DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. 27925; Amendment No. 11–40]

RIN 2120–AF55

Direct Final Rulemaking Procedure

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: In response to the President's Executive Order on Regulatory Planning and Review, the Vice President's National Performance Review, and the Administration's Civil Aviation Initiative, the Federal Aviation Administration (FAA) is implementing a new and more efficient procedure for adopting non-controversial or consensual rules. The ''direct final rulemaking'' procedure involves issuing a final rule with an opportunity for notice and comment. This final rule will contain a statement that if the FAA receives no adverse or negative comment, or notice of intent to file such a comment, the rule will become effective at the end of a specified period of time after the close of the comment period. This new procedure is expected to reduce significantly the time needed to publish non-controversial or consensual final rules.

EFFECTIVE DATE: April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Donald P. Byrne, Assistant Chief Counsel for Regulations, AGC–200, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Background

In Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), the President set forth the Administration's regulatory philosophy and principles. The Executive Order contemplates an efficient and effective rulemaking process, including the conservation of the limited government resources available for carrying out its regulatory functions. In responding to both the letter and the spirit of the President's order, the Secretary of Transportation has directed administrations within the Department of Transportation (DOT) to focus on improvements that can be made in the way in which they propose and adopt regulations.

The Administrative Conference of the United States (ACUS), prior to its dissolution, observed that the rulemaking process has become increasingly time consuming. Aviation interests in particular have expressed concern to the FAA over the time-consuming nature of the regulatory process. ACUS believed that agencies should consider innovative methods for developing rules and obtaining public input, including the use of groups such as advisory committees and negotiated rulemaking committees. The FAA and the aviation industry have been engaged in one such effort for several years through the Aviation Rulemaking Advisory Committee (ARAC).

In addition to focusing on consensus-based rulemaking, ACUS believe that agencies should consider the use of ''direct final'' rulemaking where appropriate to eliminate duplicative agency review and publication of non-controversial rules. Under the direct final rule procedure, an agency issues a final rule with an opportunity for comment and a statement that if the agency receives no adverse or negative comments, the rule becomes effective at a specified time after the close of the comment period. If an adverse comment, or a notice of intent to file such a comment, is received, the agency withdraws the rule before the effective date and issues a notice of proposed rulemaking (NPRM) in the normal manner.

This expedited process was recommended also by the Vice President in his report on the National Performance Review (''Creating a Government That Works Better and Costs Less; Improving Regulatory Systems''). Use of the process is encouraged in rulemakings in which agencies do not believe there will be adverse public comment, in order to help agencies streamline their rulemaking procedures.

The FAA published a notice of proposed rulemaking in the Federal Register on October 4, 1994 (59 FR 50676) that proposed using the direct final rulemaking procedure for non-controversial rules and for consensual rules, where the FAA believes there will be no adverse public comment. The FAA has determined that this expedited process can be used effectively for a number of future agency rules, including many of the proposed regulations based on recommendations of broad-based advisory committee groups such as ARAC. The FAA would consider issuing a direct final rule where such an advisory committee has involved representatives of all interested parties in negotiating a proposed rule; the committee has reached a unanimous recommendation; and the nature of the negotiations leads the FAA to believe the public will not file adverse comments. The FAA would expect this often to be the case, for example, for recommendations of the ARAC intended to harmonize FAA and European technical standards for the manufacture of aircraft.

The direct final rulemaking process may also be used to issue some airworthiness directives (AD) whenever there is broad consensus within the aviation community on the FAA's view of the appropriate correction for an unsafe condition in an aviation product. Other possible uses of the process could include regulations amending airspace designations or extending compliance dates when such regulations are not expected to be controversial. There may be other effective uses of this procedure.

The Direct Final Rule Procedure

When the FAA believes that a proposed regulation is unlikely to result in adverse comment, it may choose to use the direct final rulemaking process. The direct final rule will advise the public that no adverse comments are anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, is received within the comment period, the regulation will become effective at the end of a specified period of time after the close of the comment period. If no written adverse or negative comment, or notice of intent to submit such a comment, is received within the comment period, the direct final rule will become effective on the date indicated in the rule. The FAA will publish a notice in the Federal Register indicating that no adverse comments were received and confirming the date on which the final rule will become effective. The confirmation notice will be issued at least 30 days prior to the effective date specified in the direct final rule.

