

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9773 SENATE TRANSPORTATION

CS HB 386(FIN)
AIDEA LEGISLATION
SECTIONAL ANALYSIS

Sections 1 and 2 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 1 and 2 eliminate references to AIDEA's existing Export Finance program in the general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Background. AIDEA's 10-year old Export Assistance Loan Guarantee program has never been utilized. While AIDEA has been able to finance export activities through its Loan Participation, Development Finance, and to a limited extent, its Business Assistance program, for a variety of reasons, the Export Assistance program does not meet the needs of the businesses it was intended to serve.

In 1997, AIDEA commissioned a report examining AIDEA's role in Alaska's export activities. The report noted that while AIDEA's other programs support Alaska exporting, the Export Finance program is ineffective for the type of exporting transactions prevalent in Alaska today. The existing program is modeled on those from other states with strong manufacturing bases. The program does not deal effectively with Alaska's dominant export activities, including air cargo and the transshipment of goods and services produced elsewhere and shipped to Asia and Russia through Anchorage and Fairbanks.

While AIDEA's Business Assistance Loan Guarantee program has been able to support export transactions, from time to time, it was not designed for these transactions and is not useful for a wide variety of exporting activities.

In order to address the needs of the Alaska business and financial communities this bill integrates the existing Export Assistance program with the Business Assistance program and modifies the programs to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services. Bill sections 1, 2, 4, 5, 7, and 9-22 accomplishes this integration and modification of AIDEA's Export and Business Assistance programs.

Section 3 – AIDEA Bonding Authority

Section 3 of the bill extends AIDEA's general bonding authority which sunsets on July 1, 1998. The bill extends the current sunset until July 1, 2003. Bonds for development finance projects in excess of \$10,000,000 will continue to require legislative authorization.

Background. Effective July 1, 1998, AIDEA's ability to issue bonds other than refunding bonds will sunset. The sunset would prevent AIDEA from issuing any new bonds (other than refunding bonds) without legislative approval and severely curtail AIDEA's ability to fulfill its statutory mission.

The sunset would prevent AIDEA from issuing bonds to assist key development projects and also conduit revenue financing transactions that do not involve the credit of AIDEA or the state. In 1997 alone, AIDEA issued tax-exempt conduit revenue bonds to help finance the Fort Knox gold mine (\$71 million) and the Goat Lake Hydroelectric project (\$23 million). These bonds helped lower the cost of financing for these projects without any financial risk to AIDEA or the state. The bill would extend the current sunset until July 1, 2003.

Sections 4 and 5 - Technical Change Related to Integration of Export and Business Assistance Programs

Sections 4 and 5 eliminate references to AIDEA's existing Export Finance program in general bonding provisions of AIDEA's statutes. These technical changes are needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 6 – Technical Changes to AIDEA's Loan Participation Program

Section 6 makes technical changes clarifying certain requirements of AIDEA's Loan Participation program. The bill clarifies that the Authority may not purchase loan participations if the loan exceeds 75% of the appraised value of the collateral securing the loan (AS 44.88.155(d)(3)). In addition, the bill provides that loans, under the program, may not exceed the amount necessary for new construction, expansion, acquisition and the amount necessary to refinance existing debt (AS 44.88.155(d)(3)). The bill also clarifies that the term of the Authority's participation may not exceed 75% of the useful life of the collateral provided as security for the loan (AS 44.88.155(d)(4)). Finally, the bill makes a technical change to AS 44.88.155(d)(7) to clarify that the collateral pledged by the borrower is to secure timely repayment of the obligations of the borrower under the loan documents.

Background. Questions have arisen as to how AIDEA's loan participation requirements apply when the proceeds of the loan are to be used for multiple purposes or if the loan is to be secured by several pieces of collateral. The bill clarifies AIDEA's statutes to specify that loans may not exceed 75% of the appraised value of all the collateral pledged and that the term may not exceed 75% of the useful life of the collateral pledged. Finally the bill clarifies that loans may not exceed the amount necessary for acquisition, construction, and debt refinancing for the project.

Sections 7 - Technical Change Related to Integration of Export and Business Assistance Programs

Section 7 eliminates a reference to AIDEA's existing Export Finance program in general provisions of AIDEA's statutes. This technical change is needed as part of the integration of AIDEA's Export Assistance and Business Assistance programs.

Section 8 - Confidentiality of Information

Section 8 adds a new confidentiality of information section in AIDEA's statutes that replaces the existing confidentiality provision that applies to AIDEA's Export Finance program. The new provision would apply to all of AIDEA's financial programs. The provision sets forth those categories of information that are to be kept confidential. Among the categories of confidential information specified in the bill are income tax returns, financial business plans, marketing strategy information, and information required by federal or state law to be kept confidential. Information compiled by the Authority from confidential information is also confidential. Information may only be kept confidential, however, if the person supplying the information or the project, bond, loan or guarantee applicant or borrower requests confidentiality. In addition, to be covered under this section the information could not have been a matter of public record before the information was submitted to AIDEA. Information that is determined to be confidential under the statutory requirements is not a public record.

Background. Participants in AIDEA's programs are often required to submit to the Authority proprietary and financial information regarding their projects, as well as their personal financial information. Applicants are often surprised to learn that this information may be subject to disclosure under the public records act. This is particularly true of banks that submit information on borrowers under the Authority's Loan Participation and Business Assistance programs. Banks are generally prohibited under state law from releasing any information regarding their borrowers.

AIDEA often receives public records requests seeking proprietary and financial information regarding applicants and borrowers. Under existing law, AIDEA is required to release the information unless the Authority determines that the privacy interest of the applicant or borrower outweighs the public interest in releasing the information. These are difficult standards to administer and provide little guidance for banks, borrowers, applicants, and those seeking release of the information. Under the public records act, the Authority is not permitted to inquire into the motivations of those seeking the information. Therefore, it is possible for a borrower's competitors to request proprietary information for the sole purpose of obtaining a competitive advantage.

While it is important to protect the proprietary and financial information of businesses that submit information to the Authority, it is also important that the public have full access to information necessary to understand AIDEA's activities and the transactions it undertakes. The bill modifies AIDEA's existing confidentiality statute and furthers both of these important interests.

The bill establishes categories of information that are to be kept confidential. For the confidentiality provision to be invoked, the person supplying the information or the applicant or borrower must request that the information be held in confidence. Information not within the statutory categories will continue to be public records. The statutory provision will allow those who participate in AIDEA's programs, as well as those who may seek information from the Authority, to clearly understand what information is and is not public.

