

OFFICE OF MANAGEMENT AND BUDGET**14 CFR Chapter VI and Part 1300****Air Transportation Safety and System Stabilization Act; Air Carrier Guarantee Loan Program**

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final rule; technical amendment.

SUMMARY: On October 12, 2001, the Office of Management and Budget (OMB) published a final rule establishing a new chapter in the Code of Federal Regulations for the Aviation Disaster Relief-Air Carrier Guarantee Loan Program. This technical amendment renames the chapter heading and establishes a new subchapter for the Office of Management and Budget rules to allow for the establishment of a subchapter for supplemental rules issued by the Air Transportation Stabilization Board (ATSB).

DATES: This technical amendment is effective April 9, 2002.

FOR FURTHER INFORMATION CONTACT: Clare Doherty, Office of Management and Budget, Washington, DC 20503. Telephone (202) 395-5704 (not a toll-free call).

SUPPLEMENTARY INFORMATION: On October 12, 2001, the OMB published a final rule (66 FR 52270) under Section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act (the Act). The section states that “the Director of the Office of Management and Budget shall issue regulations setting forth procedures for application and minimum requirements * * * for the issuance of Federal credit instruments under Section 101(a)(1)” of the Act. Section 101(a)(1) authorizes the ATSB, which is established by section 102(b)(1) of the Act, to issue Federal certain credit instruments to assist air carriers who suffered losses due to the terrorist attacks of September 11, 2001, and to whom credit is not otherwise reasonably available, in order to facilitate a safe, efficient, and viable commercial aviation system in the United States.

Section 102(c)(2)(B) of the Act authorizes the ATSB to supplement the regulations issued by OMB. This rule restructures chapter VI of 14 CFR to facilitate the incorporation of the ATSB’s supplemental regulations, which are published elsewhere in this issue of the **Federal Register**. This rule

also amends OMB’s rules to include a technical reference to ATSB’s rules.

Because this final rule is technical in nature, relates to public loan guarantees, and does not affect the substantive rights or obligations of any person, notice and public procedure are not required pursuant to 5 U.S.C. 553(a)(2) and (b)(B). For the same reasons, a delayed effective date is not required pursuant to 5 U.S.C. 553(a)(2) and (d)(3). This rule is not a “significant regulatory action” for purposes of Executive Order 12866, and is not a major rule under the Congressional Review Act, 5 U.S.C. 801 et seq.

List of Subjects in Part 1300

Air carriers, Disaster assistance, Loan programs—transportation, Reporting and recordkeeping requirements.

Dated: March 26, 2002.

Mitchell E. Daniels, Jr.,

Director, Office of Management and Budget.

For reasons set forth in the preamble and under the authority of 49 U.S.C. 40101 note, the Office of Management and Budget amends 14 CFR chapter VI as follows:

CHAPTER VI—AIR TRANSPORTATION SYSTEM STABILIZATION

1. The heading of chapter VI is revised to read as set forth above.

2. A new subchapter A, consisting of existing part 1300, is added to chapter VI to read as follows:

Subchapter A—Office of Management and Budget**PART 1300—AVIATION DISASTER RELIEF—AIR CARRIER GUARANTEE LOAN PROGRAM**

3. The authority citation for part 1300 continues to read as follows:

Authority: Title I of Pub. L. 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

4. Add § 1300.3 to subpart A to read as follows:

§ 1300.3 Supplementary regulations of the Air Transportation Stabilization Board.

(a) The regulations in this part are supplemented by the regulations of the Air Transportation Stabilization Board in part 1310 of this chapter in accordance with section 102(c)(2)(B) of the Act.

(b) This part and part 1310 of this chapter jointly govern the application procedures and the requirements for issuance of Federal credit instruments under section 101(a)(1) of the Act.

[FR Doc. 02-8430 Filed 4-8-02; 8:45 am]

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AIR TRANSPORTATION STABILIZATION BOARD**14 CFR Part 1310****Administrative Regulations for Air Transportation Stabilization Board Under Section 101(a)(1) of the Air Transportation Safety and System Stabilization Act**

AGENCY: Air Transportation Stabilization Board.

ACTION: Final rule.

SUMMARY: These regulations are issued by the Air Transportation Stabilization Board under section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act, which authorizes the Air Transportation Stabilization Board to issue supplemental regulations for the issuance of federal credit instruments. The purpose of these regulations is to provide the Board with administrative rules and procedures necessary to conduct Board business related to administering the air carrier guarantee loan program. These regulations are effective upon publication.