If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a notice of withdrawal of the direct final rule will be published in the Federal Register, and an NPRM may be published with a new comment period. Normal procedures for the agency's receipt and consideration of comments will then apply.

The direct final rulemaking procedure provides that either the adverse comment or the notice of intent to submit such a comment must be received within the comment period. If a commenter files a notice of intent to submit an adverse comment within the comment period, the substantive comment does not have to be received

within the comment period. Although no specific time interval between the filing of the notice and the receipt of the substantive comment is specified, the FAA would expect to receive the substantive comment no later than 30 days after the comment period closes. The FAA may consider mandating a specific interval if experience shows a set deadline is needed. If no substantive comment is received following the submission of a notice, the FAA may elect to publish a new direct final rule that addresses the filing of a notice of intent to submit an adverse or negative comment without the subsequent comment being received by the agency. The agency intends to monitor the notice of intent to file an adverse comment process over the next year and may propose changes to this procedure if substantive adverse comments are not received following the submission of a notice.

Comments that are outside the scope of the rule will not be considered adverse under this procedure. A comment recommending other rule changes in addition to the changes in the direct final rule would not be considered an adverse comment, unless the commenter states that the rule would be inappropriate as proposed or would be ineffective without the additional change. A comment not so qualified may be considered beyond the scope of the rulemaking.

Although the FAA anticipates that direct final rulemaking will improve the rulemaking process and that the procedures established by this action will work well in actual practice, the FAA may propose modifications to the procedures. The FAA will closely monitor those rulemaking actions selected for direct final rulemaking to determine whether further action is warranted on the following issues:

(1) Are notices of intent to file an adverse comment followed by a substantive comment, and within what time period?

(2) Should the notice of intent to file an adverse comment include a general discussion of the nature of the adverse comment?

(3) Could the adverse comment be addressed by a subsequent direct final rule or should an NPRM always be issued?

Discussion of Comments

Twenty-nine comments were received from aviation industry associations, state aviation authorities, businesses, and the general public. The commenters raised several common themes and they have been grouped together.

Opportunity to Comment

One theme was a concern that the FAA would use the new procedure to deny or limit the right to comment on agency rulemaking proposals. A particular type of rulemaking, the ''final rule with request for comments'' procedure used for some AD's, was cited by several commenters.

The final rule with request for comments procedure has always been an option that was available to the agency under the Administrative Procedure Act (APA). The final rule with request for comments procedure is based on section 553(b)(3)(B) of the APA that provides that prior notice and public comment are not required when allowing time for comment would be ''impracticable'' and ''contrary to the public interest,'' as in the case of an emergency. The agency was not required to provide any comment period but decided to do so anyway. Adopting the direct final rule procedure will not change those procedures. The direct final rule procedure is based on the third APA exception to the prior publication requirement where notice and comment are ''unnecessary.'' Even though the agency will be making the finding that prior notice and comment would be unnecessary, the direct final rule procedure does provide an opportunity for public comment prior to the proposed effective date of the rule. Moreover, regardless of their merits, any comment (within the scope of the rule) or intent to file a negative or adverse comment will result in the withdrawal of the direct final rule.

Although some of the AD's that will be issued may be candidates for the direct final rule procedure, those AD's that are covered under final rule with request for comments procedures would not be candidates for a direct final rule. These methods of rulemaking are entirely distinct from the direct final rule process. Emergency rulemaking has been permitted under the APA for many years, and the FAA will continue to use that authority whenever it is necessary. Emergency rulemaking frequently results in the rule becoming effective before the close of the comment period. The emergency nature of the rulemaking demands that action be taken before an opportunity for notice and comment can be completed. The rationale for using that emergency authority will continue to be expressed in the preamble to the rule as required by the APA. Direct final rulemaking, on the other hand, is not designed for emergency situations. In an emergency rule, the agency makes a finding that prior notice and comment is not possible due to the nature of the emergency. In a direct final rule, the agency would ask if there were any negative comments and might subsequently have to publish an NPRM. Any action taken under direct final rulemaking would follow the solicitation of comments.

