Safety Board Act Amendments of 1994, Public Law 103-411, the petition for exemption must contain any information, views, analysis, or arguments available to the petitioner to show that:

(A) The exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) The aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(ii) The authority of the Administrator, under the Independent Safety Board Amendments of 1994, Pub. L. 103-411, to grant exemptions to units of government is delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service.

(c) A petition for rule making filed under this section must contain a summary, which may be published in the

FEDERAL REGISTER as provided in § 11.27(b), which includes—

(1) A brief description of the general nature of the rule requested; and

(2) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures.

(d) A petition for exemption filed under this section must contain a summary, which may be published in the FEDERAL REGISTER as provided in § 11.27(c), which includes—

(1) A citation of each rule from which relief is requested; and

(2) A brief description of the general nature of the relief requested.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 11.25, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§ 11.27 Action on petitions for rule making or exemptions.

(a) General. Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a petition, filed under § 11.25, before its disposition by the FAA.

(b) Publication of summary of petition for rule making. After receipt of a petition for rule making, except as otherwise provided in paragraph (1) of this section, the FAA publishes a summary of the petition in the FEDERAL REGISTER which includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A brief description of the general nature of the rule requested;

(4) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures; and

(5) In appropriate situations, a list of questions to assist the FAA in obtaining comment on the petition.

Comments on the petition for rule making must be filed, in triplicate, within 60 days after the summary is published in the FEDERAL REGISTER unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule or statute from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption;

(5) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought; and

(6)(i) In the case of a unit of Federal, state, or local government that is applying for an exemption from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the statutory change in the definition of public aircraft made by the Independent Safety Board Act Amendments of 1994, Public Law 103-411, the petition for exemption must contain any information, views, analysis, or arguments available to the petitioner to show that:

(A) The exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) The aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(ii) The authority of the Administrator, under the Independent Safety Board Amendments of 1994, Pub. L. 103-411, to grant exemptions to units of government is delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service.

(c) A petition for rule making filed under this section must contain a summary, which may be published in the

FEDERAL REGISTER as provided in §11.27(b), which includes—

(1) A brief description of the general nature of the rule requested; and

(2) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures.

(d) A petition for exemption filed under this section must contain a summary, which may be published in the FEDERAL REGISTER as provided in §11.27(c), which includes—

(1) A citation of each rule from which relief is requested; and

(2) A brief description of the general nature of the relief requested.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §11.25, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§11.27 Action on petitions for rule making or exemptions.

(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a petition, filed under §11.25, before its disposition by the FAA.

(b) *Publication of summary of petition for rule making.* After receipt of a petition for rule making, except as otherwise provided in paragraph (1) of this section, the FAA publishes a summary of the petition in the FEDERAL REGISTER which includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A brief description of the general nature of the rule requested;

(4) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures; and

(5) In appropriate situations, a list of questions to assist the FAA in obtaining comment on the petition.

Comments on the petition for rule making must be filed, in triplicate, within 60 days after the summary is published in the FEDERAL REGISTER unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will

be considered by the Administrator before taking action on the petition.

(c) *Publication of summary of petition for exemption.* After receipt of a petition for exemption, except as otherwise provided in paragraphs (1) and (j) of this section, the FAA publishes a summary of the petition in the FEDERAL REGISTER which includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A citation of each rule from which relief is requested; and

(4) A brief description of the general nature of the relief requested.

Comments on the petition for exemption must be filed, in triplicate, within 20 days after the summary is published in the FEDERAL REGISTER unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will be considered by the Administrator before taking action on the petition.

(d) *Instituting rule-making procedures based on a petition.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for rule making, that the petition discloses adequate reasons, the FAA institutes rule-making procedures.

(e) *Grant of petition for exemption—summary.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition is in the public interest, the Administrator grants the exemption and, except as otherwise provided in paragraph (1) of this section, the FAA publishes a summary of the grant of the petition for exemption in the FEDERAL REGISTER. A summary of a grant of a petition for exemption includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A citation of each rule from which relief is requested;

(4) A brief description of the general nature of the relief granted; and

(5) The disposition of the petition.

