federal register

Wednesday
August 31, 1988

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 13

Airport-Related Proceedings; Final Rule; Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. 25687; Amdt. No. 13-17]

Airport-Related Proceedings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule revises several applicability sections of the investigative and enforcement procedures regarding airport-related proceedings. The revision is intended to update the procedures to refer to the 1982 airport funding statute and recent Congressional amendments to the 1982 Act. This revision is needed to make it clear that the procedural rules for enforcement actions and investigations apply to actions commenced against airports, alleging violations of the 1982 Act, the 1982 Act as amended, and apply to airport grants entered into pursuant to the authority of the 1982 Act, and the 1982 Act as amended.

DATES: The final rule is effective on September 30, 1988. Comments must be received on or before September 30, 1988.

ADDRESS: Comments on this final rule may be delivered or mailed, in duplicate, to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25687, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Comments submitted on this final rule must be marked: Docket No. 25687. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Denise Daniels Ross, Office of the Chief Counsel, Regulations and Enforcement Division, Certification Law Branch (AGC-240), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Comments Invited

The revisions contained in this final rule are purely procedural revisions that are needed to conform the general applicability sections of Part 13 to existing and recently-enacted statutory authority. Therefore, the final rule is being adopted without notice and an opportunity for prior public comment. However, the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, Department of Transportation (DOT) operating administrations should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in the rulemaking by submitting any written data, views, or arguments as they may desire. Comments must include the regulatory docket or amendment number identified in this final rule and be submitted in duplicate to the address above. All comments received will be available in the Rules Docket for examination by interested persons. The rule may be changed in light of the comments received on the final rule.

Commenters who want the Federal Aviation Administration (FAA) to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. 25687." The postcard will be date stamped by the FAA and returned to the commenter. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA-230), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must include the amendment number identified in this final rule. Persons interested in being placed on a mailing list for future rulemaking actions should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The revisions contained in this final rule are necessary to update Part 13 to provide expressly that procedural rules for enforcement and investigation apply to all existing statutory authority of the Secretary of Transportation and the Federal Aviation Administration (FAA) concerning airport-related proceedings. Insofar as airport-related proceedings are involved, the current rules in Part 13 refers specifically only to the Airport and Airway Development Act of 1970. The current rule lacks technical reference to the Airport and Airway Improvement Act of 1982 which succeeded the 1970 Act. Similarly, it lacks reference to the recent amendment of the 1982 Act, the Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub.L. 100-223; December 30, 1987).

The revision of the pertinent applicability sections contained in Part 13 is a minor, conforming, procedural change to those sections. However, the FAA believes that this change should be made to make it clear that the agency may, in investigation and enforcement proceedings, apply Part 13 procedures when airports are charged with violations of the 1982 Act, the 1982 Act as amended, and grants entered into under those statutes, in addition to matters involving the Airport and Airway Development Act of 1970.

Reason for No Notice

The revisions contained in this final rule are needed to ensure that the language of the regulations conforms to the statutory authority given to the Secretary in the Airport and Airway Improvement Act of 1982 and continuing amendments enacted by Congress in the Airport and Airway Safety and Capacity Expansion Act of 1987. The final rule is necessary to ensure that due process procedures contained in Part 13 are available to individuals and entities involved in airport-related investigation and enforcement proceedings. Because the final rule merely conforms the regulations to the existing statutory authority provided in the 1982 Act and the 1987 amendments, notice and public comment procedures are unnecessary and thus not required by the Administrative Procedure Act, 5 U.S.C. 553. In addition, publication of a notice for prior public comment on the final rule would not reasonably be anticipated to result in the receipt of useful information regarding the revisions. In accordance with the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979), an opportunity for public comment after publication of the final rule is being provided.

Economic Assessment

This final rule makes only minor conforming changes to the procedural regulations contained in Part 13. Because of the editorial and procedural nature of the revisions, no economic impact is expected to result from the promulgation of the final rule. Accordingly, a full Regulatory Evaluation is not warranted and a regulatory evaluation has not been prepared prior to publication of this final rule. Because the final rule is a purely procedural, conforming

amendment and the cost, if any, of complying with the final rule is minimal, I certify that the final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980.