The FAA intends to use the direct final rule procedure when adverse comments are not expected. Many of the rules, including AD's, for which the FAA publishes a notice of proposed rulemaking do not generate any comments. Some rules only generate general letters of support thanking the agency for the opportunity to comment without raising any substantive issues or concerns. These rulemaking proposals are subsequently adopted as proposed with only minor format changes to conform to final rule requirements. Although these rules are not controversial, considerable agency resources are expended to prepare both the notice and the final rule.

More than thirty years of rulemaking experience has made the FAA cognizant of which rules are likely to generate adverse comments. The agency intends to use its years of experience to decide which rules are likely to be noncontroversial and thus appropriate for direct final rule procedures. If the agency has misjudged a particular rule, the public still would be afforded an opportunity for adverse comment and subsequently for comment through the normal NPRM process when the direct final rule is withdrawn. The direct final rulemaking procedure is not designed to keep the public from having an adequate opportunity to comment.

One commenter believes that the voices of part of the public would not be heard because other interests are more likely to dominate the process. The FAA does not intend to use the direct final rule procedure when the circle of those affected is so large or inadequately represented that the level of controversy cannot be determined. Even one adverse comment, from any source, would trigger the traditional NPRM process.

Time Allotted for Comment

Several commenters raise the concern that the time available for comment on a direct final rule would be inadequate. The Helicopter Association International (HAI) is concerned that the effective date of the direct final rule could be set before the close of the comment period. The Aircraft Owners and Pilots Association (AOPA) raises concerns that the direct final rule proposal truncates the minimum procedural requirements of the APA. Some small organizations comment that

as small organizations they do not have a full time staff to monitor proposed rulemaking and other developments within the FAA. In addition, the United States Parachute Association suggests that the FAA provide automatic notice to any special interest group that is affected by a proposed rulemaking.

Every effort is made to distribute news of upcoming FAA rulemaking activities to the public. For example, the FAA routinely issues news releases to the national media and trade publications. In addition, the FAA has established an electronic bulletin board that has copies of recently issued notices of proposed rulemaking and final rules available for the public to view at no charge. The telephone number to access the bulletin board is 1–800–FAA–ARAC. All direct final rules would be included in these methods of dissemination. These dissemination methods are in addition to the required Federal Register publication of rulemaking documents. Unfortunately, resource limitations prevent the FAA from providing personal notification to all parties potentially affected by a rulemaking.

Section 553(c) of the APA requires that, once a notice has been published, the public must be given time to comment on the proposal. While the APA does not prescribe any particular amount of time for a comment period to remain open, Executive Order 12866 provides that the comment period remain open for a minimum of 60 days unless a shorter period is justified in the preamble to the rule. Most FAA rulemaking projects, particularly those with international ramifications, have comment periods ranging from 60 to 120 days. Many AD's and airspace actions have comment periods of 30, 45, or 60 days. The FAA is aware that occasionally some members of the public do not learn of a rulemaking until close to the end of the comment period. Although no system is perfect, the FAA tries to allow adequate time for the submission of comments. For direct final rules of interest to non-U.S. commenters, the FAA intends to have a comment period that is adequately long to accommodate these commenters. Section 11.29(c) of the Federal Aviation Regulations (14 CFR 11.29(c)) contains a provision for a potential commenter to request an extension of the comment period. That provision may be invoked under direct final rulemaking procedures. On many occasions, the FAA has extended or reopened a comment period when commenters have asserted that they had insufficient time to prepare substantive comments.

The direct final rule program will follow the guidelines established under the APA and FAA policy for the solicitation of comments. Although a commenter may not have had time to fully develop its concerns, the filing of a notice of the intent to submit adverse comments, in effect, will stop the direct final rule from becoming effective. The FAA does not intend to require that a written notice of the intent to submit adverse comments adhere to any specific format. The notice may be merely a letter to the FAA Rules Docket clearly stating its purpose. The commenter should then submit its substantive objections and concerns as soon as possible.