(f) *Denial of petition for rule making.* If the Administrator determines, after consideration of any comments received in response to a summary of a

petition for rule making, that the petition does not justify instituting rule-making procedures, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for rule making in the FEDERAL REGISTER in accordance with paragraph (h) of this section.

(g) *Denial of petition for exemption.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition does not justify granting the requested exemption, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for exemption in the FEDERAL REGISTER in accordance with paragraph (h) of this section.

(h) *Summary of denial of petition for rule making or exemption.* A summary of a denial of a petition for rule making or exemption includes—

- (1) The docket number of the petition;
- (2) The name of the petitioner;
- (3) In the case of a denial of a petition for exemption, a citation of each rule from which relief is requested;
- (4) A brief description of the general nature of the rule or relief requested; and
- (5) The disposition of the petition.

(i) *General exceptions.* The publication and comment procedures of paragraphs (b) through (h) of this section do not apply to the following:

- (1) To petitions for rule makings or exemptions processed under § 11.83.
- (2) To petitions for exemptions from the requirements of Part 67 of this chapter.

(j) *Exceptions to publication of summary of petition for exemption.* The publication and comment procedures of paragraph (c) of this section do not apply to the following:

- (1) To petitions for emergency exemptions processed under § 11.15.
- (2) To petitions for exemptions processed under Part 139 of this chapter.
- (3) Whenever the head of the Office or Service concerned, subject to the approval of the Chief Counsel with re-

spect to form and legality, finds for good cause shown in a petition for exemption that action on the petition should not be delayed by the publication and comment procedures. Factors that may be considered in determining whether good cause exists, include—

- (i) Whether a grant of exemption would set a precedent or whether the petition for exemption and the reasons presented in it are identical to exemptions previously granted;
- (ii) Whether the delay in acting on the petition for exemption that would result from publication would be detrimental to the petitioner; and
- (iii) Whether petitioner acted in a timely manner in filing the petition for exemption.

(k) *Status of petition for rule making.* Within 120 days after publication in the FEDERAL REGISTER of a summary of petition for rule making and every 120 days thereafter, unless sooner denied under § 11.51 or issued as a notice of proposed rule making under § 11.65, the Office or Service concerned shall advise petitioner in writing of the status of the petition.

(l) *Additional specific provisions.* Specific provisions covering actions on petitions are set forth in Subpart C of this part.

[Amdt. 11-20, 44 FR 6901, Feb. 5, 1979]

§ 11.28 Action on special conditions.

(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a special condition established by the Administrator.

(b) *Procedures.* This subpart and Subpart C apply to the issue, amendment, and repeal of special conditions under Part 21. In addition to the information required by § 11.29(b), each notice will include—

- (1) The name and address of the applicant;
- (2) The model designation and a summary description of the affected product;
- (3) The applicable type design approval regulations designated in accordance with § 21.17 or § 21.101 of Part 21; and
- (4) A summary description of the novel or unusual design features that

make the issue or amendment of special conditions necessary.

[Amdt. 11-17, 45 FR 60170, Sept. 11, 1980]

§ 11.29 Notice of proposed rule making.

(a) Each general notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes—

- (1) A statement of the time, place, and nature of the proposed rule-making proceeding;
- (2) A reference to the authority under which it is issued;
- (3) A description of the subjects and issues involved or the substance and terms of the proposed rule;
- (4) A statement of the time within which written comments must be submitted and the required number of copies; and
- (5) A statement of how and to what extent interested persons may participate in the proceedings, as prescribed by §§ 11.31 and 11.33.

(c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted it is published in the FEDERAL REGISTER.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-1, 28 FR 2897, Mar. 23, 1963]

§ 11.31 Participation of interested persons in rule-making procedures.

(a) Each interested person is entitled to participate in rule-making proceedings by submitting written information, views, or arguments. In addition, he may comment on the original information, views, and arguments submitted by other persons, if, after receiving

peti- spect to form and legality, finds for
rule- good cause shown in a petition for ex-
files-emption that action on the petition
t as- should not be delayed by the publica-
tion and comment procedures. Factors
of- that may be considered in determining
whether good cause exists, include—

(i) Whether a grant of exemption
would set a precedent or whether the
petition for exemption and the reasons
presented in it are identical to exemp-
tions previously granted;

(ii) Whether the delay in acting on
the petition for exemption that would
result from publication would be detri-
mental to the petitioner; and

(iii) Whether petitioner acted in a
timely manner in filing the petition for
exemption.

