

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9492 HOUSE TRANSPORTATION

109

ALASKA INTERNATIONAL AIRPORT SYSTEM  
 FY99-2004 AIRLINE CAPITAL IMPROVEMENT REQUEST

In accordance with Article 4, Section 4.02 A&B Anchorage and Fairbanks International Airports Airline Operating Agreement and Terminal Building leases dated November, 1990 and extended in June, 1995, the Signatory Airline identified below approves or disapproves the Capital Improvement listed below as indicated. The Signatory Airline's vote takes into consideration, among other things, the Terminal Concept Package Report #8 dated 10/1/97, Plan of Finance (Volume I & II) dated 10/2/97, and previous reports, the discussions at the October 15, 1997 Airlines Airport Affairs Committee meeting in Anchorage and preceding Airline Executive Committee and Technical Committee meetings.

		FY 99		FUNDING X \$1,000		
AIRPORT	PROJECT	AIP	IARF	TOTAL	APPROVE	DISAPPROVE
ANC	TERMINAL EXPANSION 2005		191,000*	191,000*	X	

\* Project costs identified in 1997 dollars. Approval authorizes AIAS to issue up to \$235 million in airport revenue bonds, which includes escalation and financing costs. AIAS pledges to use its best efforts to obtain alternate sources of funding/financing to reduce airline cost exposure.

1) SUBJECT TO STATE OF ALASKA CAPITAL CONTRIBUTION OF \$26.5M RESULTING IN A NET FUNDING APPROVAL OF \$165M

SIGNATORY AIRLINE NAME DELTA  
 SIGNATURE OF AUTHORIZED REPRESENTATIVE [Signature]  
 DATE 11/11/97 TITLE REGIONAL DIRECTOR  
PROPERTIES & FACILITIES

Cliff Argue has agreed to serve as designated representative and collect and tally votes and provide the requisite written certification within the required time. He requests Ballots sent to him arrive by 12:00 noon, PST, November 17, 1997 at Alaska Airlines, P.O. Box 68900, Seattle WA 98168. FAX (206)431-7031 or TTY SEAPZAS.



HB 432

REPRESENTATIVE JOHN J. COWDERY

March 5, 1998

Senator Ted Stevens  
522 Hart Building  
Washington, DC 20510-0201

Dear Senator Stevens,

Thanks for taking the time to address the Alaska Legislature recently. As always, it was a pleasure to hear your views on the issues facing Alaska. I particularly appreciated your insights into the "Iraqi" situation, and Alaska's strategic defense location.

As you are aware, my committee is reviewing the bond proposals for Anchorage International Airport. Passenger Facilities Charges are a potential revenue stream, but, under current rules, would be a considerable burden on the smaller carriers who compromise such an important part of Alaska's air travel network. The Federal Aviation Administration has informed me that a request has been submitted to change current regulations to allow for PFC exemptions for Alaska's smaller carriers, thus mitigating the negative impact on rural communities.

What is your prognosis for completing such a regulation change? Would it be possible for you to encourage the FAA to give expeditious consideration to the proposal? I would appreciate your help.

Thanks for your consideration of this matter.

Yours Truly,

A handwritten signature in cursive script that reads "John J. Cowdery".

John J. Cowdery, Chairman  
International Trade and Tourism Committee

**HB**

**476**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
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REPRESENTATIVE GENE KUBINA  
COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



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PHONE: (907) 258-8191  
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SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

## Labor and Commerce Committee


### MEMORANDUM

TO: Representative Bill Williams, Chairman  
House Transportation Committee

FROM: Representative Norman Rokeberg, Chairman  
House Labor and Commerce

DATE: April 25, 1998

SUBJECT: Committee Packet For CSHB 476 ( ) – Lease Of Airport Land

Handwritten signatures and initials, including "Kathy" and "Rokeberg", are present to the right of the memorandum text.

Attached is a committee packet for CSHB 476 ( ). The following items are included:

1. CS HB 476 ( )
2. Sponsor Statement
3. LAA Legal Opinion
4. Steve Cooper letter dated
5. Alaska Statutes
6. HB 543 Bill History
7. Proposed regulations

If you have any questions please contact Shirley Armstrong at 465-4968.

Attachments: 3

# ALASKA STATE LEGISLATURE

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## Labor and Commerce Committee

### SPONSOR STATEMENT

#### CSHB 476 ( ) – “An Act relating to leases of state-owned or state-controlled airport or air navigational facility land.”

The 19<sup>th</sup> Legislature passed CCHB 543(FIN) AM S to clarify state airport leasing policies by providing that existing leaseholders would have the right to extend the term (length) of an existing lease or enter into a new lease without offering the land to other persons for leasing, after meeting certain conditions.

Language in Alaska Statute 02.15.090 (a), states “the Department may enter into contracts, leases, or other arrangements covering periods not exceeding 55 years...” (italics added).

A problem occurred when the regulations were being drafted by DOT/PF as to the legislative intent regarding the length of the term available to an airport leaseholder. Moreover, LAA Legal has issued an opinion dated March 19, 1998, indicating that the governing provisions of AS 02.15.090 are very difficult to reconcile and recommends remedial legislation.

1. Was a tenant allowed to extend an existing lease and enter into a new lease prior to expiration of their existing lease if it was in the best interests of the State?
2. Was the lease for a term not exceeding 55 years, including extensions and periods of holdovers?

It is clear from the draft regulations 17 AAC 40.205, LEASE TERM LIMITATIONS AND EXCEPTIONS, that the department is seeking to override the legislature by promulgating the issue outlined in number 2 above when the legislature wants implementation of number 1 above.

Enactment of CSHB 476 ( ) will make the statute very clear regarding the term length for leases.

I urge your support of this important piece of legislation.

0-LS1725VH  
Bannister  
4/22/98

CS FOR HOUSE BILL NO. 476( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to leases of state-owned or state-controlled airport or air  
2 navigational facility land."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 02.15.090(c) is amended to read:

5 (c) Notwithstanding the right of the public to rightful, equal, and uniform use  
6 under (a) of this section, before the expiration of a land lease, including the  
7 termination of a lease in holdover status, entered into under this section, the lessee may  
8 apply for a new lease, or for an extended term under the existing lease, for the same  
9 land. The duration of a new lease under this subsection, including any extensions  
10 of that lease, may not exceed 55 years. The duration of an extension under this  
11 subsection, when added to the lease being extended and to any earlier extensions  
12 of the lease being extended, may not exceed 55 years. The commissioner shall  
13 approve the application for a new land lease or an extended term under this section  
14 without offering the land to other persons for leasing and without regard to the

1  
2  
3  
4  
5

number of the lessee's prior leases or lease extensions for the same land if

- (1) the lessee is in compliance with the terms and conditions of the existing or holdover lease; and
- (2) the continued use of the leasehold is consistent with written airport operation policies and is in the state's best interest.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 19, 1998

**SUBJECT:** Renewals of airport land leases (Work Order 20-LS1689)

**TO:** Representative Norman Rokeberg  
Attn: Janet

**FROM:** *TB*  
Theresa Bannister  
Legislative Counsel

You asked whether airport land leases that have been extended for 55 years or new airport land leases that have 55-year terms can be renewed indefinitely. It is my understanding that you are referring to new leases and extensions entered into under AS 02.15.090(c), which was enacted in 1996. I subsequently indicated to you that the statutes that govern this issue are very ambiguous on this point, and you asked me to explain the situation.

The governing provisions of AS 02.15.090 are very difficult to reconcile. While AS 02.15.090(a) establishes some sort of 55-year limitation related to these leases, AS 02.15.090(c) appears to give lessees the right to renew the leases indefinitely, provided they meet certain conditions. The relevant language of AS 02.15.090(a) states that when

operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements covering periods not exceeding 55 years....

This language could be interpreted to establish a time limit for the total length that one lessor can lease airport land, or to establish a time limit for the length of each type of contractual arrangement made for the land. The regulations do not appear to help decide which is the case. 17 AAC 40.330(a) states that the initial term of a lease is to be for "any period allowed by law." 17 AAC 40.360, which deals with lease provisions, states at (13) what the lessee needs to do to renew, but does not establish how long the lease may be for or how many renewals are allowed.

At the same time, the right to a new lease or extension of the same land under AS 02.15.090(c) does not limit the number of times a renewal can be obtained or the length of the new lease or extension, and does not require that the existing lease be less than 55 years before it can be extended or a new lease issued. The conditions for each renewal are not directly connected to the length of the lease.

When AS 02.15.090(c) was enacted in 1996, the bill stated that it was

Representative Norman Rokeberg

March 19, 1998

Page 2

the purpose of the legislature to preserve and establish, for qualifying land lessees who are in compliance with state law and airport leases, a right, consistent with sound airport planning, to continue to lease the land in order to continue their businesses and noncommercial enterprises and in order to promote a strong aviation industry in this state with long-term benefits to local communities, the airports, and the state.

(sec. 1(b) ch 105 SLA 1996). This language seems to suggest that the legislature intended that a lessee be able to lease the same land indefinitely, as long as the lease continuation met certain conditions unrelated to the length of the lease. From this language it does not appear that the legislature intended to limit how many times or for how long the lessee could renew the lease. It is possible that the legislature was relying on the 55-year limitation to limit the total length of a lease and its renewals. However, there is no indication in the language of (c) of how the two subsections were to interact.