Section 9 – Change Related to Integration of Export and Business Assistance Programs

Section 9 repeals and reenacts AS 44.88.500 to effect the integration of the Export Assistance program into the newly modified Business and Export Assistance Program. The section makes clear that, under the program, the Authority may guarantee both new and refinancing business and export assistance loans. The numbering of the subsections has also been changed.

Section 10 – Changes Related to Integration of Export and Business Assistance Programs

Section 10 creates a new section in AIDEA's statutes modifying AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

AS 44.88.502(a) and (b) incorporate and modify language from existing AS 44.88.370 and 44.88.360(a), respectively, which are repealed under section 20 of the bill. AS 44.88.502(a) provides that a guarantee issued under the program does not create a debt or liability of the state. AS 44.88.502(b) provides that guarantees under the program held by a financial institution are presumed valid and may not be terminated except as provided in the guarantee itself.

AS 44.88.502(c) incorporates and modifies provisions from the Authority's existing Export Assistance program into the newly integrated Business and Export Assistance program. AS 44.88.502(c) provides that guarantees issued under the program to support export transactions may guarantee against commercial and political losses. This provision is in existing AS 44.88.360(a) which is repealed under section 20 of the bill. AS 44.88.502(c) also allows the Authority to require insurance to cover some or all of the loss guaranteed under the program. "Political loss" is defined to mean losses that would be insurable under an export credit insurance policy issued by the Export-Import Bank or a risk that is actually insured under a policy the buyer obtains.

Background. AS 44.88.502(c) makes changes to AIDEA's existing Business Assistance program to create an effective Business and Export Assistance program. Under the Authority's existing Export Assistance program (AS 44.88.360) export credit insurance was always required. This requirement adds additional cost, time, and complexity to export transactions. Under the bill (AS 44.88.502(c)) AIDEA may exercise its discretion to determine if such insurance should be required for a particular export transaction. This discretion allows AIDEA to realistically assess the risks of a particular transaction to determine if export credit insurance is necessary.

AIDEA's existing Export Assistance program provided that the only political losses that could be guaranteed were those losses actually insured under an export credit insurance policy issued by the Export-Import Bank or other similar institution. This requirement severely detracted from the attractiveness of the program. AS 44.88.502(c) utilizes the Export-Import Banks export credit insurance policy to describe the types of losses that may be guaranteed under the Authority's program but does not require that such insurance be obtained for guarantees to be effective. Instead, the decision to require insurance and the type and amount is left to the discretion of the Authority.

Section 11 and 12 – Technical Changes Related to Integration of Export and Business Assistance Programs

These sections make minor technical changes related to the integration of the Export Assistance program and Business Assistance program. These sections change the numbering of the statutory cross reference to AS 44.88.500 to reflect

the renumbering of the subsections in that provision as a result of section 9 of the bill.

Sections 13 through 15 – Modifications to Effect Integration of Export and Business Assistance Programs

These sections modify AIDEA's existing Business Assistance program to create a new Business and Export Assistance program that can effectively support Alaskan businesses that export goods and services.

Section 13 eliminates a condition on debt refinancing guarantees that limits the refinancing to interim construction related debt.

Section 14 modifies the existing program to recognize that payment of guaranteed debt may come from the sale of the assets that are the collateral for the loan.

Section 15 modifies the existing program to allow the Authority to guarantee up to 180 days interest on post-shipment guarantees and up to 270 days on pre-shipment loan guarantees supporting export transactions.

Background. The changes made in these sections are intended to make the new Business and Export Assistance program effective for Alaska export transactions. The changes in sections 14 and 15 reflect the fact that many export transactions require payment upon the sale of the exported goods that are the security for the transaction. Typical export finance transactions do not require multiple payments but rather one payment (paying off the entire loan) upon the sale of the exported goods. Section 14 allows the Authority to recognize the sale of the goods as the source of payment in these transactions. Section 15 allows the Authority the limited ability to guarantee interest on these transactions pending receipt of the proceeds of the sale.

Sections 16 through 18 – Technical Changes to Business and Export Assistance Program

These sections make minor technical clarifications to AIDEA's statutes.

Section 16 clarifies that the total amount of outstanding AIDEA guaranteed indebtedness for an individual borrower may not exceed \$1 million.

Section 17 clarifies that amounts received toward a defaulted AIDEA guaranteed loan are to be allocated between the bank and AIDEA in accord with the percentage AIDEA guaranteed, until such time as all principal and accrued interest has been paid.

Section 18 makes a technical change allowing AIDEA to establish, by regulation, reasonable fees for the program. Under current statute AIDEA is to charge one percent of the amount guaranteed plus any other reasonable fee established in regulation. The bill will allow AIDEA to establish all fees for the program by regulation.

Section 19 – New Definitions for Business and Export Assistance Program

Section 19 creates a new definition for “export transaction.” This term is used elsewhere in the statutory provisions for the Business and Export Assistance program.

Section 20 – Repealers

This section repeals AS 44.88.085(h), AS 44.88.300, 44.88.310, 44.88.320, 44.88.330, 44.88.350, 44.88.360, 44.88.370, and 44.88.390 to effect the repeal of the existing Export Assistance program that is being integrated with the Business and Export Assistance program in other provisions of the bill. This section also repeals AS 44.88.340, the Authority’s existing confidentiality provision, that is being modified and relocated under section 8 of the bill.

Section 21 – Repeal of Business Assistance Program Sunset

This section repeals the existing July 1, 1998, sunset to the Authority’s existing Business Assistance program.

Background. Under current law, the Authority’s Business Assistance program will sunset on July 1, 1998. The sunset must be repealed to assure the continued operation of the program and to effect the integration of the Export Assistance program into an effective Business and Export Assistance program.

Section 22 – Transition Provision

Section 22 is a transition provision related to the elimination of the existing Export Assistance program and the integration of the program into the Business and Export Assistance program. The provision provides that any assets in the export insurance account are to be transferred into the Authority’s revolving fund.

Section 23 – Specific Project Authorization to Issue Bonds

As noted above, section 3 of the bill requires legislation for AIDEA to issue bonds in an amount greater than \$10 million if the proceeds of the bonds are to be used for an AIDEA Development Finance project. The bill provides legislative authorization for two projects. The first project is for proposed expansion, improvements, and modifications to AIDEA’s Delong Mountain Transportation

System (DMTS) serving the Red Dog Mine. The second project is a proposed expansion and modification to the existing port facilities in the City of Nome.

Section 23(a) – Red Dog Direct Load Out Facilities- The bill authorizes AIDEA to issue up to \$80 million in bonds to finance the expansion, improvement and modification of the Authority’s existing DMTS port facilities. The proposed project would extend the existing dock by approximately 2,500 feet and a 50-foot shipping channel would be excavated, allowing the direct loading of concentrates into ocean going vessels. In addition, part of the existing concentrate conveyor system would be improved and replaced.