EFFECTIVE DATE: April 9, 2002.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Adams, Jr., Executive Director, Air Transportation Stabilization Board, 1120 Vermont Avenue, NW., Suite 970, Washington, DC 20005, at (202) 775-8030 or by e-mail to atsb@do.treas.gov.

SUPPLEMENTARY INFORMATION: In response to terrorist attacks on September 11, 2001, the Federal Aviation Administration issued a Federal ground stop order that prohibited all flights to, from, and within the United States. Airports did not reopen until September 13 (except for Reagan National Airport, which partially reopened on October 4, 2001). At the same time, consumer demand for passenger air services declined significantly after the terrorist attacks. As a result, the U.S. commercial aviation industry suffered severe losses that have placed the financial survival of many air carriers at risk, in part because these carriers do not have adequate access to credit markets.

To address the viability of the U.S. commercial aviation system, Congress passed, and President Bush signed into law, the Air Transportation Safety and System Stabilization Act (Pub. L. 107-42) (the Act). In Section 102(b), the Act establishes the Air Transportation Stabilization Board (the “Board”) to enter into agreements to issue loan guarantees and other Federal credit instruments as authorized. The Board is composed of the Chairman of the Board

of Governors of the Federal Reserve System or the designee of the Chairman (who is Chairman of the Board), the Secretary of Transportation or the designee of the Secretary, the Secretary of the Treasury or the designee of the Secretary, and the Comptroller General or the designee of the Comptroller General (who is a nonvoting member). The Board met on September 24, 2001 to discuss the administration of the loan guarantee program.

On October 12, 2001, the Office of Management and Budget ("OMB") published regulations in the **Federal Register** (14 CFR Part 1300) regarding application procedures and minimum requirements (66 FR 52270). The Board has determined that it is appropriate to issue supplemental administrative rules and procedures to facilitate the conduct of Board business. These rules and procedures reflect the fact that the Department of the Treasury will provide extensive administrative services to the Board. The President, acting pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Pub. L. 107-38), transferred funds to the Departmental Offices, Department of the Treasury, so that the Departmental Offices is able to provide the necessary resources for staff, facilities, equipment, and other support for the Board to administer the guaranteed loan program for the airline industry. Accordingly, the Board has determined that the administrative operations of the Board will be conducted in accordance with the applicable administrative authorities of the Department of the Treasury; and that the relevant administrative regulations of the Department of the Treasury will be followed by, and applied by, the Board.

The Board concludes that it may publish these rules without first obtaining public comment and without a delayed effective date. Section 553(a) of the Administrative Procedure Act exempts from its rulemaking requirements those agency actions that concern "loans, grants, benefits, or contracts." 5 U.S.C. 553(a). Since the Board's administrative rules and procedures concern the loan guarantee program, this issuance falls within this exception to the requirements otherwise imposed by section 553.

Moreover, to the extent that section 553's notice-and-comment requirements may apply to this action, we conclude that there is "good cause" under sections 553(b)(B) and 553(d) to issue the rule without prior public comment, effective immediately. These regulations respond to an emergency economic

condition that makes compliance with prior notice requirements impracticable and contrary to the public interest. In requiring OMB to issue application regulations within 14 days of passage of the Act, Congress plainly intended to ensure that the loan guarantee program be implemented as swiftly as possible. Moreover, OMB's regulations permit the filing of an application immediately. The public interest is therefore served by having these regulations become effective upon publication, so that the Board can begin operations, and air carriers can submit applications to the Board at their earliest convenience.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. It has also been determined that this rule is not a significant regulatory action for purposes of Executive Order 12866.

List of Subjects in Part 1310

Air carriers, Disaster assistance, Loan programs—transportation, Reporting and recordkeeping requirements.

Dated: April 1, 2002.

Joseph P. Adams, Jr.,
Executive Director, Air Transportation Stabilization Board.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 40101 note, the Air Transportation Stabilization Board amends 14 CFR chapter VI as follows:

1. A new subchapter B, consisting of part 1310, is added to chapter VI to read as follows:

Subchapter B—Air Transportation Stabilization Board

PART 1310—AIR CARRIER GUARANTEE LOAN PROGRAM ADMINISTRATIVE REGULATIONS

Sec.

