

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10866; Amdt. 11-11]

#### PART 11—GENERAL RULE-MAKING PROCEDURES

##### Grant or Denial of Medical Exemptions

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to state the general course and method by which petitions for exemption from provisions of Part 67 (Medical

Standards and Certification) are granted or denied. This function will now be performed by the Federal Air Surgeon, with the assistance of consultant medical specialists where appropriate, and the services of an advisory panel of medical specialists, as previously provided for in § 11.55, will no longer be required.

Under the procedural rules of § 11.55, each petition for an exemption from any provision of Part 67 has been referred to a panel of medical specialists for its recommendation. The panel's function has been to examine the petitioner's medical condition by thorough review of all pertinent medical documents and to advise the Administrator whether the specific nature of the applicant's medical defect that made him unable to meet the standards of Part 67 was such that he could be exempted from those standards without endangering public safety during the period the medical exemption would be in effect. Based on the public interest and in the light of the specific situation involved, the Administrator has granted or denied the petition after receiving the panel's recommendation.

The Federal Air Surgeon has not had explicit authority to recommend to the Administrator the disposition of petitions for exemption or to actually dispose of them himself. However, under § 67.19 he may, in certain cases, authorize special medical flight or practical tests, or special medical evaluations, to determine whether the applicant can perform his duties under his airman certificate in a manner that will not endanger public safety. Upon the required showing, the Federal Air Surgeon may issue specially to the applicant a medical certificate of the appropriate class, with any operational limitation or limit on the duration thereof that the Federal Air Surgeon determines is needed for safety. Thus, the Federal Air Surgeon has in fact had a substantial area of authority in dealing with applicants who do not meet the specific standards of Part 67.

Under the system previously in effect, a petition for exemption referred to the panel may not have been considered for up to 2 months (the frequency of panel meetings), and the per-case cost of considering matters has been substantial. By delegating to the Federal Air Surgeon the authority to grant or deny petitions for exemption from any section of Part 67, the disposition of petitions in many cases will be accelerated and some savings in the overall cost of review can be made. The Federal Air Surgeon will consider all petitions and grant those where he finds an exemption would be in the public interest and deny those where he does not so find. The Federal Air Surgeon will obtain the opinions of consultant medical specialists in case where this appears to be appropriate in attaining the continuance of full objectivity and expertise in the review of petitions for exemption.

The delegation of authority to the Federal Air Surgeon is consistent with delegations made to the heads of the other Services or Offices. Similarly, if the Federal Air Surgeon finds that a grant

or denial involves a policy determination that should be made by the Administrator, he will refer the petition and any recommendations, including those of the General Counsel, to the Administrator for final action.

These amendments therefore revoke § 11.55 (Exemptions from Part 67) and make appropriate changes in §§ 11.15 and 11.53 to reflect the authority of the Federal Air Surgeon to grant or deny petitions for medical exemptions.

Since these amendments are procedural in nature, notice and public procedure thereon are not required.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended, effective March 29, 1971, as follows:

#### § 11.15 [Amended]

a. By striking out the term "11.55," in the second sentence of § 11.15.

b. By amending the section heading and paragraph (a) of § 11.53 to read as follows:

#### § 11.53 Grant or denial of exemption.

(a) The head of the Office or Service concerned may, subject to the approval of the General 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 General Counsel to the Administrator for final action.

#### § 11.55 [Revoked]

c. By revoking § 11.55.

(Secs. 313(a), 601(c), Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421(c), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 19, 1971.

J. H. SHAFFER,  
Administrator.

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