

(3) To the extent possible, the Board, in its instituting orders, will identify or designate the cases which involve the development of new policies or unusual evidentiary issues that will require the type of staff participation described in § 399.63(b)(1).

[PS-76, 43 FR 19354, May 5, 1978]

### Subpart F—Policies Relating to Rulemaking Proceedings

#### § 399.70 Cross-references to the Office of the Secretary's Rulemaking Procedures.

The rules and policies relating to the disposition of rulemaking petitions by the Department of Transportation Office of the Secretary are located in its rulemaking procedures contained in 49 CFR part 5. The criteria for identifying significant rules and determining whether a regulatory analysis will be performed are set forth in the Department's Regulatory Policies and Procedures, 44 FR 11034, February 26, 1979, and Executive Order 12866.

[Doc. No. OST-96-1429, 61 FR 29019, June 7, 1996]

#### § 399.73 Definition of small business for Regulatory Flexibility Act.

For the purposes of the Department's implementation of chapter 6 of title 5, United States Code (Regulatory Flexibility Act), a direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft as defined in § 298.3 of this chapter (up to 60 seats/18,000 pound payload capacity).

[Doc. No. OST-96-1429, 61 FR 29019, June 7, 1996]

### Subpart G—Policies Relating to Enforcement

#### § 399.80 Unfair and deceptive practices of ticket agents.

It is the policy of the Board to regard any of the following enumerated practices (among others) by a ticket agent as an unfair or deceptive practice or unfair method of competition:

(a) Misrepresentations<sup>1</sup> which may induce members of the public to believe that the ticket agent is an air carrier.

(b) Using or displaying or permitting or suffering to be used or displayed the name, trade name, slogan or any abbreviation thereof, of the ticket agent, in advertisements, on or in places of business, or on aircraft in connection with the name of an air carrier with whom it does business, in such manner that it may mislead or confuse the traveling public with respect to the agency status of the ticket agent.

(c) Misrepresentations as to the quality or kind of service, type or size of aircraft, time of departure or arrival, points served, route to be flown, stops to be made, or total trip-time from point of departure to destination.

(d) Misrepresentation as to qualifications of pilots or safety record or certification of pilots, aircraft or air carriers.

(e) Misrepresentations that passengers are directly insured when they are not so insured; for example, where the only insurance in force is that protecting the air carrier in event of liability.

(f) Misrepresentations as to fares and charges for air transportation or services in connection therewith.

(g) Misrepresentation that special discounts or reductions are available, when such discounts or reductions are not specific in the lawful tariffs of the air carrier which is to perform the transportation.

(h) Advertising or otherwise offering for sale or selling air transportation or services in connection therewith at less than the rates, fares and charges specified in the currently effective tariffs of the air carrier or air carriers who are engaged to perform such air transportation or services, or offering or giving rebates or other concessions thereon, or assisting, suffering or permitting

<sup>1</sup>The word "misrepresentation" used in this list includes any statement or representation made in advertising or made orally to members of the public which is false, fraudulent, deceptive or misleading, or which has the tendency or capacity to deceive or mislead.