filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On January 8, 2003, the Federal Aviation Administration (FAA) issued Notice No. 03–02, Transponder Continuous Operation (68 FR 1942, January 14, 2003). Comments to that document were to be received on or before March 17, 2003.

By letter dated March 11, 2003, the Air Transport Association requested that the FAA extend the comment period for Notice No. 03–02 for 30 days. ATA stated that after publication of the NPRM, the FAA issued a Notice of Proposed Policy regarding Proposed Policy Statement No. ANM–03–111–12 (the Policy). The Policy proposed technical guidance material for compliance with the technical requirements of the NPRM. In order to ensure ATA's comments to the NPRM take into consideration the complex technical and compliance issues raised in the Policy and the NPRM, ATA requested an extension of the NPRM comment period.

Extension of Comment Period

In accordance with § 11.47(c) of Title 14, Code of Federal Regulations, the FAA has reviewed the petitions made by ATA for extension of the comment period to Notice No. 03–02. ATA has shown a substantive interest in the proposed rule and good cause for the extension. The FAA also has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice No. 03–02 is extended until April 18, 2003.

Issued in Washington, DC on March 13, 2003.

Ronald T. Wojnar,

Acting Director, Aircraft Certification Service.

[FR Doc. 03–6511 Filed 3–14–03; 11:44 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255 and Part 399

[Dockets Nos. OST–97–2881, OST–97–3014, OST–98–4775, and OST–99–5888]

RIN 2105–AC65

Computer Reservations System (CRS) Regulations; Statements of General Policy

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Denial of petition for fact hearing.

SUMMARY: The Department has issued a notice of proposed rulemaking on whether it should readopt or amend its existing rules governing airline computer reservations systems (CRSs). The notice includes a detailed discussion of the tentative factual findings and analysis underlying the Department's proposals. The public will have an opportunity to submit comments and reply comments on those proposals. Sabre, a CRS, has filed a petition asking for a ''fact hearing'' where the commenters could cross-examine each other and members of the Department's staff. The Department is denying Sabre's petition.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St., SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: The Department is conducting a rulemaking reexamining whether its existing rules governing CRS operations are necessary and, if so, are effective. We issued a notice of proposed rulemaking that set forth our tentative proposals regarding the existing rules and our tentative belief that we should not extend the rules to cover the sale of airline tickets through the Internet. 67 FR 69366, November 15, 2002. Comments and reply comments on our notice of proposed rulemaking are now due March 16 and May 15, 2003, respectively, because we granted a request by Sabre and eighteen other persons to extend by three months the period for preparing comments and reply comments. 67 FR 72869, December 9, 2002.

On December 23, Sabre, a CRS, filed a petition asking us to hold a ''fact hearing.'' Sabre asserts that our notice did not provide an adequate factual basis for our tentative findings and proposals. Sabre seeks a hearing at which Sabre and other interested persons could cross-examine Department staff members on the notice's factual findings and could question persons designated by each commenter as knowledgeable about the facts in its comments. Sabre Petition at 5. We invited the public to file responses to Sabre's petition. 68 FR 1172, January 9, 2003.

Two of the other systems, Galileo and Amadeus, and the American Society of Travel Agents (''ASTA''), the largest travel agency trade association, support Sabre's petition insofar as it seeks oral testimony on the issues, although they do not urge us to give commenters the ability to cross-examine Department staff. Six airlines—American, Continental, Delta, Northwest, United, and America West—and Orbitz, an on-line travel agency owned by five of those airlines (all but America West), oppose Sabre's petition. They contend that we have no legal obligation to hold a hearing, that notice-and-comment procedures can create an adequate record, and that a hearing would only delay our final decision in the proceeding, which would be contrary to the need to update the rules as soon as possible.

In its reply Sabre alleges that it does not wish to delay the proceeding but does seek to test the data on which we relied in preparing our notice of proposed rulemaking. Sabre claims that the hearing would not require much time.

