

75-24) published in the **FEDERAL REGISTER** on June 3, 1975 (40 FR 23897). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Thirty-two commentators responded to Notice 75-24. Except for editorial revision, and as specifically discussed herein, this amendment and the reasons therefor are the same as those in Notice 75-24.

DISCUSSION OF COMMENTS

As stated in Notice 75-24, the purpose of the proposal is to allow orderly integration of exemption requests into the FAA regulatory workload and thereby reduce the disruptive effect of short notice exemption requests. Several commentators asserted that instead of amending Part 11 to increase the lead-time for filing exemption requests, the FAA should reduce the need for exemptions by improving the regulations and reviewing them more often. The FAA is committed to improving and maintaining the regulations to the state-of-the-art. The Airworthiness Review and Operations Review programs were established to provide a complete review and updating of the regulations covered by those programs. These review programs are undertakings of substantial magnitude which involve participation by numerous persons, including industry groups, foreign governments, and users of the aviation system. While the FAA anticipates that these review programs will eliminate the need for many of the current requests for exemptions, it is not believed that all exemptions will or should be eliminated. With respect to comments concerning frequency of review of the regulations, as noted above the FAA is committed to maintaining the regulations to the state-of-the-art. Future regulatory reviews should be conducted with sufficient regularity to achieve that goal.

A number of commentators asserted that the 180 day period would be too long. Several commentators expressed support for an increase in the 60 day period to either 90 or 120 days. The FAA has carefully considered the various comments relating to the length of the proposed 180 day period and has concluded that a modification is appropriate. With due regard for the needs of petitioners for exemptions on the one hand, and on the other hand, the need for the additional lead-time to allow for the orderly integration of exemption requests into the FAA's regulatory workload and to better enable the FAA to determine whether or not general rule making is appropriate, the FAA believes that a 120 day period should be adopted. The proposal has been revised accordingly. However, the FAA will periodically assess the impact of the 120 day lead-time on the processing of its regulations. In this connection, it was noted in the preamble to Notice 75-24 that the increase in exemption petitions expe-

rienced by the FAA absorbed more and more of the resources expended on the safety regulatory program. If the FAA regulatory review programs, including the current Airworthiness and Operations Reviews, significantly reduce the number of petitions for exemption, it may be possible to reduce the lead-time to 90 days, or even back to 60 days.

It should be noted that many petitions for exemption do not contain the supporting information specified in § 11.25. Failure to provide required information in a timely manner results in additional communication with the petitioner to secure the information needed by the FAA to consider the petition and can delay final action on the petition. The FAA expects all petitioners to support their petitions for exemption with all information required by § 11.25. The increase in lead-time to 120 days and compliance by petitioners or exemptions with the information requirements of § 11.25 will assist the FAA in scheduling exemptions and other rule-making actions with the result that all regulatory actions should be accelerated.

Several of the commentators were concerned with the term "priority handling" and with the standard to be used to determine whether priority handling should be granted. In this respect, the FAA stated in Notice 75-24 that the proposal would permit petitions for exemption to be submitted in less than the prescribed period before the desired effective date "where the petitioner demonstrates a need for earlier action by the FAA." This is the standard that has been applied in administering the "good cause" provision of the current regulation and no change in processing was intended. However, in view of the questions raised by some commentators regarding use of the term "priority handling", and to avoid any confusion, the proposal has been revised to retain the current "good cause" provision.

It was suggested by several commentators that the change proposed in Notice 75-24 should not apply to petitions for medical exemptions because unreasonable delay in consideration and disposition of such petitions might result. The FAA wishes to emphasize that the intent of the proposal to increase the lead-time was to expedite all regulatory actions, including exemptions, by providing for the orderly integration of exemption requests into the overall regulatory workload of the FAA. The FAA firmly believes that the 120 day lead-time will not delay processing of medical exemption petitions.

In response to comments concerning exemptions for transportation of hazardous materials, it should be noted that the authority to issue exemptions from the Department of Transportation's regulations governing transportation of hazardous materials is now vested in the Office of Hazardous Materials Operations of the Materials Transportation Bureau, Department of Transportation. Procedures for processing exemptions from those regulations are set forth in 49 CFR Part 107. Consequently, the change to

See correction

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14682; Amdt. No. 11-14]

PART 11—GENERAL RULE-MAKING PROCEDURES

Procedural Requirements for Petitions for Exemptions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the lead-time for filing certain petitions for exemption from the present 60 days prior to the desired effective date to 120 days prior to that date. The intended effect is to expedite all regulatory actions, including exemptions, by providing for the orderly inclusion of exemption requests into the FAA's regulatory workload. This change is needed because of the increase in exemption petitions in recent years.

EFFECTIVE DATE: September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rule making (Notice No.

AGC

Part 11 of the Federal Aviation Regulations accomplished by this amendment does not apply to exemptions for transportation of hazardous materials.

One commentator urged that petitions for exemption be published in the Federal Register. In this respect, it should be noted that the FAA has under consideration a notice of proposed rule making which would include publication in the Federal Register of notice of the filing and disposition of petitions for exemption.

Various other comments were received in the nature of suggestions for other changes which the particular commentator believed would improve the exemption and rulemaking process. While these suggestions are beyond the scope of the notice and have not been specifically discussed herein, all comments are appreciated and they will be considered in connection with future rulemaking action.

DRAFTING INFORMATION

The principal author of this document is Richard C. Beitel, Office of the Chief Counsel.

Accordingly, paragraph (b)(1) of § 11.25 of Part 11 of the Federal Aviation Regulations is amended, effective September 6, 1977, to read as follows:

§ 11.25 Petitions for rulemaking or exemptions.

(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;

(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)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 30, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

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7/14/77

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14682; Amdt. No. 11-14]

PART 11—GENERAL RULEMAKING PROCEDURES

Procedural Requirements for Petitions for Exemptions

Correction

In FR Doc. 77-19285 appearing at page 34864 in the issue for Thursday, July 7, 1977 in § 11.25(b)(1) on page 34865, in the first line the word "petitioner" should have read "petition".