Nature of an Adverse Comment

Several commenters raise concerns that the agency would label adverse or negative comments as ''non-adverse'' and proceed to finalize the rule. These commenters request either standards for determining or guidance for deciding what would constitute an adverse comment. The Air Transport Association (ATA) suggests that the FAA define the terms ''adverse'' and ''negative.'' In addition, ATA is concerned that a proposal drafted with the consensus of the regulated entities (such as an ARAC proposal) that addresses counterpoints that were considered and rejected (as explained in the preamble) could be subject to delay if a party to the process or a non-party to the process elected to file a notice of intent to file an adverse comment.

The FAA finds its unnecessary to specifically define ''adverse'' and ''negative''. If commenters are concerned that their comments may be misinterpreted, they can clearly state in their comment that the comment is adverse. In determining whether an adverse comment is sufficient to terminate a direct final rulemaking, the FAA would consider whether a comment would be one that would warrant a substantive response in a notice-and-comment process. The FAA would recognize the following, among other things, as an indication of the adverse nature of a comment:

—The commenter so states.
—The commenter states that the requirements are unusually burdensome.
—The commenter states that the requirements would generate significant controversy as to the agency's proposed solution to the problem.
—The commenter states that the requirement would result in an unwarranted significant change in existing practice.
—The commenter states that the requirement would impose a significant cost.
—The commenter states that viable, named alternatives should have been considered.
—The commenter states that the proposed rule would be ineffective or inappropriate.
—The commenter states that the rule would have an unintended effect.

The FAA realizes that the filing of an adverse comment has the potential to delay the rulemaking process. Therefore, the agency intends to use the direct final rule procedure only in those cases where the agency has reason to believe that adverse comments will not be received. As mentioned previously, many agency rulemakings go from the notice stage to the final rule stage without comments being received and without substantive change.

Corrections to Published Rules

The Aerospace Industries Association (AIA) and the Regional Airline Association (RAA) comment that the direct final rule procedure does not provide for the possible need to make minor corrections based on the comments received.

''Corrections'' generally fall into two categories. The first category are those errors and omissions that should not have occurred. Using an AD as an example, such an error could be specifying a particular part number for all models of an aircraft when it was incorrectly thought that that part was used in all variants of that model aircraft. The FAA agrees that the commenters, particularly the part manufacturers and aircraft operators, note these errors in their comments. In this type of situation, the ''notice'' confirming the effective date of the rule would be styled as a ''final rule; correction'' to address the error. Because this type of correction would not impose any additional burden on the operators, the correction would be within the scope of the direct final rule, and an NPRM would not need to be issued. The second type of error typically involves a proposal that has an unintended result or neglects to cover all that it should. Again using the AD context, such an error could occur if the FAA learns that a particular variant of a model aircraft that should have been covered by the AD was not. Because the operators of the noncovered aircraft would not have been alerted to the potential requirements, the comment period must be reported to give them notice and an opportunity to comment. If such a situation were to occur in the

direct final rule context, the FAA may issue a new, superseding direct final rule or an NPRM. The more significant the correction, the more likely an NPRM would be issued. The FAA anticipates that the need for corrections in direct final rulemaking to be infrequent.

Response to Comments

Several commenters note that the discussion of comments in a final rule preamble is beneficial to the public in understanding the intent of the proposal, and one commenter questions what would become of adverse comments leading to the withdrawal of the direct final rule and the issuance of an NPRM.

The FAA agrees the discussion of comments in a final rule can be beneficial to the public because the disposition of comments provides the FAA the opportunity to clarify and explain difficult points in a proposal. Where comments to a direct final rule indicate that the rule is not clear, such comments could be considered adverse and, if so, would result in withdrawal of the direct final rule. However, if comments to a direct final rule indicate that only minor changes are needed to clarify the rule language without changing the substance of the requirement, such a minor revision could be made at the time notice confirming the effective date is given.

Any adverse comments received on a proposed direct final rule would be discussed either in the subsequent NPRM preamble or in the preamble of the subsequent final rule.

Review Process

Some commenters would like guidance to be issued as to who would decide, and how, that a new or revised rule is noncontroversial or consensual. Another commenter believes that the current NPRM process is adequate, but the delays in issuing rules is the result of the FAA review process.