Federalism Implications

The final rule contained herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Conclusion

Because the revisions contained in this final rule are not expected to have any economic impact, the FAA has determined that the final rule is not a major regulation under Executive Order 12291. Also, this regulation is not considered to be a significant regulation under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). Since the cost of complying with these rules, if any, is minimal, I certify, under the criteria of the Regulatory Flexibility Act of 1980, that these rules will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 13

Enforcement procedures, Investigations, Penalties.

The Amendment

Accordingly, the Federal Aviation Administration amends Part 13 of the Federal Aviation Regulations (14 CFR Part 13), effective September 30, 1988, to read as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

1. The authority citation for Part 13 is revised to read as follows:

Authority: 49 U.S.C. 1354 (a) and (c), 1374(d), 1401–1406, 1421–1428, 1471, 1475, 1481, 1482 (a), (b), and (c), and 1484–1489 (Federal Aviation Act of 1958) (as amended, 49 U.S.C. App. 1475, Airport and Airway Safety and Capacity Expansion Act of 1987); 49 U.S.C. App. 1655(c) (Department of Transportation Act) (Revised, 49 U.S.C. 106(g)); 49 U.S.C. 1808, 1809, and 1810 (Hazardous Materials Transportation Act); 49 U.S.C. 1727 and 1730 (Airport and Airway Development Act of 1970); 49 U.S.C. 2218 and 2219 (Airport and Airway Improvement Act of 1982); 49 U.S.C. 2201 (as amended, 49 U.S.C. App. 2218, Airport and Airway Safety and Capacity Expansion Act of 1987); 18 U.S.C. 6002 and 6004 (Organized Crime Control Act of 1970); 49 CFR 1.47 (f), (k), and (q) (Regulations of the Office of the Secretary of Transportation).

2. Section 13.1(a) is revised to read as follows:

§ 13.1 Reports of violations.

(a) Any person who knows of a violation of the Federal Aviation Act of 1958, as amended, the Hazardous Materials Transportation Act relating to the transportation or shipment by air of hazardous materials, the Airport and Airway Development Act of 1970, the Airport and Airway Improvement Act of 1982, the Airport and Airway Improvement Act of 1982 as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987, or any rule, regulation, or order issued thereunder, should report it to appropriate personnel of any FAA regional or district office.

* * * * *

3. Section 13.3 (a) and the first sentence of (b) are revised to read as follows:

§ 13.3 Investigations (general).

(a) Under the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1301 *et seq.*), the Hazardous Materials Transportation Act (49. U.S.C. 1801 *et seq.*), the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*), the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2201 *et seq.*), the Airport and Airway Improvement Act of 1982 (as amended, 49 U.S.C. App. 2201 *et seq.*, Airport and Airway Safety and Capacity Expansion Act of 1987), and the Regulations of the Office of the Secretary of Transportation (49 CFR 1 *et seq.*), the Administrator may conduct investigations, hold hearings, issue subpoenas, require the production of relevant documents, records, and property, and take evidence and depositions.

(b) For the purpose of investigating alleged violations of the Federal Aviation Act of 1958, as amended (except Title V of that Act), the Hazardous Materials Transportation Act, the Airport and Airway Development Act of 1970, the Airport and Airway Development Act of 1982, the Airport and Airway Development Act of 1982 as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987, or any rule, regulation, or order issued thereunder, the Administrator's authority has been delegated to the various services and or offices for matters within their respective areas for all routine investigations. * * *

* * * * *

4. Section 13.20(a) is revised to read as follows:

§ 13.20 Orders of compliance, cease and desist orders, orders of denial, and other orders.

(a) This section applies to orders of compliance, cease and desist orders, orders of denial, and other orders issued by the Administrator to carry out the provisions of the Federal Aviation Act of 1958, as amended, the Hazardous Materials Transportation Act, the Airport and Airway Development Act of 1970, and the Airport and Airway Improvement Act of 1982, or the Airport and Airway Improvement Act of 1982 as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987. This section does not apply to orders issued pursuant to section 602 or section 609 of the Federal Aviation Act of 1958, as amended.

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Issued in Washington, DC, on 26 August 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88–19847 Filed 8–29–88; 10:03 am]

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Corrections

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. 25687; Amdt. No. 13-17]

Airport-Related Proceedings

Correction

In rule document 88-19847 beginning on page 33782 in the issue of Wednesday, August 31, 1988, make the following correction:

§ 13.3 [Corrected]

On page 33783, in the third column, in § 13.3(b), in the eighth and ninth lines, "Development" should read "Improvement".

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