In order to harmonize the two provisions there are at least two possible readings. One reading is that the 55-year restriction limits the total number of years that a person can have a lease for the same land, including all renewals. However, this may not accommodate the needs of a lessor whose business can last more than 55 years. Under this reading, neither lease that you have asked about could be renewed, because each would have reached the maximum period for the lease. Under this reading it also does not appear that the extension of 55 years that you are asking about would be allowed, because then the total lease term would be more than 55 years.

The other reading is that the 55-year restriction does not limit the total number of years that a lessee can lease the same land, but limits the length of each contractual arrangement that is entered into by the state, including arguably treating an extension or a renewal as a contractual arrangement separate from the initial lease. This second reading has the virtue of allowing unlimited renewals as needed by the lessee to operate the lessee's business on the land, while giving the state at least every 55 years the ability to evaluate the leasing situation in light of the airport's operation policies and the best interests of the state. It also is more consistent with the legislative purpose stated for AS 02.15.090(c). Although I would tend to find that this reading is the better one, it does, however, require a somewhat strained reading of "contract, lease, or other arrangement" in AS 02.15.090(c) to treat a lease renewal or extension as an "other arrangement" separate from the lease. Under this reading, both leases you have asked about could be renewed indefinitely, as long as each renewal did not exceed 55 years and the other conditions were met.

In conclusion, AS 02.15.090(a) and (c) are very unclear on whether indefinite renewals are allowed, and produce different results depending on which reading is adopted. Although the second reading appears to me to be the better interpretation of these provisions, it is not clear how a court would resolve the ambiguity. Therefore, I recommend that AS 02.15.090(a) and (c) be amended to clarify the situation.

Representative Norman Rokeberg  
March 19, 1998  
Page 3

If I may be of further assistance, please advise.

TLB:pl  
98-057.plm

April 16, 1998  
From: Stephen Cooper  
Fairbanks 907-456-0245

Subject: Senate CS for HB 210. Section 1.

1. This addresses only Section 1 of CSHB 210.
2. The new text prevents a misinterpretation of the present legislation relating to aviation lease renewals and extensions. The new text is consistent with the original legislative intent and with the aviation interests for which the existing statute was passed in 1996 as HB543.
3. In 1996 the state DOT proposed a 55 year limit on the availability of lease renewals. This concept was rejected at legislative hearings and at passage of the bill.
4. Thereafter, acting contrary to the newly passed law (HB 543), DOT inserted a 55 year limit into proposed regulations offered to implement that law. As a result of this, Rep. Pete Kelly wrote to DOT Commissioner Perkins on January 22, 1997:

As co-sponsor of HB 543, I intended it to be clear that an existing lessee could approach the Department for a new lease up to 55 years in duration, or could extend the existing lease up to 55 years in total. It is very important to be sure that the regulations provide an effective method to allow an individual who has completed a 55 year term to receive a preference for a new lease.

5. To uphold the purpose of the 1996 legislation and to promote aviation in Alaska, the existing law should be amended to provide that when a tenant obtains a new lease, that lease, including extensions, may equal but not exceed 55 years, and that an existing lease, including extensions, likewise may equal but not exceed 55 years. Further, it should be made clear that the 55 year limit applies to each lease, not to the lessee. A new lease or extension must be granted without regard to the number of that lessee's prior leases of the same land. To do otherwise would destroy the stability and growth which are essential to a healthy aviation industry capable of serving the interests and needs of the community. Section 1 of Senate CSHB 210 accomplishes these purposes.



# DATE-LINE COPIES, INC.

3677 College Road, Suite 1 • Fairbanks, Alaska 99709  
Phone (907) 479-3831 • Fax (907) 474-8056



TO: REP. NORMAN ROKEBERG

ATTENTION: JUNEAD

PHONE #: \_\_\_\_\_

FAX #: 907-465-2040

FROM: STEPHEN COOPER

PHONE #: 907-456-0245

DATE: 4/21 NO. PAGES: 2 (Including this sheet)

**COMMENTS:**

PLEASE EXCUSE MY DELAY IN  
GETTING THIS TO YOU -  
REGARDING AVIATION LEASING (CSHB210)  
YOUR CALL + YOUR SUPPORT  
ARE APPRECIATED.

- Section**  
 102. Use of airports for utilities  
 104. Relocation of utility facilities incident to airport projects  
 106. Encroachment permits  
 108. Relocation or removal of encroachment

- Section**  
 110. Unauthorized encroachments  
 112. Notice of removal of unauthorized encroachment  
 114. Removal at owner's expense after noncompliance; removal expense

Collateral references. — 8 Am. Jur. 2d, Aviation, §§ 55-75.

**Sec. 02.15.060. Establishment, operation and maintenance.** The department may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities within the state. (§ 5 A ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

NOTES TO DECISIONS

Applied in *Clark v. State*, 738 P.2d 772 (Alaska Ct. App. 1987).

Collateral references. — 8 Am. Jur. 2d, Aviation, §§ 17-19, 55 et seq.  
 2A C.J.S., Aeronautics and Aerospace, § 57 et seq.  
 Airport operations or flight of aircraft as nuisance. 79 ALR3d 253.

Airport operations liability insurance. 92 ALR3d 1267.

**Sec. 02.15.070. Acquisition and disposal of property.** (a) For the purposes specified in AS 02.15.060 the department may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire real or personal property, or any interest in the property including easements in airport hazards or land outside the boundaries of an airport or airport site, necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. The department may acquire existing airports and air navigation facilities in the same manner except it may not acquire or take over an airport or air navigation facility owned or controlled by a municipality or person without the consent of the municipality or person.

(b) The department may, by sale, lease, or otherwise, dispose of all, a portion of, or an interest in a property, airport, or air navigation facility described in (a) of this section. The proceeds of any disposition shall be used for the purposes set out in this chapter. (§ 5 A, B ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

Collateral references. — 8 Am. Jur. 2d, Aviation, §§ 9-19, 62, 67.  
 2A C.J.S., Aeronautics and Aerospace, §§ 61, 65-67.  
 Plotting or planning in anticipation of improvement as taking or damaging of property affected. 37 ALR3d 127.

Zoning regulations limiting use of property near airport as taking of property. 18 ALR4th 542.

Operations or flight of aircraft as constituting taking or damaging of property. 22 ALR4th 863.

**Sec. 02.15.080. Joint operations.** The department may exercise the powers granted by AS 02.15.060 — 02.15.100 jointly with a person, municipality, or agency of the state, or with the United States. (§ 5 C ch 123 SLA 1949)

**Sec. 02.15.090. Operation and use privileges.** (a) In operating an airport or air

a person, municipality, or the United States, granting the privilege of using or improving an airport or air navigation facility or a portion of it or space in it for commercial, governmental, or other public purposes, including private plane tie down; or confer the privilege of supplying goods, commodities, services, or facilities at an airport or navigation facility. The department may establish the terms and conditions and charges, rentals, and fees for the privileges or services that are reasonable and uniform for the same class of privilege or service. Charges, rentals, or fees authorized in this subsection may be fixed for the international airports by order of the commissioner negotiated or competitively offered contract. Notwithstanding AS 37.10.050(a), the charges, rentals, or fees as permitted under this subsection is not subject to the conditions, charges, rentals, and fees shall be established with due regard to the public and improvements used and the expense of operation to the state. However, use of land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons shall be permitted without rental charges. The department shall provide for public notice and opportunity to comment before a charge, rental, or fee is fixed by order of the commissioner as permitted under this subsection. The public may not be deprived of the right of a rightful, equal, and uniform use of the airport, air navigation facility, or a portion of it.

(b) The department may by contract or other arrangement, upon a consideration by it, grant to a qualified municipality or person for a reasonable period of time the privilege of operating, as agent of the state or otherwise, an airport owned or controlled by the state. A municipality or person granted that privilege may not operate the airport other than as a public airport or enter into any contract, lease or other arrangement in connection with the operation that the department may not have undertaken under (c) — (e) of this section.

(c) Notwithstanding the right of the public to a rightful, equal, and uniform use of the airport, before the expiration of a land lease, including the termination of a lease in holdover status, entered into under this section, the lessee may apply for a new lease, or for an extended term under the existing lease, for the same land and the commissioner shall approve the application for a new land lease or an extended term under this section without offering the land to other persons for leasing if

(1) the lessee is in compliance with the terms and conditions of the existing or holdover lease; and

(2) the continued use of the leasehold is consistent with written airport operating policies and is in the state's best interest.

(d) A land lessee owns title to the permanent improvements that the lessee constructed or purchased during the term of the lease, unless the lease expressly provides that the state is the owner of the permanent improvements.

(e) At the expiration, termination, or cancellation of a land lease entered into under this section,

(1) a lessee who owns the improvements under (d) of this section shall continue to own the permanent improvements that the lessee constructed or purchased on a leasehold if the lessee is granted under (c) of this section a new lease or an extended term for the same land;

(2) a lessee may sell the permanent improvements owned by the lessee to a successor lessee of the same land;

(3) at the option of the lessee, the permanent improvements owned by the lessee shall be sold by the state at public auction with the proceeds from the sale of the improvements going to the lessee, less administrative costs of the auction and obligations owed under the lease to the state; the successful bidder has the same right to enter into a new lease under (c) of this section without the department offering the land to other persons for leasing;

(A) the permanent improvements do not comply with written airport operational policies or are not in the state's best interest;

(B) the permanent improvements are not sold under (e)(2) or (3) of this section; or

(C) the department makes written findings that the permanent improvements are a hazard to the public health and safety;

(5) title to the permanent improvements vests in the department if the state purchases or otherwise contracts for the ownership of the permanent improvements, or if the lessee abandons the permanent improvements. (§ 5 E ch 123 SLA 1949; am § 1 ch 117 SLA 1959; am § 3 ch 36 SLA 1990; am § 1 ch 33 SLA 1993; am §§ 2, 3 ch 105 SLA 1996)

**Cross references.** — For legislative findings and purpose concerning the enactment of subsections (c)-(e) in § 3, ch. 105, SLA 1996, see § 1, ch. 105, SLA 1996 in the Temporary and Special Acts.