Background. The DeLong Mountain Transportation System (DMTS), serving Cominco’s Red Dog Mine, was AIDEA’s first development finance project and has been a resounding success. The Red Dog Mine operations provide more than 450 jobs in an area of the state with high unemployment. In addition, the project provides \$2.75 million annually in taxes to the Northwest Arctic Borough. Expansion of the port facilities to increase capacity and throughput was authorized by the Legislature in 1996 and is now nearing completion.

Among the operational benefits of the proposed project are: 1) allows the shipping season to be extended to December, 2) eliminates handling of concentrates twice by eliminating barge relay, 3) lowers vessel loading time in half, and 4) reduces down time caused by poor weather conditions. In economic terms, the project will extend most seasonal jobs at the port and will lower the cost of shipping concentrates. Additionally, the regional port at Red Dog would no longer be used at 100% capacity, opening up shipping opportunities for other potential users.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA’s due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA’s participation might take. AIDEA has particular concerns regarding investing substantial additional assets in the DMTS in light of AIDEA’s current investment in the project of \$229 million. With an additional investment of \$80 million, a major portion of AIDEA’s total asset base of \$1.3 billion would be invested in one project. It is possible that the project could be structured as a revenue bond issuance that would not affect or rely on AIDEA’s assets or credit. Before AIDEA could participate in the project under AIDEA’s Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority’s board would need to be required to approve such participation.

Section 23(b) – City of Nome Port Authorization- The bill authorizes AIDEA to issue up to \$30 million in bonds for the improvement and expansion of the existing port facilities in the City of Nome. The proposed project will create a new channel to the inner port in Nome. It includes a new 28-foot breakwater parallel to the existing causeway. The new entrance channel will improve navigational safety and reliability and the breakwater will create a protected turning basin. Part of the existing channel will be filled to provide a new access road to the sand spit which will be protected by a rip rap seawall connecting to the existing seawall in front of town. Additional port improvements are also anticipated.

Background. Nome’s port has the second largest volume of incoming cargo in the state. At present, limited access, safety and situation problems significantly burden the port. Port improvements will increase economic activity and employment in fisheries and fuel and cargo that is distributed throughout the region on smaller vessels. It is anticipated that the U.S. Corp of Engineers will reimburse a significant portion of the costs following construction.

AIDEA has not yet performed its due diligence with respect to the proposed project. The timing of the project, however, requires that legislative authorization for the project be obtained during the current legislative session. Until AIDEA’s due diligence is complete, it is unclear if AIDEA will participate in the project and if so, what form AIDEA’s participation might take. It is possible that the project could be structured as a conduit bond issuance that would not affect or rely on AIDEA’s assets or credit. Before AIDEA could participate in the project under AIDEA’s Development Finance program, all of the statutory requirements for such projects would need to be satisfied and the Authority’s board would need be required to approve such participation.

Section 24 – Effective Date

This section provides that section 21 (repeal of the Business Assistance program sunset) becomes effective June 30, 1998. The special effective dates are required to ensure that the sunset does not take effect creating confusion and possibly requiring the re-enactment of certain provisions.

Section 25 – Effective Date

This provision provides that (except for section 21) the bill becomes effective July 1, 1998. This allows the bills changes to become effective at the beginning of the fiscal year allowing a smooth transition into the new Business and Export Assistance program and ensuring continuity in AIDEA’s bonding authority.

HB

482

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO:
 Bill Version: CSHB 482 (TRA)
 (H) Publish Date: 4/27/98

Revision Date: 4/27/98 Dept. Affected: Administration
 Title: "An Act relating to motor vehicle" BRU: Motor Vehicles
 Component: Field Services
 Sponsor: (H) Transportation
 Requestor: (H) FIN 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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 98) impact: \$ none

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill does not fiscally impact DMV.

Prepared By: Juanita M. Hensley Phone: 465-5648
 Division: Motor Vehicles Date: 4/24/98
 Approved by Commissioner: Mark Boyer *Alison M. Seage* Date: 4/27/98
 Agency: Dept. of Administration

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FAX 
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Cover Sheet **FACTS**

Date: 5-7-98

To: Addressee Lydia Jones, Aide Fax Number 465-3766
Company / Agency Senator Jerry Ward Phone Number (907) 465-4921

From: Sender AMOS J. ALFOR Fax Number (907) 586-2171
303 Distin Ave Juneau Phone Number 586-6680
Chairman of the group which
secured and operates Fireweed Place

Subject: Nature of Document Faxed Support for Passage of CS HB 482 (TRA)
Number of Pages, including this one 1

Notes: I support passage of CS HB 482 (TRA) and
and urge passage of this important
bill as soon as possible.

Alaska State Legislature

Committees:

Transportation, Chairman

Resources

Economic Development

Rules



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 handicapped 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 while freeing up time for employees to do other tasks.

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

HJR

27

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HJR 27

Revision Date _____ Dept Affected DOT/PF
 Title FAA COMMUTER RULE BRU _____
 Component _____
 Sponsor Representative I. Ivan
 Requester Senate Transportation Committee 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						
TOTAL OPERATING	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)

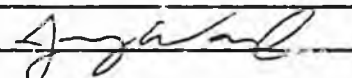
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This resolution has no fiscal impact on state departments.

Prepared by Lydia A. Jones, Senate Transportation Committee Aide
 Division Senate Transportation Committee
 Approved by Senator Jerry Ward, Chairman 
 Agency Senate Transportation Committee

Phone 465-6641
 Date 4/16/97
 Date 4/16/97

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Session

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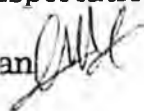
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Representative Ivan M. Ivan

MEMORANDUM

TO: Senator Jerry Ward, Chair
Senate Committee on Transportation

FROM: Representative Ivan M. Ivan 

DATE: April 4, 1997

RE: Request for Hearing

Please consider this request to hear House Joint Resolution 27: Requesting the Federal Aviation Administration to grant exemptions from the "Commuter Rule" in order to maintain a high level of air safety and air transportation in rural Alaska.

This House Joint Resolution requests that the Federal Aviation Administration exempt rural Alaska air carriers from Federal Aviation Regulations Part 121 which are those major air carriers such as United Airlines. The Commuter Rule will require small air carriers in Alaska to comply with Part 121 which became effective March 20, 1997.