(k) *Status of petition for rule making.*
Within 120 days after publication in the
FEDERAL REGISTER of a summary of pe-
tition for rule making and every 120
days thereafter, unless sooner denied
under § 11.51 or issued as a notice of
proposed rule making under § 11.65, the
Office or Service concerned shall advise
petitioner in writing of the status of
the petition.

(i) *Additional specific provisions.* Spe-
cific provisions covering actions on pe-
titions are set forth in Subpart C of
this part.

[Amdt. 11-20, 44 FR 6901, Feb. 5, 1979]

§ 11.28 Action on special conditions.

(a) *General.* Except for the publica-
tion and comment procedures provided
for in this section, no public hearing,
argument, or other formal proceeding
is held directly on a special condition
established by the Administrator.

(b) *Procedures.* This subpart and Sub-
part C apply to the issue, amendment,
and repeal of special conditions under
Part 21. In addition to the information
required by § 11.29(b), each notice will
include—

(1) The name and address of the ap-
plicant;

(2) The model designation and a sum-
mary description of the affected prod-
uct;

(3) The applicable type design ap-
proval regulations designated in ac-
cordance with § 21.17 or § 21.101 of Part
21; and

(4) A summary description of the
novel or unusual design features that

make the issue or amendment of spe-
cial conditions necessary.

[Amdt. 11-17, 45 FR 60170, Sept. 11, 1980]

§ 11.29 Notice of proposed rule mak- ing.

(a) Each general notice of proposed
rule making is published in the FED-
ERAL REGISTER, unless all persons sub-
ject to it are named and are personally
served with a copy of it.

(b) Each notice, whether published in
the FEDERAL REGISTER or personally
served, includes—

(1) A statement of the time, place,
and nature of the proposed rule-making
proceeding;

(2) A reference to the authority under
which it is issued;

(3) A description of the subjects and
issues involved or the substance and
terms of the proposed rule;

(4) A statement of the time within
which written comments must be sub-
mitted and the required number of cop-
ies; and

(5) A statement of how and to what
extent interested persons may partici-
pate in the proceedings, as prescribed
by §§ 11.31 and 11.33.

(c) A petition for extension of the
time for comments must be submitted
in duplicate not later than two days
before expiration of the time stated in
the notice. The filing of the petition
does not automatically extend the time
for petitioner's comments. Such a peti-
tion is granted only if the petitioner
shows a substantive interest in the pro-
posed rule and good cause for the ex-
tension, and if the extension is consist-
ent with the public interest. If an ex-
tension is granted it is published in the
FEDERAL REGISTER.

[Doc. No. 1242, 27 FR 9586, Sept. 23, 1962, as
amended by Amdt. 11-1, 28 FR 2897, Mar. 23,
1963]

§ 11.31 Participation of interested per- sons in rule-making procedures.

(a) Each interested person is entitled
to participate in rule-making proceed-
ings by submitting written informa-
tion, views, or arguments. In addition,
he may comment on the original infor-
mation, views, and arguments submit-
ted by other persons, if, after receiving

them, the Administrator considers it
desirable.

(b) In any appropriate case, the Ad-
ministrator also allows interested per-
sons to participate in the rule-making
procedures described in § 11.33.

§ 11.33 Additional rule-making pro- ceedings.

(a) The rule-making procedure also
includes any further procedural steps
that best serve the purposes of a par-
ticular proceeding. For example, inter-
ested persons may be allowed to make
oral arguments, participate in con-
ferences between the Administrator or
his representative and interested per-
sons and organizations, appear at infor-
mal hearings presided over by a des-
ignated FAA official at which a steno-
graphic transcript is made, or partici-
pate in any other procedure whenever
it is desirable and appropriate to as-
sure informed administrative action
and adequate protection of private in-
terests.