**Effect of amendments.** — The 1990 amendment, effective May 12, 1990, in subsection (a), substituted "commercial, governmental, or other public purposes, including private plane tie down" for "commercial or governmental purposes" in the first sentence, added the fourth (now sixth) sentence and made grammatical changes.

The 1993 amendment, effective May 28, 1993, in subsection (a), added the present third, fourth, and seventh sentences and made a stylistic change in the last sentence.

The 1996 amendment, effective September 23, 1996, inserted a section reference near the end of subsection (b) and added subsections (c)-(e).

**Editor's notes.** — Section 3, ch. 33, SLA 1993 makes the 1993 amendment to (a) of this section retroactive to January 1, 1993.

#### NOTES TO DECISIONS

**State cannot be indemnified for own negligence.** — Administrative regulation requiring that all airport terminal leases contain an indemnity provision was invalid to the extent that it required airport leases to indemnify the state for its own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 776 P.2d 315 (Alaska 1989).

Public duty exception to rule allowing indemnification of an indemnitee for its own negligence prevented the state from seeking indemnification from an airline

terminal lessee for the state's own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 776 P.2d 315 (Alaska 1989).

**Legislative intent.** — By enacting AS 02.15.120, 02.15.160, and this section, the legislature intended to insure that airport facilities would be made available, on a priority basis, to that segment of society for which those facilities are designed: Those persons operating aircraft or machinery used incidentally to the operation of aircraft. *Plancich v. State*, 693 P.2d 855 (Alaska 1985).

**Collateral references.** — Airport operations or flight of aircraft as nuisance. 79 ALR3d 253.

**Sec. 02.15.091. Sale and delivery of in-bond merchandise at international airports.** (a) Under (b) and (c) of this section, the department shall allow the sale and delivery of in-bond merchandise at an international airport only by an exclusive contract.

(b) While the exclusive contracts for the sale and delivery of in-bond merchandise at international airports that exist on June 15, 1982 are in effect, the department may not permit or confer a right on any other person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(c) After the exclusive contracts existing on June 15, 1982 are no longer in effect, the department shall enter into one exclusive contract and, on its expiration, additional successive exclusive contracts for the sale and delivery of in-bond merchandise at each international airport. Except under the existing and future exclusive contracts described in this section, the department may not permit or confer a right upon any person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(d) The department shall offer the exclusive contracts required by this section by competitive bid or by competitive proposals. If the department offers the exclusive contracts by competitive bid, the department shall award the contracts after considering the generation of maximum revenue for the International Airports Revenue Fund

that include depth of management, financial ability, demonstrated experience locations, quality of services and products, success in marketing programs, char improvements of proposed facilities, and the generation of optimum revenue for

(e) The department shall actively supervise the operations under each contract for the sale and delivery of in-bond merchandise in order to en effectiveness of the operations. To supervise contract operations under this set department shall develop and implement guidelines that provide for review reasonableness of price schedules, quality and assortment of merchandise, and service.

(f) Nothing in this section applies to deliveries of in-bond merchandise as airlines. (§ 2 ch 111 SLA 1982; am § 1 ch 21 SLA 1988)

**Cross references.** — For legislative findings, see § 1, ch. 111, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

**Effect of amendments.** — The 1988 amendment in subsection (d), added the last sentence and the first two sentences (formerly just one sentence).

**Sec. 02.15.095. Courtesy cars.** Notwithstanding the provisions of AS 02.15.095, the department may not exclude from the streets, roads, highways, parking facilities, or other portions of a state-operated airport designated for operation or parking of other transportation vehicles, nor may the department prohibit from picking up and dropping off passengers, those motor vehicles commonly known as "courtesy cars" or "limousines" operated by hotels, motels or other similar places of public accommodation for the transportation of their guests to and from the airport at the request of the guest for which service no charge is made to the guest. (§ 1 ch 9 SLA 1974)

**Sec. 02.15.100. Liens.** The department may enforce the payment of any charges for repairs, improvements, storage, or care of personal property made or furnished by the department or its agents, in connection with the operation of an airport or air navigation facility owned or operated by the state. The state has those lien rights generally by law to secure payment for those services. (§ 5 E ch 123 SLA 1949; added by § 1 SLA 1959)

**Sec. 02.15.102. Use of airports for utilities.** A utility facility may be constructed, placed, or maintained across, along, over, under, or within a state airport in accordance with regulations adopted or procedures prescribed by the department only if authorized by a written permit issued by the department. The department may charge a fee for a permit issued under this section. (§ 1 ch 142 SLA 1986; am § 1 SLA 1990)

**Effect of amendments.** — The 1990 amendment, effective May 12, 1990, added the second sentence.

**Sec. 02.15.104. Relocation of utility facilities incident to airport projects.** (a) If, incident to the construction of an airport project, the department determines that a utility facility located across, along, over, under, or within a state airport must be changed, relocated, or removed, the utility owning or maintaining the facility shall change, relocate, or remove it in accordance with the order, within a reasonable time set by the department in the order.

(b) If the utility facility is not changed, relocated, or removed in accordance with the order, any permit authorizing the facility issued by the department under AS 02.15.104 becomes invalid and the facility will be considered an unauthorized encroachment on the provisions of AS 02.15.114.

(c) The cost of change, relocation, or removal as defined in AS 02.15.104.

Register \_\_\_\_\_ 1998 TRANSP. AND PUBLIC FACILITIES

17 AAC 40.203. APPROVAL OR DENIAL OF AN APPLICATION FOR A LEASE, PERMIT, OR CONCESSION. (a) Subject to the public notice requirements of this chapter, the airport manager will approve an application for a lease, permit, concession, easement, right of way, license, or other interest if the airport manager decides that

- (1) the proposed use is compatible with written airport operation policies;
- (2) the applicant is not in violation of the terms of a contract with the state;
- (3) the applicant is not in arrears on a rental payment or other financial obligation due the state or otherwise in default of an obligation under a lease, permit, or concession; and
- (4) approval of the application is in the best interest of the state.

(b) After the airport manager has approved an application, the airport manager will give the public notice of the application under this chapter. Public notice is only valid for one year, and the airport manager may not execute a lease, permit, or concession later than one year after the deadline for submission of public comment. The notice must include

- (1) the applicant's name;
- (2) the general terms of the lease, permit, concession, or material amendment, including the rent, fees, term, property, and authorized uses;
- (3) the airport manager's mailing address for receiving competing applications or public comments; and
- (4) the date all public comments and competing applications must be received by the airport manager, that must be

(A) at least 30 days after the day the notice is first published or posted if the proposed lease, permit, concession, or material amendment term is greater than 120 days; or

(B) at least seven days after the day the notice is first posted if the proposed lease, permit, concession, or material amendment term is 120 days or less.

(5) The airport manager will not request competing applications if the application is from an existing land lessee who has applied for a new land lease or land lease term extension if the lessee qualifies under 17 AAC 40.204(b).

(c) After the public comment period, the airport manager will

- (1) consider only the public comments and competing applications received by the airport manager during the public comment period; and
- (2) execute the lease, permit, or concession unless the airport manager decides in writing that the application should be denied under this section.

(d) If the airport manager receives two or more applications for a lease, permit, concession, or material

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amendment for use of the same property for different classes of use, and the applications are otherwise acceptable under this section, aviation use has priority over both auxiliary use and nonaviation use, and auxiliary use has priority over nonaviation use.

(e) The airport manager will, in the manager's discretion, mail or deliver a lease, permit, or concession for a combination of two or more classes of use.

(f) If the applicant does not sign and return a lease, permit, or concession within 30 days after the date the airport manager mails or delivers it to the applicant, the airport manager will withdraw the offer of the lease, permit, or concession and mail or deliver written notice of the withdrawal to the applicant. The airport manager will extend the response time granted under this subsection for good cause.

(g) The decision to deny an application must be in writing and state the reasons for the denial. An applicant may appeal the denial of an application. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 02.15.020 AS 02.15.200  
 AS 02.15.060 AS 02.15.210  
 AS 02.15.090

17 AAC 40.204. COMPETITIVE OFFERING OF A LEASE, PERMIT, OR CONCESSION. (a) The airport manager will competitively offer a lease, permit, or concession to the public if

- (1) the airport manager receives more than one application that meets the requirements of this section for the same property and same class of use;
- (2) the airport manager decides that the applicant does not qualify for a new lease term or lease term extension without competition under subsection (b) of this section;
- (3) the airport manager decides that it is in the best interest of the state to offer the interest competitively;
- (4) the lease, permit, or concession includes a grant of an exclusive right; or
- (5) the interest must be offered competitively under law.