I appreciate your consideration of my request. Should you require further information or have any questions, please feel free to contact my office at any time.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: HJR 27

- 1 Page 2, line 28, following "Transportation;":
- 2 Insert "Guy S. Gardner, Associate Administrator for Regulation and Certification,
- 3 Federal Aviation Administration, U.S. Department of Transportation;"

Alaska State House of Representatives
House District 39

Session

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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 became effective 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

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

Commuter Rule

Operational Highlights

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

Commuter Rule

Equipment Highlights

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

Commuter Rule

Equipment Highlights

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

Commuter Rule

Equipment Highlights

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

Commuter Rule

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

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

Commuter Rule

Airplane Performance Highlights

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

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

Commuter Rule

Aircraft Certification Highlights 10 - 19 Seat Airplanes

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

Commuter Rule

Timeline

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

DATE	TYPE	GEAR	FSDO	FATAL	REMARKS
5/31/95	AS350	H	5		PAX WERE BOARDED WHEN THE AIRCRAFT SLID INTO A DEPRESSION
10/12/96	BE18	W	1		LANDED GEAR UP AT ORV
12/18/95	BE18		1		CRASHED ON TAKE OFF
7/ 5/96	BE8T	W	1		RAN OFF LEFT SIDE OF RUNWAY, NOSE AND LEFT MAIN GEAR COLLAPSED
5/21/96	BE99	W	1		BIRD STRIKE
9/13/96	BH206	H	3		ENCOUNTERED LOW CEILING IN PASS, COLLIDED WITH TERRAIN DURING TURN
6/24/95	CE172	W	5		NOSE GEAR COLLAPSED ON LANDING
12/ 4/96	CE172	W	3		ACFT FAILED TO CLIMB, SMELL OF OVERHEATED ELECTRICAL REPORTED
8/ 3/96	CE177		3		LANDED NOSE GEAR UP AT MRI
8/30/96	CE180	W	3		CRASHED ENROUTE MULCHATNA RVR TO PORT ALSWORTH. LOW FUEL
5/25/95	CE185	S	3		DURING T.O. AFTER A 6' SNOW, ENCOUNTER SOFT SNOW AND NOSED OVER
8/ 2/96	CE185	W	1		ACFT BOUNCED ON LANDING, THEN NOSED WHEN BRAKES WERE APPLIED
6/30/95	CE185	S	3		TURNING AROUND A DOWNDRAFT FORCED AIRCRAFT TO THE GLACIER
9/ 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	W/S	3		SLID INTO TREES ON LANDING DUE TO ICY CONDITIONS
7/28/96	CE185	S	3		ENGINE SURGED FROM FULL TO ALMOST NO POWER. ACFT SETTLED, COLLIDED W/CREVASSE
2/ 1/95	CE185	F	3		POSSIBLE HIT SEA MAMMAL, LOST DIRECTIONAL CONTROL WHILE COMING OFF THE STEP
11/30/96	CE185	W	3	Y	APPEARS ACFT STALLED WHILE CONDUCTING MOOSE SURVEY. STRUCK GROUND
9/23/96	CE206	F	3	Y	RT FLOAT HIT POWER LINES ON TAKEOFF, ACFT FLIPPED TO INVERTED POSITION, CRASHED TO GROUND,
3/29/95	CE206	W	3		25KT WIND VARIATION, STALLED ABOVE THE RUNWAY, STALLED, HIT TAIL HARD
12/10/95	CE206		1		PILOT RAN OFF END OF RUNWAY AFTER 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 W 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
11/26/96	CE208	W	3	Y	CRASHED INTO SNOW-COVERED TERRAIN AFTER TAKE OFF.
11/10/95	CE441	W	3		HIT RUNWAY LIGHT ON ROLLOUT
7/19/96	DH2	F	5	Y	CRASHED UNDER UNKNOWN CIRCUMSTANCES, ACFT DESTROYED
12/12/96	DHC2	F	5	Y	CRASHED INTO WATER AFTER TAKEOFF, SANK
10/13/96	DHC2	F	5	Y	STRUCK SIDE OF STEEP CANYON AT 2800'
9/24/96	DHC2	F	3		INSUFFICIENT ROOM TO LIFT O F AFTER PILOT FAILED TO DUST SNOW OFF WINGS
7/13/95	DHC3	A	5		PART OF SERVO TAB SEPARATED IN FLIGHT, LANDING SUCCESSFUL
8/ 2/96	DHC4	W	3		CRASHED ON LANDING WHEN NOSE GEAR COLLAPSED

DATE	TYPE	GEAR	FSDO	FATAL	REMARKS
8/11/86	G21	AMP	3	Y	CRASHED ENROUTE ANDERSON BAY - DUT
7/26/96	G21	AMP	3		HIT BYSTANDER WHILE TAXIING NEAR SHORE
7/31/95	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 LDING
8/4/96	HU50	H	3		COLLIDED WITH 5246E, LACK OF VIGILANCE ON BOTH PILOTS' PARTS
7/16/95	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
8/26/95	PA18	W	1	Y	ASSUMED TO CRASHED WHILE LOOKING AT SHEEP
9/1/95	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 OF ON TAKEOFF AT TOKSOOK, LANDED GEAR UP IN DLG
5/27/96	PA31	W	1		BAGGAGE FELL FROM NOSE STORAGE AREA INTO LEFT PROP, CRASHED ON DEPT, LANDED ON ICE FLOW
9/23/96	PA31		3		
12/5/95	PA31	W	3		SLID OFF RWY WHILE LANDING. RAN RT FUEL TANK DRY.
8/30/95	PA32	W	3	Y	CRASHED INTO MOUNTAINOUS TERRAIN DURING VFR FLIGHT
7/7/95	PA32	W	5	Y	STALL SPIN ON SIDE OF A HILL, TOURIST VIEWING A BEAR.
12/10/95	PA32	W	3		ADVERSE WINDS MAY HAVE CAUSED DRO IN ALTITUDE ON FINAL TO RUNWAY
8/3/96	PA32	W	3		VIEW BLOCKED BY NOSE OF ACFT, HIT RAMP WORKER MOVING BOXES OUT OF ACFT'S WAY
9/1/96	PA32	W	5		BEGAN TURN WHEN APPROACHING FOG BANK, HIT GLACIER OBSCURED BY FOG
1/20/95	PA32	W	3		THE PILOT ABORTED T.O. AND THE A/C RAN OFF THE END OF THE RUNWAY
3/2/96	PA32	W	1		PILOT HIT MOUNTAIN DURING FLIGHT IN WHITE-OUT CONDITIONS.
5/3/96	SA227	W	3		RIGHT MAIN LANDING GEAR AND NOSE LANDING GEAR COLLAPSED
6/5/96	SA26	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

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- 11.13 Delegation of authority.
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- 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. 11-16, 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

R B—PROCEDURAL RULES

MAKING Subpart E—Processing of Airworthiness Directives

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

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

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

AUTHORITY: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 41110, 44502, 44701-44702, 44711, 46102.