Summary of Decision

We are denying Sabre's petition for a ''fact hearing'' that would give each commenter the opportunity to interrogate Department staff members about the basis for the notice of proposed rulemaking's tentative findings and proposals and to cross-examine representatives from the other commenters. Such a hearing would be neither necessary nor useful. Our notice discussed in detail the basis for our proposals, and we have given the public the opportunity to file both comments and reply comments, which will enable them to present their evidence and arguments on the issues.

We agree with several of the commenters that a hearing where they can present their factual and legal arguments may be useful. We therefore plan to hold such a hearing between the end of the comment period, March 16, and the end of the reply comment period, May 15.

Discussion

The notice-and-comment procedures established by the Administrative Procedure Act, supplemented by our proposed hearing, should provide an

adequate record for our final decision. Interested persons will have an ample opportunity to present their views on the relevant factual, legal, and policy issues and to respond to the arguments made by other commenters, particularly since we have authorized the commenters to submit reply comments. Our notice of proposed rulemaking set forth a detailed analysis underlying our tentative findings and proposals, which we based on the most current data available to us. Interested persons can therefore see the rationale for our proposals.

We and the Civil Aeronautics Board (''the Board'') used the notice-and-comment procedures in all past CRS rulemakings. *See* 57 FR 43792; 62 FR 59799–59800. Those procedures allowed us and the Board to resolve material factual disputes without holding any kind of hearing. As discussed below, the Seventh Circuit held that the Board could adopt the initial CRS rules without holding a hearing. *United Air Lines* v. *CAB,* 766 F.2d 1107 (7th Cir. 1985). Furthermore, we rejected a claim by Sabre in our earlier rulemaking on CRS parity clauses that the notice-and-comment procedures authorized by the Administrative Procedure Act were inadequate and must be supplemented with a formal hearing. We determined that Sabre's argument had no merit. 62 FR 59784, 59800, November 5, 1997.

Furthermore, as noted, we have determined to hold a hearing where commenters can orally present their arguments. That hearing will give the commenters an additional opportunity to present their position and enable us to develop a better record.

Sabre, however, urges us to hold a ''fact hearing'' where the commenters can question each other's experts and can cross-examine Department staff members on the tentative analysis and findings presented in the notice of proposed rulemaking. We are denying Sabre's request, because the kind of hearing sought by Sabre is not necessary for the development of a complete record on the rulemaking issues.

The comment process will give interested persons an opportunity to address our tentative factual findings and analysis. They do not need a ''fact hearing'' to present updated information. We enhanced their opportunity to respond to our proposals by authorizing reply comments as well as comments and, at Sabre's request, by extending the entire comment period by three months.

Sabre asserted that such information as the percentage of airline bookings made through a travel agency using a CRS, the percentage of travel agency subscribers who own their own equipment, and the travel agents' ability to access other systems and databases from their CRS equipment may be critical to our decision-making. Sabre Petition at 3–5. We agree that such factual information may well be useful. Sabre can include recent data on these points in its written and oral comments, and we invite the other commenters to present their own data on these issues.

In addition, Sabre's ''fact hearing'' would not significantly improve the rulemaking record, because it would include an examination of our staff. Sabre Reply at 8. We do not plan to base our final decision solely on the information known to our staff when the notice of proposed rulemaking was issued. We will also fully consider all factual information and argument provided by the comments and reply comments. The commenters' familiarity with the current state of the airline distribution and CRS businesses will enable them to provide current and accurate information on industry conditions and developments.

Furthermore, holding a ''fact hearing'' could substantially delay our final decision in this proceeding despite Sabre's claims to the contrary, without necessarily improving the quality of the record for our decision. As noted, Sabre proposed that we allow staff members to be cross-examined by the commenters and allow each of them to question experts designated by the others. Sabre also proposed to present its own evidence at the hearing. Sabre Petition at 4–5. Sabre additionally listed 73 factual statements that it intends to challenge. Sabre Petition at 27–32. Other commenters presumably would use a hearing to challenge other factual findings that Sabre will not contest. Given these conditions and the number of commenters in this proceeding, a ''fact hearing'' would likely require a substantial amount of time.