(b) Any appropriate combination of
the procedures described in paragraph
(a) of this section may be used in addi-
tion to the basic procedure of allowing
interested persons to participate in
rule-making proceedings by submitting
written information, views, or argu-
ments.

§ 11.35 Participation by Civil Aero- nautics Board in rule-making pro- ceedings.

(a) Under section 1001 of the Federal
Aviation Act of 1958 (49 U.S.C. 1481), the
Civil Aeronautics Board may appear
and participate as an interested party
in any proceeding conducted by the Ad-
ministrator under Title III of that Act,
and in any proceeding under Title VI of
that Act that cannot be appealed to
the National Transportation Safety
Board.

(b) To indicate its intention to par-
ticipate in any proceeding described in
paragraph (a) of this section, the Civil
Aeronautics Board may file written in-
formation, views, or arguments in re-
sponse to a notice of proposed rule
making issued by the Administrator.
The Civil Aeronautics Board is entitled
to the procedural privileges accorded

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other parties and is equally free to participate.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Doc. No. 8084, 32 FR 5769, Apr. 11, 1967]

§11.37 Requests for informal appearances.

(a) Upon his request, any interested person may appear informally before an appropriate official of the FAA to present, adjust, or determine a question or controversy relating to a rule-making function of the FAA.

(b) A request for an appearance under this section must be sent in writing to the Federal Aviation Administration, Washington, D.C. 20590, or to the Regional or District Office nearest to the person making the request.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Doc. No. 8084, 32 FR 5769, Apr. 11, 1967; Amdt. 11-8, 32 FR 6390, Apr. 25, 1967]

Subpart C—Processing of Rules Other Than Airworthiness Directives and Airspace Assignment and Use

§11.41 Scope.

(a) This subpart prescribes the supplemental procedures to be followed by the Offices and Services of the FAA in rule-making proceedings and in granting or denying exemptions from rules. It also designates the Office or Service that is authorized to act for the Administrator in connection with those proceedings and exemptions. Any authority conferred by this subpart on the head of any Office or Service is also conferred on the Associate Administrator (if any) who exercises executive direction over that official.

(b) This subpart applies to rule-making procedures other than for Airworthiness Directives and rules relating to Airspace Assignment and Use.

(c) For the purposes of this subpart—

(1) The words "Office or Service" include the Technical Center, and include Regional Administrators with respect to petitions for exemptions from the requirements of Part 139 of this chapter; and

(2) "Chief Counsel" means—

(i) The Chief Counsel;

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(ii) An Assistant Chief Counsel with respect to petitions for exemptions from the requirements of Part 139 of this chapter;

(iii) The Assistant Chief Counsel for Regulations and Enforcement for all other exemptions processed under this subpart; or

(iv) Any person to whom the Chief Counsel has delegated authority in the matter concerned.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-16, 31 FR 13697, Oct. 25, 1966; Amdt. 11-12, 37 FR 19354, Sept. 20, 1972; Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

§11.43 Processing of petitions for rule making or exemption from parts of this chapter.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in §11.27, to the Office or Service having substantive responsibility for the subject involved.

[Doc. No. 15457, 41 FR 11271, Mar. 18, 1976]

§11.45 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, issue the notice provided for in §11.29. In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under §11.29(c).

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-1, 28 FR 2897, Mar. 21, 1963]

§11.47 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice. All timely comments are considered before final action on the rule-making proposal is taken. Late filed comments are considered so far as possible without incurring expense or delay.

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(b) Whenever the head of the Office or Service concerned determines that additional rule-making proceedings of the kind described in §11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966]

§11.49 Adoption of final rules.

(a) After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the Chief Counsel prepare an appropriate rule, subject to the approval of the Chief Counsel as to form and legality. Except as provided in paragraph (b) of this section, the rule is then submitted, with the recommendations of the head of the Office or Service concerned and the Chief Counsel, to the Administrator for consideration. If a rule is adopted, it is published in the FEDERAL REGISTER.

(b) Final authority to issue, amend, and repeal—

(1) An appendix to a part is delegated to the head of the Office or Service concerned;

(2) Minimum en route IFR altitudes and associated flight data under Part 95 of this chapter, and standard instrument approach procedures under Part 97 of this chapter is delegated to the Manager, Technical Programs Division, Flight Standards Service; and

(3) Special conditions under Part 21 of this chapter is delegated to the Director, Aircraft Certification Service.