SOURCE: Docket No. 1247, 27 FR 9586, Sept. 28, 1962, unless otherwise noted.

Subpart A—General

§ 11.1 Applicability.

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

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

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

§ 11.11 Docket.

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

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

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

§ 11.13 Delegation of authority.

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

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

§ 11.16 Emergency exemptions.

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

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

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

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

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

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

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

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

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

§ 11.23 Initiating rule-making procedures.

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

§ 11.25 Petitions for rule making or exemptions.

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

(b) Each petition filed under this section must—

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

(2) Be submitted in duplicate—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 11.27 Action on petitions for rule making or exemptions.

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

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

(1) The docket number of the petition;

(2) The name of the petitioner;

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

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

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

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

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(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 9588, Sept. 28, 1962]

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

§ 11.27 Action on petitions for rule making or exemptions.

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

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

(1) The docket number of the petition;

(2) The name of the petitioner;

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

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

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

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

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

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

(1) The docket number of the petition;

(2) The name of the petitioner;

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

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

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

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

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

(1) The docket number of the petition;

(2) The name of the petitioner;

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

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

(5) The disposition of the petition.

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

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

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

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

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) In the case of a denial of a petition for exemption, a citation of each rule from which relief is requested;

(4) A brief description of the general nature of the rule or relief requested; and

(5) The disposition of the petition.

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

(1) To petitions for rule makings or exemptions processed under § 11.83.

(2) To petitions for exemptions from the requirements of Part 67 of this chapter.

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

(1) To petitions for emergency exemptions processed under § 11.15.

(2) To petitions for exemptions processed under Part 139 of this chapter.

(3) Whenever the head of the Office or Service concerned, subject to the approval of the Chief Counsel with re-

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

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

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

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

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

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

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

§ 11.28 Action on special conditions.

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

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

(1) The name and address of the applicant;

(2) The model designation and a summary description of the affected product;

(3) The applicable type design approval regulations designated in accordance with § 21.17 or § 21.101 of Part 21; and

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

make the issue or amendment of special conditions necessary.

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

§ 11.29 Notice of proposed rule making.

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

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

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

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

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

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

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

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

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

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

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

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

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

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

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

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

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

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

§ 11.28 Action on special conditions.

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

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

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

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

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

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

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

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

§ 11.29 Notice of proposed rule mak- ing.

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

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

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

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

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

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

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

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

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

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

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

them, the Administrator considers it
desirable.

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

§ 11.33 Additional rule-making pro- ceedings.

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

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

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

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

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

other parties and is equally free to participate.

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

§ 11.37 Requests for informal appearances.

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

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

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

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

§ 11.41 Scope.

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

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

(c) For the purposes of this subpart—

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

(2) "Chief Counsel" means—
(i) The Chief Counsel;

(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 25 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 38316, June 9, 1980; Amdt. 11-20, 45 FR 60170, Sept. 11, 1980; Amdt. 11-20A, 45 FR 85597, Dec. 29, 1980; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989]

§ 11.51 Denial of petition for rule making.

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

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

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

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

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

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

Whenever the FAA receives a petition for rule making or for an exemption 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 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

(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, FR 2348, Jan. 18, 1986; Amdt. 11-32, 54 FR 39290, Sept. 25, 1989; Amdt. 11-35, 58 FR 65653, Dec. 17, 1993]

§ 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

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

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 9663, July 17, 1961]

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(1) The Director, Aircraft Certification Service; and

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[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 39200, 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

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

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

(c) The Administrator does not consider repetitious petitions.

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

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

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

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

(b) Display.

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

14 CFR part or section identified and described	Current OMB control No.
§ 91.3	2120-0005
§ 91.18	2120-0027
§§ 91.24 thru 91.34 (except § 91.30)	2120-0005
§ 91.30	2120-0522
§ 91.39	2120-0027
§§ 91.41 thru 91.55	2120-0005
§ 91.63	2120-0027
§ 91.75	2120-0005
§ 91.83	2120-0026
§§ 91.97 thru 91.217	2120-0005
Part 91, Subpart E	2120-0082
§§ 91.851 thru 91.875	2120-0553
Part 03, Subpart S	2120-0524
Part 101	2120-0027
Part 105	2120-0027
Part 107	2120-0075
Part 108	2120-0098
Part 121 (except as below)	2120-0008
§§ 121.3 thru 121.155	2120-0008, 2120-0028
§ 121.585	2120-0542
§ 121.683	2120-0585
§ 121.715	2120-0523
§ 121.723	2120-0008, 2120-0025
Part 123	2120-0028
Part 125	2120-0085
Part 127	2120-0028
Part 133	2120-0044
Part 135 (except as below)	2120-0039
§§ 135.11 thru 135.17	2120-0008, 2120-0039
§ 135.43	2120-0025, 2120-0039
§ 135.63	2120-0585
§ 135.129	2120-0542
§ 1335.415	2120-0003, 2120-0039
Part 137	2120-0049
Part 139	2120-0063
Part 141	2120-0009
Part 143	2120-0021
Part 145 (except as below)	2120-0010
§ 145.63	2120-0003, 2120-0010
Part 147	2120-0040
Part 149	2120-0012
§§ 150.21 and 150.23	2120-0517
Part 152	2120-0065, 2120-0080
Part 157	2120-0036
§ 159.13	2120-0061
§ 159.93	2120-0084
Part 171	2120-0014
§ 183.11	2120-0002, 2120-0033, 2120-0035
§§ 183.15 thru 183.17	2120-0033
§§ 183-25 thru 183.31	2120-0035
Part 198	2120-0514
Part 199	2120-0081
SFAR 44-5 Appendix	2120-0502
SFAR 36	2120-0507

[Doc. No. 23738, 43 FR 39449, Aug. 31, 1983]

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

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

SPECIAL FEDERAL AVIATION REGULATIONS
BFAR No. 72

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HJR

33

FISCAL NOTE

No. 1
 Bill Version: CSHJR 33(TRA)
 (H) Publish Date: 4/3/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	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.

Info On Tundra Tires in Alaska

To Whom It May Concern

This document is in reference to the ongoing tundra tire controversy that has been around Alaska since the Air Streak tire came on the scene about 1978 and was increased in the spring of 1995 by the NTSB staff member in Anc Mr. Tim Borson and his fixation that somehow tundra tires were causing PA-18 'Super Cub' type aircraft to crash. His insistence that the FAA do a study NTSB safety recommendation A-95-13 has been the single greatest detriment to the big tire controversy. The gentleman has since left Alaska and traveled to NTSB Wash. D.C.

