

**SUBCHAPTER B—PROCEDURAL RULES**  
[Docket No. 8678; Amdt 1]

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

**Miscellaneous Amendments**

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to (1) authorize the Administrator to provide time periods during which repetitious petitions for medical exemptions will not be considered; and (2) remove the provision for placing in the official rule-making docket additional medical information or further medical examination obtained from a petitioner for medical exemption at the request of the advisory panel of medical experts.

Until now, a person denied a medical exemption could file and obtain consideration of another petition at any time. This has been done promptly in a

number of instances, followed by repeated denials because of the same disqualifying medical condition.

Even under the best management or therapy the human organism may well need time to show significant progress toward recovery after experiencing a disqualifying medical condition under Part 67, and this time varies from one individual to another and from one condition to another. In the area of medical exemptions it is appropriate to provide that, as applied on an individual basis, a new petition may not be considered until after the lapse of a given period of time appropriate to the disqualifying condition. Before the expiration of such a time, medical considerations make it impossible to sensibly reevaluate the effects upon safety of a given medical deficiency (such as an established medical history or clinical diagnosis of myocardial infarction, chronic alcoholism or drug addiction) that has remained either active or in a state of remission. To attempt reevaluation before that time has elapsed would elicit no meaningful information that could reasonably be expected to alter a previously made decision. In other words, given the same basic fact situation, reconsidering a medical case within a fixed period of time may be a purely repetitious review that is time consuming, imposes an unreasonable workload and financial burden upon the FAA, and subjects the petitioner himself to false hopes and eventual disappointment.

Since exemption from standard medical requirements is a discretionary function under the Federal Aviation Act of 1958, a proper balancing of the interest of the applicant against cost-benefit considerations in Government operations requires dismissal of exemption petitions during that minimum period.

These amendments therefore provide that the advisory panel of medical specialists may, when recommending the denial of a petition for exemption, also advise the Administrator in an appropriate case that, as a matter of individual medical consideration, an exemption may not be entertained before a certain minimum period of time has elapsed. On this advice the Administrator may determine that a second or any subsequent petition for exemption from the requirements of Part 67 may not be considered before a predetermined period of time elapses.

These amendments also delete from § 11.55 the provision that the Federal Air Surgeon sends to be placed in the official rule-making docket a copy of additional medical information or further medical examination obtained from the petitioner at the panel's request. The provision is deleted because medical information relating to an individual is, for the most part, properly withheld from public disclosure.

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

In consideration of the foregoing, § 11.55 of the Federal Aviation Regulations is amended as follows, effective February 25, 1968.

1. By inserting a sentence at the end of paragraph (b) to read as follows:

(b) \* \* \* If the panel recommends denial of the petition, it may advise the Administrator that medical considerations make it impossible to consider favorably another petition for exemption from the petitioner before the expiration of a period of time stated by the panel.

2. By striking out the words "and shall send a copy to be placed in the official rule making docket" in the second sentence of paragraph (c).

3. By inserting a sentence at the end of paragraph (e) to read as follows:

(e) \* \* \* The Administrator may, upon the advice of the panel, provide in a denial of the petition that another petition for exemption from the applicant will not be considered before a date fixed not later than the end of the period of time stated by the panel. If the Administrator so provides, another petition from the applicant will be dismissed if filed before that date.

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

Issued in Washington, D.C., on January 19, 1968.

**D. D. THOMAS,**  
*Acting Administrator.*

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