(b) An existing land lessee other than a government agency may apply for a new land lease or extension to an existing land lease without competition under this section if the applicant applies for the same land and same class of use as the existing lease, and submits the application to the airport manager before the expiration of the lease or before the airport manager terminates a lease in holdover. The airport manager will approve a new land lease or land lease term extension without competition if the airport manager decides that

- (1) the applicant's continued use of the land is consistent with written airport operation policies and the new land lease or extension is in the best interest of the state under 17 AAC 40.203; and

Register \_\_\_\_\_ 1998 TRANSP. AND PUBLIC FACILITIES

(2) the applicant is in compliance with the terms and conditions of the applicant's existing lease or holdover lease. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 02.15.020 AS 02.15.090  
AS 02.15.060 AS 02.15.200  
AS 02.15.070 AS 02.15.210

 17 AAC 40.205. LEASE TERM LIMITATIONS AND EXCEPTIONS.

(a) A lease term, including extensions and periods of holdover, must not exceed 55 years.

(b) If the airport manager decides in writing that a premises will be needed for an aviation use or airport development in the future and the airport manager grants a lease for auxiliary or nonaviation use of the premises, the airport manager will not grant a lease or lease term extension beyond the time the airport manager decides that the premises will be needed for an aviation use or airport development.

(c) The airport manager will not grant a lease term or lease term extension that exceeds 35 years without the written approval of the commissioner. After considering the amount of the applicant's investment or fair market value appraisal, the commissioner will grant an exception to the lease term tables in this article for a lease, permit, concession, or extension of a term only if the commissioner finds in writing that the exception is in the best interest of the state; and only if the exception does not result in a lease term exceeding 55 years, including extensions and periods of holdover. The commissioner will not delegate the responsibility for granting a lease term exception under this section. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 02.15.020 AS 02.15.090  
AS 02.15.050 AS 02.15.210

17 AAC 40.206. LAND LEASE TERM OR TERM EXTENSION.

(a) This section does not apply to a land lease or land lease term extension if the lessee is a government agency.

(b) The airport manager will set the term for a land lease or land lease term extension after considering

- (1) the applicant's development and use of the premises;
- (2) the conformance of the proposed lease, permit, or concession with the master plan for the airport;
- (3) the conformance of the proposed lease, permit, or concession with the future development of the airport;
- (4) the covenants and restrictions in the state's title to airport property;
- (5) the amount of investment, purchase price, fair market value, useful life, or remaining useful life of permanent improvements documented in the application; and

Register \_\_\_\_\_ 1998 TRANSP. AND PUBLIC FACILITIES

(6) the method and terms of financing the applicant's investment.

(c) After considering the factors described in (b) of this section, the airport manager will grant a maximum term for a new lease or a term extension that is the greater of

(1) the number of years from the applicable table in this section that corresponds to the amount of the applicant's initial investment or additional investment in permanent improvements on the premises;

(2) the number of years from the applicable table in this section that corresponds to the appraised fair market value or purchase price of permanent improvements on the premises;

(3) the number of years of useful life of proposed permanent improvements on the premises; or

(4) the number of years of remaining useful life of existing permanent improvements on the premises.

(d) Except during the last year of the term of a lease, the airport manager will only grant a lease term extension if the applicant proposes to make an additional investment in the premises or has purchased permanent improvements on the premises as described in 17 AAC 40-202(c)(1) and (2).

(e) The term of any extension granted by the airport manager under this section must be added to the end of the existing term of the lease.

(f) General aviation zone. If the premises is located in a general aviation zone, the airport manager will use the following table to determine the lease term or lease term extension to be granted based on the applicant's investment, purchase price, or fair market value.

<u>Term</u>	<u>Fair Market Value, Purchase Price or Investment Amount</u>
5 years	\$ 0
6 years	\$ 7,500
7 years	\$ 15,000
8 years	\$ 22,500
9 years	\$ 30,000
10 years	\$ 37,500
11 years	\$ 45,000
12 years	\$ 52,500
13 years	\$ 60,000
14 years	\$ 67,500
15 years	\$ 75,000
16 years	\$ 82,500
17 years	\$ 90,000
18 years	\$ 97,500
19 years	\$ 105,000
20 years	\$ 112,500
21 years	\$ 120,000

## Register \_\_\_\_\_ 1998 TRANSP. AND PUBLIC FACILITIES

22 years	.....	\$ 127,500
23 years	.....	\$ 135,000
24 years	.....	\$ 142,500
25 years	.....	\$ 150,000
26 years	.....	\$ 157,500
27 years	.....	\$ 165,000
28 years	.....	\$ 172,500
29 years	.....	\$ 180,000
30 years	.....	\$ 187,500
31 years	.....	\$ 195,000
32 years	.....	\$ 202,500
33 years	.....	\$ 210,000
34 years	.....	\$ 217,500
35 years	.....	\$ 225,000

(g) Nongeneral aviation zone. If the premises is located in a nongeneral aviation zone, the airport manager will use the following table to determine the lease term or lease term extension to be granted based on the applicant's investment, purchase price, or fair market value.

<u>Term</u>	<u>Fair Market Value, Purchase Price or Investment Amount</u>
5 years	..... \$ 0
6 years	..... \$ 25,000
7 years	..... \$ 50,000
8 years	..... \$ 75,000
9 years	..... \$ 100,000
10 years	..... \$ 125,000
11 years	..... \$ 150,000
12 years	..... \$ 175,000
13 years	..... \$ 200,000
14 years	..... \$ 225,000
15 years	..... \$ 250,000
16 years	..... \$ 275,000
17 years	..... \$ 300,000
18 years	..... \$ 325,000
19 years	..... \$ 350,000
20 years	..... \$ 375,000
21 years	..... \$ 400,000
22 years	..... \$ 425,000
23 years	..... \$ 450,000
24 years	..... \$ 475,000
25 years	..... \$ 500,000
26 years	..... \$ 525,000
27 years	..... \$ 550,000
28 years	..... \$ 575,000
29 years	..... \$ 600,000
30 years	..... \$ 625,000

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31 years	.....	\$ 650,000
32 years	.....	\$ 675,000
33 years	.....	\$ 700,000
34 years	.....	\$ 725,000
35 years	.....	\$ 750,000

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority:       AS 02.15.020               AS 02.15.090  
                   AS 02.15.060               AS 02.15.210

Editor's Note: A map showing the general aviation zone of an airport is located in the airport manager's office of the respective airport at the address indicated in 17 AAC 40.001.

17 AAC 40.207. PERMIT, CONCESSION, BUILDING SPACE LEASE, OR GOVERNMENT AGENCY LAND LEASE TERM. The airport manager will set the term or term extension for a permit, concession, building space lease, or land lease for a government agency after considering

- (1) the applicant's development and use of the premises;
- (2) the conformance of the proposed lease, permit, or concession with the master plan for the airport;
- (3) the conformance of the proposed lease, permit, or concession with the future development of the airport;
- (4) the covenants and restrictions in the state's title to airport property;
- (5) the applicant's investment in permanent improvements and site development;
- (6) the needs of a government agency applicant; and
- (7) the best interest of the state. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority:       AS 02.15.020               AS 02.15.090  
                   AS 02.15.060               AS 02.15.210

# ALASKA STATE LEGISLATURE

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### Labor and Commerce Committee

#### MEMORANDUM

TO: Representative Bill Williams, Chairman  
House Transportation Committee

FROM: Representative Norman Rokeberg, Chairman *NRP*  
House Labor and Commerce

DATE: April 18, 1998

SUBJECT: Hearing Request for HB 476 – Lease Of Airport Land

I respectfully request that HB 476 be scheduled for committee hearing. My office will provide a bill packet for use by the committee.

Thank you for your consideration in this matter. If you have any questions please contact Shirley Armstrong at 465-4968.

Attachments

**HB**

**480**

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 480

Revision Date: \_\_\_\_\_ Dept. Affected: DOT/PF  
 Title: "An Act relating to maintenance of state marine vessels; and providing for an effective date." BRU: Marine Engineering  
 Sponsor: House Transportation Component: Overhaul  
 Requester: House Transportation COMPONENT SERIAL NO. 1212

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	50.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	50.0	50.0	50.0	50.0	50.0	50.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The following calculations include no inflationary increases.

This bill would require economic analyses be performed to determine both direct and indirect benefits to the state relating to the location of marine vessel maintenance. In order to accomplish this, contracted economic studies would be performed. We estimate this would cost \$50.0 per year.

Bob Doll, General Manager  
Alaska Marine Highway System

Phone: 465-3959  
Date: 4/3/98

Approved by:   
Joseph L. Perkins, Commissioner

Date: 4/3/98

Agency: Department of Transportation and Public Facilities

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Representative William K. Williams

## SPONSOR STATEMENT HB 480 maintenance of state marine vessels

AS 36.90.050 expired by sunset in August 1997 and provided similar considerations to those contain HB 480. Passage of House Bill 480 will preserve the following benefits to the state:

**State Multi-vessel Maintenance Agreements:** Prior to expiration of AS 36.90.050, the AMHS negotiated with Alaska shipyards a precedent setting multi-vessel maintenance agreement for seven of its eight state ferries. This multi-vessel agreement resulted in significant savings and economic benefits to the state and Alaska's growing ship repair industry. After the expiration of AS 36.90.050, the state will no longer be able to negotiate future advantageous multi-vessel agreements with Alaska shipyards.

**Creates a Level Competitive Playing Field for Alaska's Shipyards:** HB 480 provides for a true and accurate statement of interport differential costs giving Alaska shipyards a fair competitive basis for publicly bid vessel repair projects. HB 480 provides guidance for full, understandable and repeatable calculation and disclosure of costs which make-up the interport differential.