There was an NTSB meeting in ANC May, 24, 1996 that the public was effectively shut out by the NTSB since all the allotted time was taken up by speakers they choose and which was moderated by Mr. Tim Borson. There were actually two meetings one in Juneau which had the big tire issue on the agenda which was hard to understand because that is essentially float country the pilots tried to have that item talked about at the ANC NTSB meeting but to no avail.

The tundra tires have been in use in Alaska since approx. 1959. In 1960 Safeway Airways at Merrill field Anc Alaska was issued S.T.C. SA 5-39 to install 25X11X4 tires on PA-18 type A/C. These tires have provided a margin of safety and reduced stress on aircraft components i.e. gear bolts, wing struts, landing gear hydra-sorb units etc.

The other tundra tire that was manufactured in San Diego named Air Streak were not a TSO tire but were built to TSO C62B standards and were field approved for 18 years, since about 1978, these tires have also provided an extra measure of safety for aircraft flying on gravel, sand mud rocks etc and have had thousands of hours of safe flying and no documented evidence by anyone that they are unsafe or caused aircraft to crash.

Mr Borson's recommendation pitted the engineering section of the FAA against the FSDO section that was field approving the big tires against engineering sections wishes.

In April of 1995 the engineering people had one of there people come from the Atlanta office that was not qualified to fly a PA-18 a/c checked him out and chartered a PA-18 from Mr. Gene Zerkel and flew it for 19 hours with a Bell 206B N227EH as chase plane on three of the flights, and determined there were no adverse characteristics from the THREE model tires flown at that time. None being the 30' Air streaks because the engineering people would not field approve a set even tho at that time there were at least 200 a/c flying in Alaska with the 30' Air Streaks field approved by the FSDO office with no problems.

SEE FAA report dated May 3, 1995 SP1493AT-3 April 4, 1995 A. Administrative para A. it list THREE TIRES flown, see FAA letter Jan, 21, 97 order 8300.10 Bulletin HBAW 97-01 were it states there is no problem but in para. A.. last two lines it infers other bigger tires were tested and they in fact were not on that set of flights. The author might be referring to a flight test that was conducted on the same a/c in July 96 in the experimental category when Schneider racing slicks 14.0x32.0 x15 and Goodyear Airwheels 35 x15.0 x6 where flight tested. With pretty much the same results.

Then in para C [2] the administrator forbids any field office from approving any tire bigger than original manufacture on the planes.

Now to further compound the situation the FAA is coming up with a procedure that is going to be extremely cumbersome and expensive for all concerned to approve only large tires that have a TSO. It is interesting to note the one large tire flown on the test A/C McCrery 29X10X10 is a heavy tire that has limited flexibility and will transfer landing gear shock more to the airframe than the controversial 30' tundra Air Streak

Some of the procedures are as follows which are going to be in FAA letter 97-01A.

1. The FAA inspectors are going to have a course at Oklahoma traing center on tundra tire approval. Only those inspectors will be allowed to field approve the tire installations if they want to.

2. Only a TSO tire will be field approved.

3. The rigging of the aircraft will have to be checked to see if it is set correctly.

4. The most forward and aft C.G. will have to be checked.

5. There will have to be two maintenance flights performed.

6. Proper type of tail surfaces installed

In summary it is hard to understand why all the public money has been spent on this issue when in fact there has been only a problem in some ones mind that has not had very much experience in Alaska flying operations and no documented evidence to substantiate the Draconian procedures that are being written at this time by the FAA in the name of SAFETY. That are going to cost the public a lot of money for nothing and increase the work load of the FAA maint. inspectors.

And eliminate all the present tires that have been manufactured in previous years that do not have the TSO and have been doing an excellent job for the aircraft industry.

Incidentally there a lot of items being put on A/C and being field approved by the FAA that do not have TSO certification.

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 (ASIs)(airworthiness), that ASIs 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-230) 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 ASI's from field-approved tundra tire installations.

4. ACTION. ASI's 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 8300.10 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

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 into 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 safety. 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)

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 10/19/96. 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.

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.

To: Eddie Grasser
465-4822

HJR

63

FISCAL NOTE

No. 1.

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

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date: _____
 Title: _____

Dept. Affected None
 BRU _____
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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						
TOTAL	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 Office of Rep. Beverly Mashek
 Division Donald Stolworthy
 Approved by Representative Beverly Mashek
 Agency Beverly Mashek

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

Alaska State Legislature
Representative Carl E. Moses

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State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4451
1-800-898-4451
Fax: (907) 465-3445

INTERIM:
P.O. Box 730
Unalaska, AK 99685
Phone: (907) 581-2275
Fax: (907) 581-4949

Member
House Finance Committee



MEMORANDUM

April 22, 1998

TO: Senator Jerry Ward, Chair
Senate Transportation Committee

FROM: Representative Carl E. Moses *CEM*
Sponsor HJR 63

RE: Scheduling request HJR 63

I would like to respectfully request the scheduling of House Joint Resolution 63 "Relating to support for the Mitchell Field Adak airport."

HJR 63 asks the Congress to appropriate the necessary funds to the Federal Aviation Administration to keep the Mitchell Field Adak airport operational and maintained. The funds would be appropriated to the Adak Reuse Corporation.

The Adak airport is essential for use an alternate airport for flights conducted by the State of Alaska, the United States Air Force, Navy, Coast Guard and numerous other civilian activities including the communities of Atka and Shemya.

HJR 63 passed the House 39-0 and has a zero fiscal note. For information please contact my staff Bryce Edgmon at 4451.

CEM/bc

Alaska State Legislature
Representative Carl E. Moses

Member
House Finance Committee



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State Capitol Building
Juneau, Alaska 99801-1182
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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. It carries a zero fiscal note.

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 reopen the school. The Corporation is also petitioning the Local Boundary Commission for incorporation into a 2nd 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 open for business.

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

025m



December 19, 1997

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

Carl

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

[Signature]
Elary Gromoff, Jr.
President/ CEO

*You continue support
will lead to the
success of Adak
Thanks*

Enclosure



STATEMENT OF SUPPORT FOR HJR-63,
 RELATING TO THE SUPPORT FOR MITCHELL FIELD
 ADAK, ALASKA

The Adak Reuse Corporation(ARC) is the federal and state designated team charged with planning and implementing the reuse of former Naval Air Facility Adak in the Aleutian Islands. The ARC is made up of representatives from the region surrounding Adak and those with an interest in seeing Adak provide benefits to the region. The ARC includes members from the Community of Atka, The Aleut Corporation, The Alaska Federation of Natives, Reeve Aleutian Airways, a fishing representative, native tribes in the region and the Community of Adak. The State of Alaska is an ex-officio member and DCRA staff attends ARC meetings to ensure that the state's public interest is maintained in all Adak planning.

