

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 7162; Amdt. 11-8]

PART 11—GENERAL RULE-MAKING PROCEDURES

Issue of Airworthiness Directives by Regional Directors

The purpose of this amendment is to add a new Subpart E to Part 11 of the Federal Aviation Regulations to authorize the FAA Regional Directors within the 48 contiguous States to issue Airworthiness Directives. Airworthiness Directives are rules issued under Part 39 of the Federal Aviation Regulations when an unsafe condition exists in a product and that condition is likely to exist in other products of the same type design.

This action was published as a notice of proposed rule making in the *Federal Register* on February 18, 1966 (31 F.R. 2903).

Eighteen comments were received on the proposal and the overall reaction was one of opposition. These comments were based primarily on two points, that decentralization would lead to a lack of uniformity in the policies and procedures governing the issue of AD's and that decentralization would result in the issue of more AD's. The overall policies and procedures governing the issue of AD's will continue to be the responsibility of FAA's Washington headquarters and AD's will be issued by the regions only in accordance with these policies and procedures. Regional actions will be monitored carefully, especially in the initial stages, to assure that a lack of uniformity does not occur. In connection with its review of the comments on this proposal, the Agency has again reviewed industry comments on the proposed decentralization of airspace rule making in 1964 (Amendment 11-3, effective July 13, 1964). Many of the same organizations expressed substantially the same objections at that time. Experience since that time has shown, however, that the airspace rule writing has been handled on a more expeditious and satisfactory basis by the regions and no unjustifiable increase in the number of airspace actions has occurred. While the airspace and airworthiness regulatory functions can be distinguished in certain respects, the Agency believes it reasonable to antici-

pate that similar results will accrue from the decentralization of the issue of Airworthiness Directives.

No provision appears in the rule for headquarters' participation, on a case-by-case basis, in Airworthiness Directive rule making. It is the intent of the amendment to delegate complete authority to Regional Directors in these matters. Section 11.93, however, provides that petitions for reconsideration may be submitted to the Administrator within 30 days after publication of the rule. This provision should provide adequate relief for parties who feel that rule-making action taken by a Regional Director is contrary to the public interest.

The FAA regional offices are currently responsible for the original determination that an aircraft is in safe condition for operation. Both type certificates and airworthiness certificates are issued by those offices. In addition, initial responsibility for determining the need for, and the substantive requirements of, Airworthiness Directives are developed in the regional offices and are submitted to the Agency headquarters for processing and issuance. This practice has resulted in administrative difficulties and delays with no major compensating substantive benefits to the public or the Agency. Thus, the delegation of the final rule-making authority to the regions merely completes a substantive delegation that has been in effect for many years.

No redelegation of authority by a Regional Director will be authorized. With this consideration and with the distribution to the regions of internal directives on the processing of Airworthiness Directives, the Agency believes that proper control will be maintained over the program. At the same time, regional handling of cases should accelerate their processing and permit decisions to be made by Agency officials most familiar with the case.

The Alaskan, Pacific, and European Regions of the Agency are not staffed to handle the entire processing of Airworthiness Directives. For this reason, Airworthiness Directives arising in those regions will continue for the present to be developed in those regions, will be processed in the Agency headquarters, and will continue to be issued by the Director, Flight Standards Service.

A duplicate docket will be maintained in Agency headquarters for each regional Airworthiness Directive action.

In consideration of the foregoing, Part 11 of Chapter I of Title 14 of the Code

of Federal Regulations is amended, effective January 1, 1967, as hereinafter set forth.

(Secs. 303(d), 313(a), 601, Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, and 1421))

Issued in Washington, D.C., on October 21, 1966.

WILLIAM F. MCKEE,
Administrator.

Part 11—General Rule-Making Procedures, of the Federal Aviation Regulations, is amended as follows:

§ 11.11 [Amended]

(1) Section 11.11 is amended by striking out the words "Subpart D" and inserting the words "Subparts D and E" in place thereof.

(2) The title of Subpart C is amended to read as follows:

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

(3) Section 11.41(b) is amended to read as follows:

§ 11.41 Scope.

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

(4) The following new subpart is added at the end:

Subpart E—Processing of Airworthiness Directives

- Sec.
- 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.

AUTHORITY: The provisions of this Subpart E issued under secs. 303(d), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1344, 1354, 1421.

Subpart E—Processing of Airworthiness Directives

§ 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 grant-

(As published in the *Federal Register* 31 F.R. 13697 on October 25, 1966)

ing 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, Flight Standards Service, or a Regional Director of a region within the 48 contiguous States. The authority of the Regional Director is limited to Airworthiness Directives for products for which a type certificate was issued in his region, or in the case of a product for which no type certificate was issued, a product that was manufactured in his region.

(c) For the purposes of this subpart, "General Counsel" means the General Counsel or a Regional Counsel, or any person to whom the General Counsel or Regional Counsel has delegated his authority in the matter concerned.

§ 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 General 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 General 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 General 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 General 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 on, 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.