[Amdt. 11-15, 43 FR 52205, Nov. 9, 1978 as amended by Amdt. 11-19, 45 FR 47838, July 17, 1980; Amdt. 11-18, 45 FR 38346, June 9, 1980; Amdt. 11-20, 45 FR 60170, Sept. 11, 1980; Amdt. 11-20A, 45 FR 85597, Dec. 29, 1980; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

§11.51 Denial of petition for rule making.

Whenever it is determined that a petition for rule making filed under §11.25 should be denied, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice

(ii) An Assistant Chief Counsel with respect to petitions for exemptions from the requirements of Part 139 of this chapter;

(iii) The Assistant Chief Counsel for Regulations and Enforcement for all other exemptions processed under this subpart; or

(iv) Any person to whom the Chief Counsel has delegated authority in the matter concerned.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-16, 31 FR 13697, Oct. 25, 1966; Amdt. 11-12, 37 FR 19354, Sept. 20, 1972; Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

§ 11.43 Processing of petitions for rule making or exemption from parts of this chapter.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Office or Service having substantive responsibility for the subject involved.

[Doc. No. 15457, 41 FR 11271, Mar. 18, 1976]

§ 11.46 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, issue the notice provided for in § 11.29. In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under § 11.29(c).

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-1, 28 FR 2897, Mar. 23, 1963]

§ 11.47 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice. All timely comments are considered before final action on the rule-making proposal is taken. Late filed comments are considered so far as possible without incurring expense or delay.

(b) Whenever the head of the Office or Service concerned determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966]

§ 11.49 Adoption of final rules.

(a) After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the Chief Counsel prepare an appropriate rule, subject to the approval of the Chief Counsel as to form and legality. Except as provided in paragraph (b) of this section, the rule is then submitted, with the recommendations of the head of the Office or Service concerned and the Chief Counsel, to the Administrator for consideration. If a rule is adopted, it is published in the FEDERAL REGISTER.

(b) Final authority to issue, amend, and repeal—

(1) An appendix to a part is delegated to the head of the Office or Service concerned;

(2) Minimum en route IFR altitudes and associated flight data under Part 95 of this chapter, and standard instrument approach procedures under Part 97 of this chapter is delegated to the Manager, Technical Programs Division, Flight Standards Service; and

(3) Special conditions under Part 21 of this chapter is delegated to the Director, Aircraft Certification Service.

[Amdt. 11-15, 43 FR 52205, Nov. 9, 1978 as amended by Amdt. 11-19, 45 FR 47838, July 17, 1980; Amdt. 11-18, 45 FR 38346, June 9, 1980; Amdt. 11-20, 45 FR 60170, Sept. 11, 1980; Amdt. 11-20A, 45 FR 85597, Dec. 29, 1980; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

§ 11.51 Denial of petition for rule making.

Whenever it is determined that a petition for rule making filed under § 11.25 should be denied, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice

of denial for the Administrator's signature.

§ 11.53 Grant or denial of exemption.

(a) The head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption. However, if the head of the Office or Service concerned finds that the grant or denial involves a technical or policy determination that should be made by the Administrator, he refers the petition and his recommendations and those of the Chief Counsel to the Administrator for final action.

(b) Whenever a petition is granted or denied under this section, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-11, 36 FR 3463, Feb. 25, 1971; Amdt. 11-15, 43 FR 52205, Nov. 9, 1978]

§ 11.55 Reconsideration of a denial or grant of exemption.

(a) Except as provided in paragraph (c) of this section, if a petition for exemption is denied, the petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 30 days after the petitioner is notified of the denial of the exemption.

(b) If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 45 days after the grant of exemption is issued.

(c) If a petition for exemption from the requirements of Part 67 of this chapter is denied, the petitioner may file a petition for reconsideration with the Federal Air Surgeon. The petition must be filed in duplicate, within 30 days after the petitioner is notified of the denial of the exemption. However, if the final action on the initial petition was by the Administrator in accordance with the second sentence of § 11.53(a), the Federal Air Surgeon refers the petition for reconsideration and recommendations and those of the

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Chief Counsel to the Administrator for final action.