The Western Aleutians regional airport at Adak is important to Alaska. The airfield was the primary asset for Navy use of Adak for over 50 years. They invested heavily into two 7800 foot asphalt runways, electronic landing and enroute navigation aids, fire and crash facilities, operation tower and maintenance and an air terminal. Numerous taxiways lighting clear zones, hangers, fuel pipelines and other assets exist as basic infrastructure - around which an important regional economy can be built. Keeping the airfield at Adak open and operating the airfield creates new areas of economic activity to the state; one of which, the creation of a major fresh seafood transfer point to the orient, may provide substantial benefits to fishermen in Western Alaska and Kodiak. This economic opportunity can not occur without a well developed airfield at a location under 2,500 miles from Tokyo.

The airport is physically the best jet airport in the region. More money has been invested in Adak over the last twenty years than any other airport west of Anchorage. It was built to have greater than 90 percent success rate for inbound landings in spite of the inclement weather in the region. Adak is not constrained to daylight operations like Dutch Harbor. It can handle C-5a and 747 jets, although its 7,800 foot length limits heavy jet takeoff loading. Adak is the natural service center for the community of Atka 70 miles to the east. It is the closest U.S. Alaskan airport to Sakhalin Island¹ Russian Far East.

¹ Adak is the closest American and Alaskan community to Sakhalin Island. It allows Alaskans to easily participate in the Sakhalin oil field development from

The Instrument Flight Rules (IFR) airport at Adak allows the establishment, for the first time, of a new fresh seafood export industry to Japan and China. The amount of money paid for fresh seafood appears to be sufficient to establish a completely new fishery in the Western Aleutians for the good of many Alaskan fishermen.

State support of the IFR airport at Adak produces many regional and Adak benefits:

- **Adak provides the community of Atka with freight, mail and medivac support.**

A functioning IFR airport at Adak allows the community of Atka to have medivac service such as that which occurred a few months ago. A small child was hurt and needed to be transported to Anchorage - immediately. All planes attempting to service Atka rely totally on the availability of an IFR "divert" field at Adak. If Adak had not been in operation, the plane would not have been able to leave Anchorage unless it had enough fuel to go all the way from Anchorage to Atka and then back to Cold Bay - fuel needed for over 2,000 miles of travel. Most medivac aircraft would not be able to attempt an Atka airlift without an IFR "divert" field at Adak.

- **The Adak airport is important for search and rescue operations in a thousand square mile area.**

Even in the last month, the US Coast Guard has performed search and rescue operations which have saved at least three lives in vessel incidents in the western Aleutians. The Coast Guard uses Adak to refuel/resupply and to stabilize victims in search and rescue operations.

- **The airport is important to support development of Adak.**

Reuse of 1.5 billion dollars of installed infrastructure, housing, port and research facilities on Adak depends upon a functioning airport. The facilities on Adak, while extensive and of high-quality require air service to the island. Similar to Atka, if there is no IFR airport within 400 miles then aircraft could not leave Anchorage or Dutch Harbor, their "divert" field would be Cold Bay, over 600 miles to the east. The reuse of Adak also needs U.S. Postal Service "bypass mail" to reduce the cost of living in the early years of community startup.

One example of an Alaskan company using Adak to support commercial activity on Sakhalin is Linden Air Freight. Linden currently has an oil spill response contract to provide logistical and support services (ADS package contract) for oil spill cleanup activities at Sakhalin. They are evaluating the use of Mitchell Field at Adak to pre-positioning emergency response equipment.

- **The airport is important to supply emergency landing options for international air carriers.**

Adak airport has been written into all air carriers routing's who operate two engine aircraft from Europe to Asia. Boeing aircraft company can not sell a 757, 767 or 777 aircraft for service from Europe to Asia without the existence of a functioning airport at Adak. International air rules limit the use of twin engine commercial aircraft to routes which are always within 180 minutes (flight time on one engine) of an emergency divert field with IFR capabilities. Carriers using Adak as an emergency divert field (Delta, American, British Air, Continental, United and others) could not operate between Europe and Asia without an IFR airport at Adak. (Boeing Aircraft company has received encouragement from the US Congress to change the 180 minute rule in case Adak airport is closed - to the detriment of the entire flying public.)

- **Adak airport is important for research and development in the Bering Sea.**

The Bering Sea and North Pacific fisheries have received world attention in recent months. They will receive considerably more attention as the pollock fisheries decreases, as the Russians continue to fish over 1.2 million tons of Pollock each year and as the endangered Stellar Sea Lion continues to lose population. Adak exists as the only established community to perform quality research in the western Aleutians. It has considerable infrastructure to support research and development to assist Alaska's fisheries. Use of Adak for research and development can not occur without a functioning IFR airport.

- **The airport is important for fisheries enforcement.**

The airfield at Adak is important for the servicing of fisheries enforcement aircraft by the U.S. Coast Guard. Recently, there have been numerous Russian incursions into American/Alaskan fishery areas. C-130's operating out of Kodiak with refueling capabilities at Adak can provide effective reconnaissance fisheries enforcement activities in the region.

- **The airport is important for protection and restoration of the western Aleutians.**

State of Alaska territory extends over 600 miles to the East of Adak. Adak is the only instrument rated airport to operate 24 hours a day west of Cold

Bay. (It is over 600 miles away.) Losing the air field at Adak would provide a serious impediment to commercial operations associated with federal island clean up activities at formerly used defense sites (FUDS) on numerous islands around and to the west of Adak. Clean up operations will provide economic activity to the region and the state. They would most likely be staged out of Seattle if air service into Adak is not available.

State support for regional airports which provide life safety assistance and essential air service is well established. The considerable Navy investment in Adak facilities provides cost effective use of state airport maintenance dollars. The ARC is working with our congressional delegation, the U.S. Coast Guard, USF&WS and other federal agencies to "partner" the maintenance and upkeep of the airport. Support from these agencies (and possibly Boeing Aircraft Company) would be substantially improved if there was also a state commitment to support airfield maintenance at Adak.

The Adak Reuse Corporation appreciates Representative Moses sponsoring HJR 63. We urge its passage and consideration for a measure of State of Alaska support for Adak airport in the future.