The agency will base its decision as to which rules are noncontroversial or consensual on its extensive interface with the aviation community, industry comments to the FAA's rulemaking programs, petitions for rulemaking, and the guidelines discussed previously. The agency's conclusion also will be reviewed, in effect, by the highest levels within the agency and by the Office of the Secretary and the Office of Management and Budget during their review of the ''non-significant'' designation for the rule. Because the potential for lost time is present if the agency misjudges the acceptability of a particular rule, the agency will tend to be very conservative in its assessment of those projects that are candidates for direct final rulemaking.

As to the timeliness of the rulemaking process, most of the reviews and analyses that must be performed by the agency are mandated by statutory provisions, Executive Orders, or Departmental policy. Because rulemaking in today's complex environment touches many diverse interests, review by many internal FAA offices is necessary to prevent later problems that may require revising the rule. The FAA has expanded its use of advisory committees to obtain predecisional input, sought increases in delegations of authority to reduce the levels of review, and instituted projects such as this proposal to improve the rulemaking process.

Economic Burdens

One commenter alleges that many proposed rules are labeled as ''not substantial'' yet the rules actually carried a significant economic burden. Another commenter fears that direct final rules would permit the imposition of burdensome regulations on ''Part 135 Operators'' without proper opportunity for review.

The FAA believes that the commenter who references rules being labeled ''not substantial'' is referring to the FAA's finding that a rule is ''not significant.'' The FAA is not aware of any rule that it has designated as ''non-significant'' that has imposed a significant economic burden. Rules that are determined to be significant would not be candidates for the direct final rule process.

Whether a proposal begins as a traditional NPRM or as a direct final rule, the public will be given an opportunity to review the proposal and provide comment, just as with the NPRM-to-final rule process that predominates today. The only significant difference is that when direct final rules receive no adverse comment, only a confirmation notice of the effective date will be published after the close of the comment period.

Comments Outside the Scope of the Notice

The ATA notes that the FAA's labeling of a comment as ''outside the scope'' of the rulemaking should not automatically make that comment nonadverse. In addition, AOPA wishes the phrase ''comments outside the scope of the rule'' to be narrowly construed.

A comment that is designated as ''outside the scope'' of the rule would not be considered adverse because the comment does not address the subject of the specific rule change that is being made. The FAA intends to label a comment as being beyond the scope of the rulemaking only when the commenter raises an issue that was not the subject of the rulemaking. An alternative to the rulemaking is generally within the scope of the rulemaking. The FAA addresses comments received that are relevant to the proposed rule. The FAA will make every attempt to properly address and characterize all comments. The ''scope'' concept is not new; it is part of the agency's determination concerning comments on NPRM's. All comments received, including those determined to be outside the scope of the rule, will become part of the official rulemaking file.

ARAC

The ATA feels the proposal is premature until problems with the ARAC process are resolved. In addition, AOPA wants to ensure that its members will be given an adequate opportunity to provide input to the agency before the agency's position has been determined. The RAA opposes the use of direct final rules for AD's and other rules that have not had the benefit of consensus-building through the ARAC, but would consider changes that make rules less stringent appropriate for direct final rulemaking.

The FAA agrees that it is important for the public to have their views considered as early as practicable in the rulemaking process. The ARAC process is one means by which the agency is trying to seek out public input before a rule is drafted. Because ARAC-proposed rules have early public involvement, the FAA believes that they would be ideal candidates for the direct final rule process. In addition, the FAA is working to improve the ARAC process. A meeting was held with the ARAC members in late 1994 to resolve issues and improve the process. Recommendations from that meeting are being implemented. However, the FAA must start the process for implementing direct final rulemaking now in order to have it in place when the majority of ARAC-prepared proposals reach the agency. When the ARAC makes a recommendation to the FAA, the FAA may elect to turn that recommendation into a direct final rule. Other ARAC recommendations may become NPRM's. If the ARAC has not been able to reach consensus on a particular proposal, such a proposal would be considered to result in public comment.

The FAA agrees with the RAA that some changes that make rules less stringent and many ARAC rule proposals would be appropriate for the direct final rule process. The FAA does

not agree, however, that direct final rulemaking should not be used for some AD's or other non-ARAC projects. Many AD's are issued each year in which no comments are received on the proposal. In many others, the comments result in only minor changes. The time saved by using the direct final rule process will benefit the public. The FAA notes that some AD's and other important rulemaking projects would be inappropriate for the direct final rulemaking process. The FAA emphasizes that direct final rulemaking will only be used when there is a reasonable assurance that adverse comments are unlikely.