- 1310.1 Purpose and scope.
- 1310.2 Composition of the Board.
- 1310.3 Authority of the Board.
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- 1310.9 Restrictions on lobbying.
- 1310.10 Government-wide debarment and suspension.
- 1310.11 Regulations of the Office of Management and Budget.
- 1310.20 Amendments.

Authority: Title I of Pub. L. 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

§ 1310.1 Purpose and scope.

This part is issued by the Air Transportation Stabilization Board pursuant to Section 102(c)(2)(B) of the Air Transportation Safety and System

Stabilization Act, Public Law 107-42, 115 Stat. 230 (Act). This part describes the Board's authorities, organizational structure, the rules by which the Board takes actions, and procedures for public access to Board records.

§ 1310.2 Composition of the Board.

The Board consists of the Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman, who acts as Chairman of the Board, the Secretary of the Treasury or the designee of the Secretary, the Secretary of Transportation or the designee of the Secretary, and the Comptroller General of the United States or the designee of the Comptroller General, who serves as a nonvoting member. The Comptroller General of the United States or the designee of the Comptroller General, who serves as a nonvoting member, shall not be involved in any of the Board's discussions or deliberations in connection with individual loan guarantee applications.

§ 1310.3 Authority of the Board.

Pursuant to the provisions of the Act, the Board is authorized to guarantee loans provided to airlines by eligible lenders in accordance with the procedures, rules, and regulations established by the Board, to make the determinations authorized by the Act, and to take such other actions as necessary to carry out its functions specified in the Act.

§ 1310.4 Offices.

The principal offices of the Board are at 1120 Vermont Avenue, N.W., Suite 970, Washington, D.C. 20005.

§ 1310.5 Meetings and actions of the Board.

(a) *Place and frequency.* The Board meets, on the call of the Chairman, in order to consider matters requiring action by the Board. The time and place for any such meeting shall be determined by the members of the Board.

(b) *Quorum and voting.* Two voting members of the Board constitute a quorum for the transaction of business. All decisions and determinations of the Board shall be made by a majority vote of the voting members. All votes on determinations of the Board required by the Act shall be recorded in the minutes. A Board member may request that any vote be recorded according to individual Board members.

(c) *Agenda of meetings.* As a general rule, an agenda for each meeting shall be distributed to members of the Board at least 48 hours in advance of the date

of the meeting, together with copies of materials relevant to the agenda items.

(d) *Minutes.* The Chief Administrative Officer shall keep minutes of each Board meeting and of action taken without a meeting, a draft of which is to be distributed to each member of the Board as soon as practicable after each meeting or action. To the extent practicable, the minutes of a Board meeting shall be corrected and approved at the next meeting of the Board.

(e) *Use of conference call communications equipment.* Any member may participate in a meeting of the Board through the use of conference call, telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously speak to and hear each other. Any member so participating in a meeting shall be deemed present for all purposes, except that the Comptroller General of the United States or the designee of the Comptroller General, who serves as a nonvoting member, shall not participate in any of the Board's discussions or deliberations in connection with individual loan guarantee applications. Actions taken by the Board at meetings conducted through the use of such equipment, including the votes of each member, shall be recorded in the usual manner in the minutes of the meetings of the Board.

(f) *Actions between meetings.* When, in the judgment of the Chairman, it is desirable for the Board to consider action without holding a meeting, the relevant information and recommendations for action may be transmitted to the members by the Chief Administrative Officer and the voting members may communicate their votes to the Chairman in writing (including an action signed in counterpart by each Board member), electronically, or orally (including telephone communication). Any action taken under this paragraph has the same effect as an action taken at a meeting. Any such action shall be recorded in the minutes. If a voting member believes the matter should be considered at a meeting, the member may so notify the Chief Administrative Officer and the matter will be scheduled for consideration at a meeting.

(g) *Delegations of authority.* The Board may delegate authority, subject to such terms and conditions as the Board deems appropriate, to the Executive Director, the Legal Counsel, or the Chief Administrative Officer, to take certain actions not required by the Act to be taken by the Board. All delegations shall be made pursuant to resolutions of the Board and recorded in writing, whether in the minutes of a meeting or

otherwise. Any action taken pursuant to delegated authority has the effect of an action taken by the Board.

§ 1310.6 Staff.

(a) *Executive Director.* The Executive Director advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's actions, directs the activities of the staff, and performs such other duties as the Board may require.

(b) *Legal Counsel.* The Legal Counsel provides legal advice relating to the responsibilities of the Board and performs such other duties as the Executive Director may require.