HJR

67

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HJR 67

Title: Air Flights Russian Far East
 Sponsor: House Transportation Committee
 Requestor: House Transportation Committee

Dept. Affected: Legislature
 BRU: _____
 Components: _____
 Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0					
Travel	0					
Contractual	0					
Supplies	0					
Equipment	0					
Land & Structures	0					
Grants, Claims	0					
Miscellaneous	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0					
Federal Fund	0					
Other	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

Full-Time	0					
Part-Time	0					
Temporary	0					

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Prepared by: Peter Ecklund
House Transportation Committee
Peter Ecklund, Chairman

Date: 4/14/98
 Phone: 465-3424
 Phone: _____

HJR 67 will have no monetary effect on the
Alaska Legislature

Alaska State Legislature

Committees:

Transportation, Chairman

Resources

Economic Development

Rules

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Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3791

In Ketchikan
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-7157

Representative William K. Williams

SPONSOR STATEMENT

HOUSE JOINT RESOLUTION 67 AIR FLIGHTS RUSSIAN FAR EAST

HJR 67 urges the U.S. Department of Transportation to negotiate renewal of the bilateral agreement to retain the mandatory stopover in Anchorage for transpacific flights between the Russian Far East and the U.S. The current bilateral agreement is due to expire in May of 1998.

It is important to continue mandatory stopovers of Russian air carriers to preserve the position of Anchorage as the American gateway to the Russian Far East.

In addition to close historical and cultural ties between the people of Alaska and the people of the Russian Far East, the state has established agreements with many Russian cities and territories to help with their transition into a market-based economy. Discontinuation of direct Alaskan air service would severely hamper these efforts.

Further, absent the agreement, Anchorage International Airport could see additional decline in international air traffic and local jobs.

In short, continuation of mandatory Russian stopovers in Anchorage is good for the state and good for the developing economies of the Russian Far East. To that end, I urge your swift passage of HJR 67.

MEMORANDUM

State of Alaska

TO: Deborah B. Sedwick
Commissioner

DATE: Monday, April 13, 1998

THRU: Priscilla Wohl *Priscilla Wohl*
Trade Program Manager

TELEPHONE NO: 269-6118

FROM: Patricia Ecker *Patricia Ecker*
Trade Specialist

SUBJECT: Retention of the Mandatory
Anchorage Stopover for
Russian Air Carriers

Peter Eckland of the House Transportation Committee called last week to request background on the U.S./Russia aviation talks scheduled for this month. He was specifically interested in the retention of the mandatory Anchorage stopover for Russian Air Carriers. The Alaska House of Representatives is considering a resolution to urge support of the retention. This memo covers what we have discussed in the past and will serve as a response to Mr. Eckland.

The U.S./Russia aviation talks in Washington, D.C. this month will focus on several issues, prime among them Russia's dislike for the mandatory Anchorage stopover for Russian air carriers. Other issues for the U.S. and its carriers are codesharing privileges and new air routes that Russia is not currently allowing.

This round of U.S./Russia talks have been ongoing for some time; the November 1997 meeting was not regarded as successful and the outlook for conclusion of a new agreement does not look good for the this month's session of the talks. Each session of talks has been particularly contentious ever since the U.S. and Russia negotiated the first post-*glasnost* aviation agreement.

The existing requirement for the mandatory Anchorage stopover applies to all Russian carriers operating on Pacific Routes between the Russian Far East (R.F.E) and the United States. The U.S. carrier operating regularly scheduled service on this route, Alaska Airlines, already operates its West Coast/Russian Far East flights with an Anchorage stopover. Alaska Airlines operates same plane service up the West Coast to Anchorage and over to the R.F.E. The effect of the mandatory stopover is to provide Anchorage with a higher level of service to the R.F.E. than might otherwise be expected for a community of this size. The mandatory stopover also ensured a level playing field for Alaska Airlines, a carrier that does not currently have long range aircraft in its fleet. Reeve Aleutian operates service to the R.F.E. that originates in Anchorage.

There are many beneficiaries of this mandated Anchorage stopover by Russian air carriers: 1) the people of Alaska (more trade and tourism, more frequent service, airport jobs), 2) Anchorage International Airport (rates and fees), and 3) Airport businesses and service providers (ground handlers, fuel providers, duty free operators, crew accommodation providers, etc.). Unfortunately, the numbers of arriving and transiting passengers on Russian carriers have been decreasing over the past five years. The first flurry of post-*glasnost* travel appears to have receded. Also, there is a trend that more of the passengers who are traveling choose to transit Anchorage to reach Seattle or San Francisco for shopping or business.

In 1993 and again in 1995, the U.S. and Russia held aviation talks. The Alaska Governor's Office, Alaska's Congressional Delegation and Anchorage International Airport actively lobbied the United States Department of Transportation (USDOT) to retain the mandatory Anchorage

stopover and were successful. The stopover was retained in the agreement.

In 1997, the Russians put in writing that their number one priority for a new agreement would be the removal of the mandatory Anchorage stopover. In September of 1997 I discussed the U.S./Russia aviation agreement directly with Assistant Secretary of USDOT Charles Hinnicutt who is responsible for international aviation policy recommendations for the United States. Governor Knowles subsequently wrote USDOT Secretary Slater in October 1997 to bring home the message that retention of the mandatory stopover is Alaska's number one priority. The Congressional delegation has also delivered to USDOT the message that the mandatory stopover is essential for Alaska.

There are U.S. carriers who would like to see the mandatory stopover removed so that they could enjoy certain air routes and codesharing privileges that Russia is currently (and unfairly) withholding.

To sum up, the bipartisan efforts of the Governor's Office and the Congressional Delegation have proven effective in the past. At the same time, there is more pressure on USDOT than ever before to remove the mandatory Anchorage stopover, so any additional signal of support is welcome and helpful. Introducing the proposed resolution before the Alaska House of Representatives. The Governor's Office and the Congressional Delegation are continuing to play key roles in keeping this important stopover alive.

The general opinion is it will be difficult for the U.S. and Russia to reach agreement in this month's round of talks. The talks are likely to continue for at least one more additional round.

Cc

Morton V. Plumb, Director, Anchorage International Airport

Impact of Eliminating Mandatory Russian airlines' stopover in Anchorage on Anchorage International Airport

Jobs: Aeroflot/Alaska Air and support: 10-15 jobs
 Indirect jobs: 3-5 jobs

Rates and fees and Duty Free revenues to Airport (Aeroflot and Alaska Airlines): see attached sheet

Flights affected:

Loss of 3-4 weekly flights between ANC and Russia, replaced by non-stop flights from Seattle or elsewhere in the Lower 48.