Other Comments

One commenter is concerned that the direct final rule process would make it difficult for aviation mechanics to track AD's issued through direct final rulemaking in the ''Airworthiness Bi-Weekly Issues'' (a compilation of issued airworthiness directives).

AD's issued in the form of an NPRM are not incorporated into the ''Airworthiness Bi-Weekly Issues'' until they are issued as final rules. Similarly, any AD issued under the direct final rule process will not appear in the ''Airworthiness Bi-Weekly Issues'' until the FAA publishes a notice in the Federal Register confirming the proposed effective date of the direct final rule; a direct final rule would be substantially indistinguishable from an NPRM for the purposes of the ''Airworthiness Bi-Weekly Issues''. No action would be required by a direct final rule until such time as it becomes effective.

Another commenter would like to amend the proposal to require a ''high'' degree of consensus among the parties affected by the rule before the direct final rule procedure is invoked. (The proposal used the term ''broad'' instead of ''high.'') The FAA would only consider ''consensus'' as indicating that a direct final rule is appropriate when that consensus is complete, i.e., when there are no indications of dissenting opinion. This could be characterized as a ''high'' degree of consensus.

A commenter suggests issuing some form of public periodical containing a listing of those upcoming proposals that the agency believes are non-controversial. The FAA agrees and intends to use the ''Semiannual Regulatory Agenda'' (Agenda) to partially fulfill this request. Published twice a year, the Agenda provides a summary of every known future rulemaking, except routine actions such as AD's and airspace actions. The FAA believes that such a listing could be included as part of the electronic bulletin board and will investigate adding the listing.

One commenter raises several concerns with the AD system that were beyond the scope of the notice. These concerns will be forwarded to the office with responsibility for the AD system for review.

General Support for Proposal

Five commenters stated general support for the direct rule proposal, but some had concerns that have been discussed earlier. The Joint Aviation Authorities (JAA) supports the direct final rule proposal because it will speed up the FAA rulemaking process for those rules that are being harmonized with the Joint Aviation Regulations.

Regulatory Evaluation

This amendment to part 11 will provide a new and more efficient procedure for adopting non-controversial or consensual rules. The FAA believes that there will be no cost with the use of this procedure in appropriate instances. Use of this alternative procedure is expected to reduce the costs of rulemaking to the FAA by eliminating duplicate publication of rule text when no adverse comment was received. In cases where the rule will result in cost savings to the aviation industry, use of this alternative will allow the industry to achieve these cost savings sooner than if the current rulemaking procedures were used. Accordingly, the FAA has determined that because no costs can be foreseen and the expected economic impact of the amendment is minimal and may save the industry money, a full regulatory evaluation is not warranted.

International Trade Impact

The rule is only a change in the FAA's procedure for rulemaking and will result in some improvement in the processing time for projects to harmonize FAA regulations with those of the JAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 ensures that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities. The costs associated with this proposed rule are minimal, and are well below any threshold established by FAA Order 2100.14A. Accordingly, this rule will not have a significant economic impact on any small entity.

Federalism Implications

The regulations adopted herein will not have substantial direct effect 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

Conclusion

For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act; and (4) that because any economic impact would be minimal, a full regulatory evaluation is not warranted.

List of Subjects in 14 CFR Part 11

Administrative practice and procedure, reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 11 as follows:

PART 11—GENERAL RULE-MAKING PROCEDURES

1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

2. A new § 11.17 is added to subpart A to read as follows:

§ 11.17 Direct final rule.

Whenever the FAA anticipates that a proposed regulation is unlikely to result in adverse comment, it may choose to issue a direct final rule. The direct final rule will advise the public that no adverse or negative comments are anticipated, and that unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified in the direct final rule. If no written adverse or negative comment, or notice of intent to submit such a comment is received within the comment period, the direct final rule will become effective on the date

indicated in the direct final rule. The FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking may be published with a new comment period. Normal procedures for the agency's receipt and consideration of comments will then apply.

Issued in Washington, DC on March 12, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–6594 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–13–M