(c) *Chief Administrative Officer.* The Chief Administrative Officer sends notice of all meetings, prepares minutes of all meetings, maintains a complete record of all votes and actions taken by the Board, has custody of all records of the Board and performs such other duties as the Executive Director may require.

§ 1310.7 Communications with the Board.

Communications with the Board shall be conducted through the staff of the Board.

§ 1310.8 Freedom of Information Act.

While the Board is not part of the Department of the Treasury, the Board follows the regulations promulgated by the Department of the Treasury at subpart A ("Freedom of Information Act") of part 1 ("Disclosure of Records") of title 31 ("Money and Finance: Treasury") of the Code of Federal Regulations (CFR). The procedures of 31 CFR 1.1 through 1.7 shall be followed for requesting access to records maintained by the Board, and processing such requests. Any reference in 31 CFR 1.1 through 1.7 to the "Department of the Treasury," the "Department" or to a "bureau," shall be construed to refer to the Board. In the event that the regulations at subpart A of part 1 of title 31 of the CFR subsequently are amended by the Department of the Treasury, the Board will follow those amended regulations. The following additional information is provided to implement 31 CFR 1.1 through 1.7 with respect to the Board.

(a) *Public reading room.* The public reading room for the Board is the Treasury Department Library. The Library is located in the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202-622-0990.

(b) *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Board will be made by the Chief Administrative Officer or the designee of such official. Requests for records should be addressed to: Freedom of Information Request, Air Transportation Stabilization Board, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(c) *Administrative appeal of initial determination to deny records.* (1) Appellate determinations under 31 CFR 1.5(i) with respect to records of the Board will be made by the Executive Director, or the delegate of such official.

(2) Appellate determinations with respect to requests for expedited processing shall be made by the Executive Director or the delegate of such official.

(3) Appeals should be addressed to: Freedom of Information Appeal, Air Transportation Stabilization Board, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(d) *Delivery of process.* Service of process will be received by the Legal Counsel of the Board or the delegate of such official and shall be delivered to the following location: Legal Counsel, Air Transportation Stabilization Board, 1120 Vermont Avenue, NW., Suite 970, Washington, DC 20005.

§ 1310.9 Restrictions on lobbying.

(a) While the Board is not part of the Department of the Treasury, the regulations promulgated by the Department of the Treasury at part 21 ("New Restrictions on Lobbying") of title 31 ("Money and Finance: Treasury") of the Code of Federal Regulations (CFR), including the appendices thereto, are applicable in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. The regulations promulgated by the Department of the Treasury at 31 CFR part 21 also are applicable to a request for, or receipt of, any Federal contract, grant, loan or cooperative agreement; and to a request for, or receipt of, a commitment providing for the United States to insure or guarantee a loan. These terms are defined in 31 CFR 21.105.

(b) In the event that the regulations at part 21 of title 31 of the CFR subsequently are amended by the Department of the Treasury, the Board will follow those amended regulations.

§ 1310.10 Governmentwide debarment and suspension.

While the Board is not part of the Department of the Treasury, the regulations promulgated by the Department of the Treasury at subpart A (“General”), subpart B (“Effect of Action”), subpart C (“Debarment”), subpart D (“Suspension”), and subpart E (“Responsibilities of GSA, Agency and Participants”) of part 19 (“Governmentwide Debarment and Suspension (Nonprocurement) and

Governmentwide Requirements For Drug-Free Workplace (Grants)”) of title 31 (“Money and Finance: Treasury”) of the Code of Federal Regulations (CFR) are applicable to the Board. Any reference in 31 CFR part 19 to the “Department of the Treasury” or the “Department” shall be construed to refer to the Board. In the event that the regulations at subpart A, B, C, D or E of part 19 of title 31 of the CFR subsequently are amended by the Department of the Treasury, the Board will follow those amended regulations.

§ 1310.11 Regulations of the Office of Management and Budget.

(a) The regulations in this part supplement the regulations of the Office

of Management and Budget in part 1300 of this chapter in accordance with section 102(c)(2)(B) of the Act.

(b) This part and part 1300 of this chapter jointly govern the application procedures and the requirements for issuance of Federal credit instruments under section 101(a)(1) of the Act.

§ 1310.20 Amendments.

The procedures in this part may be adopted or amended, or new procedures may be adopted, only by majority vote of the Board. Authority to adopt or amend these procedures may not be delegated.

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