**Interport Differentials Explained:** Interport differential refers to costs associated with moving a vessel from point (a) --the vessels base port--to point (b)--any other place a bidder is located-- and back. The interport differential is calculated by the state and added to the non-base port shipyard's bid. Further, HB 480 directs the AMHS to adopt interport regulations

HB 480 creates a level playing field between bidders for state marine vessel maintenance and repair work. A level playing field helps Alaska's shipyards draw new marine support contractors, vendors and support industries to Alaska and ultimately diversify the state's economy and bolster winter employment in Alaska.

HOUSE BILL NO. 480

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Introduced: 4/1/98

Referred: Transportation

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to maintenance of state marine vessels; and providing for an  
2 effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 36.90 is amended by adding a new section to read:

5           Sec. 36.90.049. Maintenance of state marine vessels. (a) A marine vessel  
6 owned by the state shall be maintained and repaired at a shipyard facility located in  
7 the state unless the commissioner of the department that operates the marine vessel  
8 determines in writing that there is no shipyard facility located in the state that is  
9 equipped or qualified to perform the particular maintenance or repair required, or, after  
10 taking into consideration the Alaska bidder preference set out in AS 36.30.170 and the  
11 interport differential, as determined by the Alaska marine highway system under this  
12 section, that the proposed cost of the maintenance or repair work is unreasonable. In  
13 making the determination, the commissioner shall consider, and document in writing,  
14 the direct and indirect benefits to the economy and labor force in the state that would

1 be derived by performing the vessel maintenance or repair at a facility in the state.  
2 A detailed list of the costs and factors considered in calculating the interport  
3 differential must be provided to each person who expresses an interest in submitting  
4 a bid to perform maintenance or repair work on a marine vessel owned by the state.

5 (b) The competitive bid provisions of AS 36.30 do not apply to a contract for  
6 the maintenance or repair of a marine vessel owned by the state if the contract is  
7 awarded to a shipyard facility in the state.

8 (c) The commissioner of the department that operates a marine vessel shall  
9 adopt regulations establishing the criteria that the department shall use to determine  
10 whether the cost of maintenance or repair work at a shipyard facility located in the  
11 state is reasonable under (a) of this section. The commissioner shall designate by  
12 regulation the designated base port for each vessel operated by the department. A  
13 vessel's designated base port is the vessel's delivery and redelivery port.

14 (d) The Alaska marine highway system shall adopt regulations establishing the  
15 criteria that the Alaska marine highway system shall use in calculating the interport  
16 differential under this section. The criteria for calculating the interport differential  
17 must include costs incurred from the time that the vessel leaves the vessel's designated  
18 base port to enter the shipyard facility until the time that the vessel returns to the  
19 designated base port from the shipyard facility.

20 (e) In this section,

21 (1) "commissioner of the department that operates the marine vessel"  
22 includes the president of the University of Alaska with regard to a vessel operated by  
23 the university;

24 (2) "interport differential" includes all costs related to the performance  
25 of the maintenance or repair work of a marine vessel at a shipyard located outside of  
26 the state, including travel costs incurred moving the vessel from its designated base  
27 port to the shipyard outside of the state, additional fuel consumption, cost of  
28 consumables including lubricants and other engine and deck stores, maintenance costs  
29 incurred during running time, cost of crew transfers including airfare between Alaska  
30 and the shipyard, wages in travel status, crew room and board, and other interport  
31 costs identified by the Alaska marine highway system.

1 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



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of other interests in  
30 SLA 1990; am § 10  
2; am § 3 ch 94 SLA  
45 ch 137 SLA 1996)

B), added present item (v).  
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. § 3 ch 137 SLA

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in writing that there is no shipyard facility located in the state that is equipped or qualified to perform the particular maintenance or repair required, or, after taking into consideration the Alaska bidder preference set out in AS 36.30.170 and the interport differential, as determined by the Alaska marine highway system, that the proposed cost of the maintenance or repair work is unreasonable. In this subsection, "commissioner of the department that operates the marine vessel" includes the president of the University of Alaska with regard to a vessel operated by the university.

(b) The competitive bid provisions of AS 36.30 do not apply to a contract for the maintenance or repair of a marine vessel owned by the state if the contract is awarded to a shipyard facility in the state. (§ 1 ch 57 SLA 1986; am § 61 ch 14 SLA 1987; am § 4 ch 94 SLA 1992)

Delayed repeal of section. — Section 5, ch. 94, SLA 1992 repeals this section on August 30, 1997.

Effect of amendments. — The 1992 amendment, effective June 19, 1992, rewrote this section.

Revisor's notes. — Enacted as AS 36.20.020. Re-numbered in 1986.

### Article 2. Professional Registration Requirements.

#### Section

100. Contracts for architectural, engineering, or land surveying services

**Sec. 36.90.100. Contracts for architectural, engineering, or land surveying services.** The state or a municipality may not award a contract for architectural, engineering, or land surveying services to

(1) an individual who is not registered under AS 08.48 to perform the architectural, engineering, or land surveying services required by the contract;

(2) a partnership that is not qualified under AS 08.48.251 to provide the architectural, engineering, or land surveying services required by the contract; or

(3) a corporation that is not authorized under AS 08.48.241 to offer the architectural, engineering, or land surveying services required by the contract. (§ 1 ch 54 SLA 1986)

### Article 3. Public Construction Contract Payment.

#### Section

200. Payment deadline and interest  
210. Required contractual terms  
220. Optional contractual terms  
230. Withholding payment for unsatisfactory performance  
240. Form of certain notices

#### Section

250. Retainage  
260. Miscellaneous provisions  
265. Applicability to political subdivisions  
270. Waiver of provisions prohibited  
290. Definitions

Editor's notes. — Section 4, ch. 137, SLA 1990 provides that AS 36.90.200 — 36.90.290 apply to

"public construction and public works contracts that are entered into on or after July 1, 1990."

**Sec. 36.90.200. Payment deadline and interest.** (a) The state or a political subdivision of the state shall pay the prime contractor for satisfactory performance on a public construction or public works contract within 30 calendar days of the date the state or political subdivision receives a payment request from the prime contractor that complies with the contract. If a political subdivision is going to use grant money for the contract, the subdivision shall pay the prime contractor for satisfactory performance within 21 calendar days of the date the subdivision receives a payment request that complies with the contract or within 21 calendar days of the date the subdivision actually receives the grant money, whichever is later. If the state is going to use federal money for

**HB**

**482**

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO: HB 482**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An act relating to the registration of noncommercial trailers....." BRU: Motor Vehicles  
 Sponsor: House Transportation Component: Field Services  
 Requestor: (H) TRA COMPONENT SERIAL NO. 2151

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	12.5	(16.0)	(16.0)	(16.0)	(16.0)	(16.0)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>12.5</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match	12.5	(16.0)	(16.0)	(16.0)	(16.0)	(16.0)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>12.5</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>	<b>(16.0)</b>

Estimate of current year (FY 98) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary.)**  
 This bill will create "permanent registrations" for certain categories of vehicles that will be valid until the ownership of the vehicle changes. This has the potential of eliminating 40,000 registration renewals annually however during the first year of implementation all vehicles will still have to renew the registration to receive the permanent decals. The first year of implementation would be FY 99 so there would be no savings in this year. The only cost for implementation would be for 100 hours of contract programming to establish the permanent registration categories in the DMV data system and to create a method of ensuring that those vehicle which require an emission inspection are in fact complying with this requirement. After the first year there will be a savings in postage (\$0.30 ea) and forms costs (\$0.10 ea) for the 40,000 registration renewals and this savings of \$16.0 annually will continue each year thereafter. There will be no change in personnel cost as the employees will be redeployed to other public service tasks.

Prepared By: Charles R. Hosack Phone: 269-5559  
 Division: Motor Vehicles Date: \_\_\_\_\_  
 Approved by Commissioner: Mark Boyer *Mark Boyer* Date: 4/13/98  
 Agency: Administration

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Representative William K. Williams

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## SPONSOR STATEMENT

### HB 482 MOTOR VEHICLE REGISTRATION

HB 482, an act relating to the registration of motor vehicles, was introduced to make state government more efficient and user friendly.

Currently, the state issues thousands of vehicle registrations yearly to seniors and disabled Alaskans. Although there is no charge for these vehicle registrations, considerable time and effort goes into issuing them on an annual basis. HB 482 would remove this burden from our seniors and those with disabilities, and help shrink the lines at our D.M.V. offices as employees are redeployed.

HB 482 also removes the annual \$10 registration for noncommercial trailers and sets a one time \$10 registration fee. When a trailer changes owners, the new owner would be responsible for re-registering the trailer and paying a \$10 fee.

Adoption of House Bill 482 will increase efficiencies at D.M.V. and promote a user friendly atmosphere between the public and state government.

0-LS1721VB

Ford

4/23/98

**CS FOR HOUSE BILL NO. 482(TRA)****IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTIETH LEGISLATURE - SECOND SESSION****BY THE HOUSE TRANSPORTATION COMMITTEE**

Offered:

Referred:

Sponsor(s): **HOUSE TRANSPORTATION COMMITTEE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to registration fees for certain noncommercial pickup trucks and  
2 vans and to registration of vehicles owned by disabled persons or persons who  
3 are 65 years of age or older; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 28.10.108 is amended by adding a new subsection to read:

6 (1) Notwithstanding the other provisions of this section, the following vehicles  
7 are not required to be registered biennially and shall be registered one time only:

8 (1) a vehicle qualifying for registration under AS 28.10.181(d); or

9 (2) a vehicle owned by a person who is 65 years of age or older; this  
10 paragraph applies to only one vehicle owned by the person who is 65 years of age or  
11 older.