(d) A petition for reconsideration under this section must be based on the existence of one or more of the following:

(1) A finding of a material fact that is erroneous.

(2) A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, FAA rules, or precedent.

(3) An additional fact relevant to the decision that was not presented in the initial petition for exemption. In order for a petition under paragraph (a) or (c) of this section to be based on this ground, the petition for reconsideration must state the reason the additional fact was not presented in the initial petition.

[Amdt. 11-15, 43 FR 52205, Nov. 9, 1978]

Subpart D—Rules and Procedures for Airspace Assignment and Use

§11.61 Scope.

(a) This subpart establishes procedures for initiating, processing, issuing, and publishing rules and orders issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

(1) Designations of controlled airspace under part 71 of this chapter;

(2) Assignments of segments or parts of the navigable airspace for special use purposes, such as restricted areas, military climb corridors, and experimental flight test areas; and

(3) Special rules or orders relating to the assignment or use of navigable airspace.

(b) This subpart does not apply to emergency cases and cases in which the procedures described in paragraph (a) of this section are found to be impractical, unnecessary, or contrary to the public interest.

(c) For the purposes of this subpart, "Director" means the Executive Director of System Operations, the Associate Administrator for Air Traffic or the Director, Air Traffic Rules and Procedures Service, or any person to whom the Director has delegated authority in the matter concerned.

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(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel, or an Assistant Chief Counsel for a region, or the Assistant Chief Counsel for Regulations and Enforcement or any person to whom the Chief Counsel or Assistant Chief Counsel has delegated his authority in the matter concerned.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964; Amdt. 11-4, 29 FR 15074, Nov. 7, 1964; Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-30, 51 FR 2348, Jan. 16, 1986; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989; Amdt. 11-35, 56 FR 65638, 65653, Dec. 17, 1991]

§11.63 Filing of proposals.

(a) Each proposal, except one arising in the FAA, for the designation of Federal airways or other areas for normal air traffic use, the assignment of navigable airspace for special use purposes, or the issue of a special rule or order relating to the use of navigable airspace, must be filed in writing, in triplicate, with the Director.

(b) The director may, on his own motion, initiate the procedures prescribed in this subpart for proposals arising within the FAA.

(c) A proposal requesting the assignment of navigable airspace for special use purposes, or for the designation of an area for air traffic purposes, must include at least the following:

(1) The location and a description of the airspace desired for assignment or designation.

(2) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the assigned or designated area.

(3) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if the assignment or designation is made.

(4) The name and location of the agency, office, facility, or person to whom authority would be delegated to permit the use of the airspace during those times it would not be used for the purpose to which it would be assigned.

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(d) Subject to the approval of the Chief Counsel with respect to form and legality, the Director issues a notice of any rejected proposal.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964]

§11.95 Issue of notice of proposed rule making.

(a) If it is determined that the subject matter of a proposal should be submitted to the rule-making process, or if rule-making action is to be taken on his own motion, the Director, subject to the approval of the Chief Counsel with respect to form and legality, issues a notice of proposed rule making.

(b) Normally, a notice of proposed rule making is issued within approximately 30 days after receipt of a proposal with respect to which it has been determined that action might be taken.

(c) Each notice of proposed rule making is published in the FEDERAL REGISTER and includes at least the following:

(1) A statement of the time, place, and nature of the public rule-making proceedings.

(2) A reference to the authority under which it is proposed.

(3) Either the terms or substance of the proposed action or a description of the subjects and issues involved.

(d) Approximately 30 days are allowed for submitting written information, views, or arguments on the notice. Petitions for extension of the time for such comments are governed by the provisions of §11.29(c). If a public hearing is to be held, either the original notice of proposed rule making or a revised notice gives approximately 30 days' notice. The Director may grant or deny petitions for extension of the time for comments on the notice and may change the date of any hearing previously noticed.

(e) Written information, views, and arguments submitted in response to a notice of proposed rule making, or that are requested after the notice, must be submitted in triplicate.