12 \* **Sec. 2.** AS 28.10.411(f) is amended to read:

13 (f) A resident 65 years of age or older on January 1 of the year the vehicle is  
14 registered is entitled to an exemption [ONCE EACH BIENNIAL REGISTRATION

1 PERIOD] from the registration fee required under this section for one [MOTOR]  
 2 vehicle subject to registration under AS 28.10.421(b)(1), (2), (5), or (6). An exemption  
 3 may not be granted except upon written application for the exemption on a form  
 4 prescribed by the department.

5 \* Sec. 3. AS 28.10.421(b) is amended to read:

6 (b) The biennial registration fees under this subsection are imposed within the  
 7 following classifications for:

- 8 (1) a passenger vehicle or motor home not used or maintained for the  
 9 transportation of persons or property for hire or for other commercial use . . \$ 68;
- 10 (2) a pick-up truck or a van not exceeding 10,000 [6,000] pounds  
 11 unladen weight and not registered in the name of a company or business [USED OR  
 12 MAINTAINED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY FOR  
 13 HIRE OR FOR OTHER COMMERCIAL USE] . . . . . \$ 78;
- 14 (3) a taxicab . . . . . \$138;
- 15 (4) a motor bus with a seating capacity for 20 or more persons and  
 16 used exclusively for commercial purposes in the transporting of visitors or tourists  
 17 . . . . . \$168;
- 18 (5) a motorcycle or a motor-driven cycle . . . . . \$ 38;
- 19 (6) a trailer not used or maintained for the transportation of persons or  
 20 property for hire or for other commercial use, including, but not limited to, a boat  
 21 trailer, baggage trailer, box trailer, utility trailer, house trailer, travel trailer, or a trailer  
 22 rented or offered for rent . . . . . \$ 10.

23 \* Sec. 4. This Act takes effect July 1, 1998.

**Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes.** (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h) and (i) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle for which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in AS 28.10.421(d), 28.10.431 and 28.10.441; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

(b) **Historic vehicles.** The owner of an historic vehicle may make application for special registration under this subsection. The department, when satisfied that the vehicle meets the requirements for historic vehicle registration under regulations adopted by the commissioner, shall register the vehicle and issue two permanent registration plates of distinctive design and color bearing no date. These plates remain with the vehicle as long as it is registered under this subsection. Vehicles qualifying for registration under this subsection shall be issued registration plates numbered in a separate numerical series beginning with "Historic Vehicle No. 1."

(c) **Special request plates.** Upon application by the owner of a passenger vehicle, motorcycle, noncommercial van or pick-up truck, or motor home, the department shall design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The department may, in its discretion, disapprove the issuance of registration plates under this subsection when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the department.

(d) **Vehicles owned by disabled veterans, including persons disabled in the line of duty while serving in the Alaska Territorial Guard, or other persons with disabilities.** Upon the request of a person with a disability that limits or impairs the ability to walk, as defined in 23 C.F.R. 1235.2, the department shall (1) register one passenger vehicle in the name of the person without charge; and (2) issue a specially designed registration plate that

§ 28.10.181

MOTOR VEHICLES

372

displays (A) recognition of the disabled veteran if the applicant's disability originated from the applicant's service with the Alaska Territorial Guard or the armed forces of the United States; and (B) the standard symbol of disability (the wheelchair logo). A disabled veteran who is not otherwise qualified under this subsection, but who presents to the department written proof that the person is at least 70 percent disabled or medically handicapped as a consequence of service in the Alaska Territorial Guard or the armed forces of the United States, may register one passenger vehicle without charge and the department shall issue a specially designed registration plate that displays recognition of the disabled veteran that does not display the standard handicap symbol and does not carry with it special parking privileges.

HCR

17



**REPRESENTATIVE ELDON MULDER**  
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES

## **Sponsor Statement for House Concurrent Resolution No. 17**

Each year, hundreds of thousands of motorists travel Alaska's highway system and utilize Alaska's highway facilities. During the summer months, tourists from around the world come to Alaska to witness it's one of a kind beauty and grandeur. Year round residents and local businesses depend on the highways for both leisure and commerce.

In a period of budget reductions and more efficient state services, it's important to remember the importance of a strong transportation infrastructure and continue with the improvement and maintenance of Alaska's road systems.

**HOUSE CONCURRENT RESOLUTION NO. 17**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVE MULDER**

**Introduced: 4/16/97**

**Referred: Transportation**

**A RESOLUTION**

1 **Relating to improvements to highways and highway facilities.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** the members of motor home clubs include families from all walks of life;  
4 and

5 **WHEREAS** the members of motor home clubs support the growth of tourism and  
6 family recreation in and around Alaska; and

7 **WHEREAS** the residents of Alaska benefit when travelers are encouraged to spend  
8 time in the state; and

9 **WHEREAS** the state has the responsibility to protect the safety of its residents, the  
10 safety of travelers to Alaska, and the environment;

11 **BE IT RESOLVED** that the Twentieth Alaska State Legislature supports the continued  
12 improvement of highways and highway facilities in Alaska with improved rest stops, restroom  
13 facilities, dump stations, and pull-over locations for emergencies and to relieve traffic  
14 congestion.

**HJR**

**27**

**Alaska State House of Representatives  
House District 39**



Session

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P.O. Box 137  
Akiak, Alaska 99552  
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**Representative Ivan M. Ivan**

## SPONSOR STATEMENT

House Joint Resolution 27 proposes that the Federal Aviation Administration grant specific petitions for exemption from individual operators affected by the "Commuter Rule." An exemption would ensure that safety is not diminished because the aircraft currently utilized, the Twin Otter, has a good safety record based on statistics on aircraft accidents in Alaska.

The Commuter Rule applies to any aircraft capable of carrying ten or more passengers under Part 121 of the FAA rules which applies to major operators such as United Airlines, Alaska Airlines and any other major operators in the nation. Twin Otters currently operate under Part 135 of the FAA rules which apply to small aircraft. The Commuter Rule will come into effect on March 20, 1997.

Rural Alaska relies totally on air transportation for passenger travel and moving goods and services. The aircraft affected by the Commuter Rule is the Twin Otter which carries 10 to 19 passengers and has twin-engine with turbo-props. This aircraft has a larger load capacity than a Cessna 206 or 207 and has a comparable approach speed. The Twin Otter also has a better safety record than those of smaller aircraft. There were a total of 67 accidents in 1995/1996 and 7 of those occurred in 10 plus seat aircraft.

The FAA has been given specific authority by Congress to provide exemptions to small air carriers in Alaska from provisions of the Commuter Rule. This resolution is requesting just that.

# Commuter Rule

## Final Rule

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- ◆ **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

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- ◆ **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

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- ◆ **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

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- ◆ **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

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- ◆ **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	<del>AT</del> 100+	Beech 1900-C	170	Beech 99	38
		Fairchild Metro (SA227)	123	Beech 200	8
				Early Metro (SA226)	9
				EMB-110	3
<b>Total</b>	<del>160</del>	<b>Total</b>	<b>386</b>	<b>Total</b>	<b>112</b>

## Commuter Rule

# Airplane Performance Highlights

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- ◆ 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

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- ◆ 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

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- ◆ 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

DATE	TYPE	GEAR	FSOC	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
8/30/95	CE185	S	3		TURNING AROUND A DOWNDRAFT FORCED AIRCRAFT TO THE GLACIER
8/4/95	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	WS	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 ABORTING 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
6/4/96	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
11/26/86	CE208	W	3	Y	CRASHED INTO SNOW-COVERED TERRAIN AFTER TAKE OFF.
11/10/85	CE441	W	3		HIT RUNWAY LIGHT ON ROLLOUT
7/19/96	DH2	F	5	Y	CRASHED UNDER UNKNOWN CIRCUMSTANCES. ACFT DESTROYED
12/12/86	DHC2	F	5	Y	CRASHED INTO WATER AFTER TAKEOFF. SANK
10/13/96	DHC2	F	5	Y	STRUCK SIDE OF STEEP CANYON AT 2800'
9/24/96	DHC2	F	3		INSUFFICIENT ROOM TO LIFT OFF AFTER PILOT FAILED TO DUST SNOW OFF WINGS.
7/13/85	DHC3	A	5		PART OF SERVO TAB SEPARATED IN FLIGHT, LANDING SUCCESSFUL
8/2/96	DHC4	W	3		CRASHED ON LANDING WHEN NOSE GEAR COLLAPSED

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Era Aviation, Inc

02/20/97 16:15

DATE	TYPE	GEAR	FSOO	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	HE295	S	1		SNOW IMPEDED T.O. SETTLED BACK DOWN & HIT RT SKI. GEAR COLLAPSED ON LANDING
8/4/96	HU50	H	3		COLLIDED WITH 5246E, 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
9/20/95	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
5/27/86	PA31	W	1		BAGGAGE FELL FROM NOSE STORAGE AREA INTO LEFT PROP, CRASHED ON DEPT, LANDED ON ICE FLOW
9/23/86	PA31		3		
12/5/99	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
8/3/98	PA32	W	3		VIEW BLOCKED BY NOSE OF ACFT, HIT RAMP WORKER MOVING BOXES OUT OF ACFT'S WAY
9/1/98	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
6/5/96	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

## SUBCHAPTER B—PROCEDURAL RULES

### PART 11—GENERAL RULE-MAKING PROCEDURES

#### Subpart A—General

##### Sec.

- 11.1 Applicability.
- 11.11 Docket.
- 11.13 Delegation of authority.
- 11.15 Emergency exemptions.