(f) Each interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. However, to become a

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(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel, or an Assistant Chief Counsel for a region, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Assistant Chief Counsel has delegated his authority in the matter concerned.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 1964; Amdt. 11-4, 29 FR 15074, Nov. 7, 1964; Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-15, 43 FR 52205, Nov. 9, 1978; Amdt. 11-30, FR 2348, Jan. 16, 1986; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989; Amdt. 11-35, 56 FR 6563, Dec. 17, 1991]

§ 11.63 Filing of proposals.

(a) Each proposal, except one arising in the FAA, for the designation of Federal airways or other areas for normal air traffic use, the assignment of navigable airspace for special use purposes, or the issue of a special rule or order relating to the use of navigable airspace, must be filed in writing, in triplicate, with the Director.

(b) The director may, on his own motion, initiate the procedures prescribed in this subpart for proposals arising within the FAA.

(c) A proposal requesting the assignment of navigable airspace for special use purposes, or for the designation of an area for air traffic purposes, must include at least the following:

(1) The location and a description of the airspace desired for assignment or designation.

(2) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the assigned or designated area.

(3) A description of the air navigation, air traffic control, surveillance, and communication facilities available, and to be provided if the assignment or designation is made.

(4) The name and location of the agency, office, facility, or person to whom authority would be delegated to permit the use of the airspace during those times it would not be used for the purpose to which it would be assigned.

(4) Subject to the approval of the Chief Counsel with respect to form and legality, the Director issues a notice of any rejected proposal.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-3, 29 FR 9662, July 17, 1964]

§ 11.65 Issue of notice of proposed rule making.

(a) If it is determined that the subject matter of a proposal should be submitted to the rule-making process, or if rule-making action is to be taken on his own motion, the Director, subject to the approval of the Chief Counsel with respect to form and legality, issues a notice of proposed rule making.

(b) Normally, a notice of proposed rule making is issued within approximately 30 days after receipt of a proposal with respect to which it has been determined that action might be taken.

(c) Each notice of proposed rule making is published in the FEDERAL REGISTER and includes at least the following:

(1) A statement of the time, place, and nature of the public rule-making proceedings.

(2) A reference to the authority under which it is proposed.

(3) Either the terms or substance of the proposed action or a description of the subjects and issues involved.

(d) Approximately 30 days are allowed for submitting written information, views, or arguments on the notice. Petitions for extension of the time for such comments are governed by the provisions of § 11.29(c). If a public hearing is to be held, either the original notice of proposed rule making or a revised notice gives approximately 30 days' notice. The Director may grant or deny petitions for extension of the time for comments on the notice and may change the date of any hearing previously noticed.

(e) Written information, views, and arguments submitted in response to a notice of proposed rule making, or that are requested after the notice, must be submitted in triplicate.

(f) Each interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. However, to become a

part of the formal record for consideration, any information, views, or arguments presented during the conference must also be submitted in writing in accordance with the notice.

[Doc. No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-1, 28 FR 2897, Mar. 23, 1963]

§ 11.67 Hearings.

(a) Sections 7 and 8 of the Administrative Procedure Act do not apply to proceedings used to formulate rules under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Whenever the Director, in his discretion, considers that a hearing is necessary to provide informed Administrative action and assure adequate protection of private or public interests, he may hold an informal public hearing. However, any rule or order issued in a case in which such a hearing is held is not based exclusively on the record of the hearing.

(b) The Director designates a presiding officer for each hearing and the Chief Counsel designates a legal adviser.

(c) Normally, hearings held under this section are held in the vicinity of the affected airspace. Interested persons are allotted time to make an oral presentation without interruption and a verbatim transcript is made of the proceedings by a certified court reporter.

(d) The procedure in hearings held under this section is as follows:

(1) The presiding officer makes an opening statement with particular reference to the notice of proposed rule making.

(2) The presiding officer designates interested persons or their authorized representatives to speak at the hearing.

(3) The presiding officer allows enough time to each interested person on an equal basis so that his position may be expressed fully and placed on the record, with those who favor it speaking first followed by those who oppose it, initial statements being made as far as possible without interruption, and questions permitted after initial statements have been made by all designated persons.