#### Subpart B—Rules Other Than Airspace Assignment and Use

- 11.21 Scope.
- 11.23 Initiating rule-making procedures.
- 11.25 Petitions for rule making or exemptions.
- 11.27 Action on petitions for rule making or exemptions.
- 11.28 Action on special conditions.
- 11.29 Notice of proposed rule making.
- 11.31 Participation of interested persons in rule-making procedures.
- 11.33 Additional rule-making proceedings.
- 11.35 Participation by Civil Aeronautics Board in rule-making proceedings.
- 11.37 Requests for informal appearances.

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

- 11.41 Scope.
- 11.43 Processing of petitions for rule making or exemption from parts of this chapter.
- 11.45 Issue of notice of proposed rule making.
- 11.47 Proceedings after notice of proposed rule making.
- 11.49 Adoption of final rules.
- 11.51 Denial of petition for rule making.
- 11.53 Grant or denial of exemption.
- 11.55 Reconsideration of a denial or grant of exemption.

#### Subpart D—Rules and Procedures for Airspace Assignment and Use

- 11.61 Scope.
- 11.63 Filing of proposals.
- 11.65 Issue of notice of proposed rule making.
- 11.67 Hearings.
- 11.69 Adoption of rules or orders.
- 11.71 Exemptions.
- 11.73 Petitions for rehearing or reconsideration of rules or orders.
- 11.75 Petitions for revoking or modifying rules or orders.

#### 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-

### Federal Aviation Administration, DOT

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. 11-18, 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

## B—PROCEDURAL RULES

## 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.

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

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(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, 38 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

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 (i) 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 (i) 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 (i) 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 (i) 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

respect 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 6961, 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

them, the Administrator considers it desirable.

(b) In any appropriate case, the Administrator also allows interested persons to participate in the rule-making procedures described in § 11.33.

#### § 11.33 Additional rule-making proceedings.

(a) The rule-making procedure also includes any further procedural steps that best serve the purposes of a particular proceeding. For example, interested persons may be allowed to make oral arguments, participate in conferences between the Administrator or his representative and interested persons and organizations, appear at informal hearings presided over by a designated FAA official at which a stenographic transcript is made, or participate in any other procedure whenever it is desirable and appropriate to assure informed administrative action and adequate protection of private interests.

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

#### § 11.35 Participation by Civil Aeronautics Board in rule-making proceedings.

(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 Administrator 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 participate in any proceeding described in paragraph (a) of this section, the Civil Aeronautics Board may file written information, views, or arguments in response to a notice of proposed rule making issued by the Administrator. The Civil Aeronautics Board is entitled to the procedural privileges accorded

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. 11-3, 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;

(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. 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 85 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

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

(ii) 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. 16457, 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. 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

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.

(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.

(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]

**§ 11.65 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

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**§ 11.67**

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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 1, 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, 44 FR 2348, Jan. 18, 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.

(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 1, 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 allots 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.

(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 on, 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 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]

**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, subject to the approval of the Chief Counsel, with respect to form and legality, issue the notice provided for in § 11.27. In addition, he may grant or deny petitions for extension of the

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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 (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 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 11, 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, 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



HJR

33

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HJR 33

Revision Date: \_\_\_\_\_ Dept. Affected: DOT & PF  
 Title: Fax Approval of Tundra Tires BRU: \_\_\_\_\_  
 Component: \_\_\_\_\_  
 Sponsor: House Transportation  
 Requester: House Transportation COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Pete Ecklund  
 Division: House Transportation  
 Approved by Commissioner: William K. Williams  
 Agency: Chair, House Transportation

Phone: 465-3424  
 Date: 4/3/97  
 Date: 4/3/97

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## Sponsor Statement HJR 33

HJR 33 was introduced in response to a recent Federal Aviation Administration rule discontinuing the practice of allowing Aviation Safety Inspectors to issue field approvals for planes equipped with tundra tires.

Tundra tires are common equipment on many light aircraft throughout Alaska and are essentially a matter of safety in many flight situations over much of the State. Many of Alaska's rural airports and other flight destinations do not offer the niceties provided by modern airports with paved runways. Many rural airports have to get by with gravel strips built with less than desirable materials causing such hazards as potholes and large rocks from the subgrade. These conditions are dangerous when planes utilizing standard gear land or takeoff on such runways. Tundra tires play an important part in allowing safe operations in those conditions.

There are also large areas of Alaska that would not be accessible by planes without tundra tires. Many Alaskans have traditionally traveled to many remote areas of the state and can safely do so due to the use of tundra tires. Many rivers have gravel bars upon which planes equipped with tundra tires can land safely.

In conducting tests for the use of tundra tire equipped planes, the FAA found that there was no appreciable safety problems associated with tundra tires. That being the case it appears unreasonable for them to institute a program basically denying Alaskans the use of these types of tires.

The use of tundra tires has a long tradition in Alaskan aviation history. Their use has allowed Alaskans to pioneer the remote reaches of Alaska and to continue to access those areas safely. HJR 33 is needed to allow that tradition to continue.

Sponsor Statement

the Anchorage Federal Building. Please, do this well in advance of modifying your airplane. The certification process is straight forward but it usually cannot be completed overnight. In this meeting we can discuss the implications of your modification and what types of testing and/or engineering data that will be required. We can also provide you with a more detailed guide to the STC process than the general information that you will get from this article. At the end of this meeting, you can submit an application for your modification and we will assign a project number and an engineer to your project. If you can't come in to our office, we can discuss this over the phone and we will mail the information to you. Our phone number is (907) 271-2668.

Second, you will need to describe, in writing, drawings, and photographs, how the modification is made. What separates a "multiple" STC from a "one-only" STC is basically the quality of the descriptive information. If your plans are only to modify one airplane, you can describe it using sketches and photographs. If you want to sell this STC to others so that they can make the same modification, this requires engineering drawings and installation/modification information with sufficient detail to allow someone else to make the same modification without error. Third, you will be required to show that the airplane still meets the original certification standards after the modification has been performed. This means to modify a PA-18 you must show that the airplane still meets the design certification requirements that were in place in 1949. We (that's you and the FAA engineer) will evaluate your modification to determine what certification regulations could be affected by your modification. Once we determine which regulation sections need to be addressed you will need to prove through tests and/or engineering analysis, that the altered aircraft still meets the affected original certification standards. The FAA will check the information you provide, and if all looks good, we will issue you an STC. With this STC and a completed FAA Form 337 your IA can return your airplane to service.

For the first timers, or for the more complex modifications we recommend that you hire a Designated Engineering Representative. These individuals can speed the process significantly. They have been through the STC approval process and

have the authority to approve certain engineering data for the FAA. We can provide you a list of qualified Designated Engineering Representatives to assist with your alteration approval.

If you decide that you want to market your Supplemental Type Certificated modification and supply parts that you manufacture there are a few more steps involved. You will need to get a Parts Manufacture Approval. We can discuss those requirements during your initial visit.

Sometimes simple modifications may be more complex than they seem on the surface. The owner of a newly purchased airplane decided it needed a door lock. He went to the local hardware store, bought a lock, and installed it. That afternoon he went flying. When he got back to the airport later that evening and tried to get out of his airplane he was quite surprised. The door lock was designed to automatically

lock when the door was closed and there was no way to unlock it from the inside. Three hours later his wife came looking for him and unlocked the door. He thought about calling the Flight Service Station for help but couldn't bring himself to tell them that he locked himself in his airplane. He was lucky, if he had crashed or had a carburetor fire while starting his airplane this would have been a more serious mistake. The major alteration process is in place so that we can improve our airplanes safely. Remember, the design standards of the FAA are to provide us with a minimum level of safety. Those standards have come about through years of aviation experience. Using them can save your life.

By August A. Asay  
Aviation Safety Engineer for the  
Anchorage Aircraft Certification Office,  
FAA

STATUS OF TUNDRA TIRE FIELD APPROVALS ON LIGHT AIRCRAFT IN ALASKA

Currently national guidance prohibits Aviation Safety Inspectors from approving the installation of tires that are not approved by either the aircraft's type certificate, or by the Supplemental Type Certificate (STC) process. At the present time, individuals who wish to install tundra tires on their aircraft should follow guidance Advisory Circular, AC 23.733-1, and are required to work with the Federal Aviation Administration's (FAA's) Aircraft Certification Office (ACO).

Presently the Alaskan Region Flight Standards Division is working with the FAA Headquarters to modify the new process. During the week of March 31, 1997, Richard Gordon, the Alaska Regional Flight Standards Division Manager, will travel to Washington D.C. to work to resolve the issue.

History - Because of numerous low altitude stall/spin accidents with aircraft modified with tundra tires, the National Transportation Safety Board (NTSB) issued a safety recommendation dated February 7, 1995. One of the recommendations was to review the tundra tire field approval process. To comply with the NTSB's recommendations the FAA issued AC 23.733-1, tundra tires, on 10/10/96. In addition a Handbook Bulletin was issued to the Airworthiness Inspectors Handbook, 97-01, outlining the approval process of tundra tires on aircraft. Both of these documents presently limit the ability of individual aviation safety inspector to field approve tundra tires.

To: Eddie Grasser  
465-4822

ORDER: 8300.10

APPENDIX: 3

BULLETIN TYPE: Flight Standards Handbook Bulletin  
for Airworthiness (HBAW)

BULLETIN NUMBER: HBAW 97-01

BULLETIN TITLE: Approval Criteria for Tundra Tire  
Installations

EFFECTIVE DATE: 01-21-97

TRACKING NUMBER NTSB Recommendation A-95-13

1. PURPOSE. To inform all Flight Standards Field Office Managers, Supervisors, and Aviation Safety Inspectors (ASI)(airworthiness), that ASI'S are no longer authorized to issue Field Approvals for tundra tire installations.

2. BACKGROUND This handbook bulletin is in response to the FAA Administrator's September 6, 1996 decision to close out the National Transportation Safety Board (NTSB) safety recommendation A-95-13 dated, February 7, 1995. The NTSB'S safety recommendation raised safety concerns about tundra tire equipped aircraft.

3. DISCUSSION. Because of numerous low altitude, stall/spin accidents with aircraft modified with tundra tires, the NTSB issued safety recommendation A-95-13 dated, February 7, 1995. The NTSB's safety recommendation asked the FAA to perform flight tests with an aircraft equipped with tundra tires and investigate the tundra tire field approval process. Some tundra tire field approvals were issued without requiring the owner/operator to perform a flight test or supply other data on the aerodynamic effects of the larger tires and wheels.

A. FAA flight tests that were completed in April 1995, found that the effects of a tundra tire installation regarding handling and stall characteristics on the test aircraft (Piper PA-150), to be either negligible or within satisfactory limits, and did not represent a hazard to safety. Additional flight tests on the aircraft with even larger tundra tires found similar results.

B. The major cause of tundra tire equipped aircraft accidents appeared to be pilot error. The most common accident scenario

FAA Bulletin

was the pilot allowing the airspeed to drop, in a steep turn, with his or her attention focused outside of the cockpit. Other stall/spin accidents with tundra tires were caused by operators of PA-18 150, who, without FAA approval, removed the 2.5 degrees of washout at each wing tip.

C. To close out the NTSB's safety recommendation the FAA Administrator made two decisions.

(1) His first decision was for the FAA to issue an advisory circular (AC) on Tundra Tires. This was accomplished on October 10, 1996 when AC 23.733-1, Tundra Tires was published. The AC covers the result of the FAA tundra tires flight tests, and identifies possible hazards with a tundra tire installation. The last section of the AC provides general information about the certification process and provides a compliance checklist for aircraft that has a Civil Air Regulation (CAR) Part 3 Certification Basis.

(2) The Administrator's second decision was to prohibit Flight Standards district office ASTs from field-approved tundra tire installations.

4. ACTION. ASTs are no longer authorized to approve tundra tire installations using the field approval process. Individuals who wish to install tundra tires on their aircraft should be directed to AC 23.733-1, Tundra Tire and given the address and telephone number of the nearest Aircraft Certification Office.

5. INQUIRIES. This bulletin was developed by AFS-340. Any questions concerning this bulletin should be directed to AFS-340 at (202) 267-3796.

6. LOCATION. The material in this bulletin will be incorporated in FAA Order 8100.10 volume 2, chapter 1, paragraph 7, Perform Field Approval of Major Repairs and Major Alterations, to reflect this handbook bulletin in the next revision of the Order.

/s/ David E. Hegy  
Acting Manager, Aircraft Maintenance Division

**CS FOR HOUSE JOINT RESOLUTION NO. 33(TRA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE TRANSPORTATION COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE TRANSPORTATION COMMITTEE**

**A RESOLUTION**

**1 Relating to Federal Aviation Administration approval of installations of tundra tires  
2 on aircraft.**

**3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**4 WHEREAS, after January 21, 1997, the Federal Aviation Administration no longer  
5 allows aviation safety inspectors to issue field approvals for installation of tundra tires on  
6 aircraft; and**

**7 WHEREAS persons who wish to install tundra tires on their aircraft must now contact  
8 an aircraft certification office to obtain approval for the installation of tundra tires; and**

**9 WHEREAS tests conducted by the Federal Aviation Administration demonstrated that  
10 the installation of tundra tires on aircraft had either negligible effects or acceptable effects on  
11 aircraft handling and stall characteristics; and**

**12 WHEREAS the Federal Aviation Administration has determined that the installation  
13 of tundra tires on aircraft does not represent a hazard to safety; and**

**14 WHEREAS the Federal Aviation Administration has determined that the major cause  
15 of aircraft accidents involving aircraft with tundra tires is pilot error; and**

**16 WHEREAS discontinuing the former practice of allowing field approval of tundra tire**

1 installations will not improve air safety but will cause significant inconvenience to pilots in  
2 Alaska; and

3       **WHEREAS** the use of tundra tires has allowed Alaskans to pioneer the remote areas  
4 of Alaska and to access those areas much more safely than through the use of standard  
5 aviation tires;

6       **BE IT RESOLVED** that the Alaska State Legislature respectfully requests the Federal  
7 Aviation Administration to reinstitute the practice of allowing aviation safety inspectors to  
8 issue field approvals for tundra tire installation.

9       **COPIES** of this resolution shall be sent to the Honorable Rodney E. Slater, Secretary,  
10 U.S. Department of Transportation; the Honorable Barry L. Valentine, Acting Administrator,  
11 Federal Aviation Administration, U.S. Department of Transportation; and to the Honorable Ted  
12 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,  
13 U.S. Representative, members of the Alaska delegation in Congress.

HJR

63

FISCAL NOTE

Version: HJR 63  
 (H) Publish Date: 3/11/98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: \_\_\_\_\_

Dept. Affected None  
 BPU \_\_\_\_\_  
 Component \_\_\_\_\_

Sponsor: Rep. MOSES  
 Requester: House Special Committee for Military  
 + Veterans' Affairs

Component Serial No. \_\_\_\_\_

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \_\_\_\_\_

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

(Attach a separate page if necessary)

Prepared by  
 Division  
 Approved by  
 Agency

Office of Rep. Beverly Masek  
Donald Stalworthy  
Representative Beverly Masek  
Beverly Masek

Phone 465-2679  
 Date 2-25-98  
 Date 3-4-98

*Alaska State Legislature*  
Representative Carl E. Moses

Member  
House Finance Committee



SESSION:  
State Capitol Building  
Juneau, Alaska 99801-1142  
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1-800-898-4451  
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P.O. Box 730  
Unalaska, AK 99685  
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## Position Paper

### HJR 63

(Rep. Moses)  
Prime sponsor

House Joint Resolution 63 asks the Congress to appropriate to the Federal Aviation Administration funds to keep the Adak airport (Mitchell Field) operational and maintained by the State of Alaska.

With the amount of military infrastructure remaining on Adak Island and the island's proximity to the Far East, exciting economic opportunities abound. The Adak Reuse Corporation recognizes this and is working with the Navy to get the Master Development Lease signed.

Efforts are also underway with the Navy to ensure the extended visitation of families and to get the school functioning again. The Corporation presently is submitting a petition to the Local Boundary Commission for incorporation into a 2<sup>nd</sup> class municipality.

However, the airport is a key piece of the puzzle. With the current fiscal climate there is no assurance that state resources will be available. In this regard, HJR 63 asks the Congress to become involved and to appropriate funds to keep the airport operational.

For further information please contact Bryce Edgmon in my office at 465-4451.



## The Aleut Corporation

December 19, 1997

The Honorable Carl Moses  
Alaska State Legislature  
State Capitol, Room 521  
Juneau, Alaska 99801

Dear Representative Moses:

Enclosed is our most recent video on the development of Adak. under separate cover we will mail to you a first ever picture of Adak. As you know Adak has been a top secret base and no recent pictures have been made available of Adak. The Aleut Corporation has agreed to set aside considerable amounts of infrastructure at Adak for the future City of Adak. The Aleut Corporation expects to pay taxes to the new City of Adak for those facilities that are put into active reuse at Adak. To bridge the gap between no sustainable reuse and active reuse. we need the State of Alaska's assistance and to take an active role in Adak. We strongly believe that Adak can be the bridge to Far East Russia and its development.

Our primary concerns are the airport operations and schools for our children. We need the State of Alaska's active involvement in the operation and maintenance of the Adak airport to keep Adak alive and operating while we transition to active reuse of Adak. We would appreciate your assistance in appropriating sufficient funds to the Department of Transportation and Department of Education to support our efforts.

Exciting activities are taking place at Adak. The Master development lease between the Adak Reuse Corporation. is close to signing. The Navy has now allowed visitation to Adak by family members of employees which we hope will turn into a permanent status. The unexploded ordinance issue is resolved and the Navy continues to survey the land to ensure the safety of the community. This summer we had the first ever tour ships (three) to dock and tour Adak. The Russian fishing fleet has expressed an interest in Adak for refueling and crew transfers rather than doing this activity on the high seas as they have in the past. The first ever live crab shipment occurred on December 18, 1997 from Adak. We are excited about the future of Adak and would appreciate your support.

Sincerely,

THE ALEUT CORPORATION

  
Elary Gromoff, Jr.  
President/CEO

*You Continue Support  
will lead to the  
success of Adak*

Enclosure