Sabre noted that, in 1976, the Administrative Conference of the United States recommended that agencies consider, among other things, providing for cross-examination procedures in some rulemakings. Sabre Petition at 22–23, citing Recommendation 76–3, *Procedures in Addition to Notice and the Opportunity for Comment in Informal Rulemaking,* 41 FR 29654, July 19, 1976. That Conference recommendation suggested that agencies consider doing more than just issue a notice of proposed rulemaking and provide one round of comments in informal rulemakings. The Conference suggested that agencies in appropriate cases should consider using additional procedures such as, among other things, issuing an advance notice of proposed rulemaking with an opportunity to comment and allowing commenters to submit written responses to each other's comments on a notice of proposed rulemaking. 41 FR 29655. As noted, we have taken both of these steps. The Conference also suggested that agencies could consider providing an opportunity for cross-examination of the commenters and agency staff, but it did not recommend doing so in all complex rulemakings. The Conference instead stated, ''An agency should * * * permit cross-examination only to the extent that it believes that the anticipated costs (including those related to increasing the time involved and the deployment of additional agency resources) are offset by anticipated gains in the quality of the rule and the extent to which the rulemaking procedure will be perceived as having been fair.'' 41 FR 29655. The Conference recommendation grew out of a study of several court decisions that had required agencies to create an opportunity for cross-examination in specific rulemakings, Stephen F. Williams, '' 'Hybrid Rulemaking' under the Administrative Procedure Act: A Legal and Empirical Analysis,'' published at 42 U. Chicago L. Rev. 401 (Spring 1975). The study concluded that cross-examination in these rulemakings had been of ''questionable efficacy'' and that ''cross-examination may actually tend to frustrate its own supposed goal: elucidation of the issues.'' *Id.* at 445, 444. We believe that a ''fact hearing'' of the kind sought by Sabre would not significantly improve the quality of our final decision but probably would substantially delay the completion of this rulemaking. Our experience with past CRS rulemakings shows that we may fairly and accurately resolve disputed factual issues in the context of a rulemaking proceeding without an opportunity for cross-examination.

In addition, we have no legal obligation to hold a ''fact hearing.'' Sabre initially argued that we were required by law to grant its petition for a ''fact hearing.'' Sabre Petition at 11–19. Sabre has apparently abandoned that claim, for Sabre's reply contended only that the ''fact hearing'' would be the best way to obtain current and correct information necessary for our final decision in the rulemaking. Sabre Reply at 6. Our issuance of a notice of proposed rulemaking that set forth in detail the basis for our tentative findings and proposals clearly satisfies all legal requirements. The Administrative Procedure Act ''makes clear that notice

of the scope and general thrust of the proposed rule, and an opportunity to submit written comments, are all the procedure that an agency engaged in 'informal rulemaking' is required to provide.'' *United Air Lines* v. *CAB,* 766 F.2d at 1116.

When United challenged the Civil Aeronautics Board's use of informal rulemaking procedures in the first CRS rulemaking, the Seventh Circuit expressly held that the Board was not required to hold a formal hearing before adopting the original CRS rules, notwithstanding the nature of the issues in that rulemaking and the existence of factual disputes. *United Air Lines* v. *CAB,* 766 F.2d 1107 (7th Cir. 1985). As the court stated, ''the weight of authority * * * is overwhelming against forcing an administrative agency to hold an evidentiary hearing to resolve disputed issues of antitrust fact.'' 766 F.2d at 1119. ''Agencies, without having to conduct an evidentiary hearing, have been allowed to decide such antitrust questions as whether a particular firm or group of firms has or is abusing or is likely to abuse market power * * *.'' 766 F.2d at 1120. Furthermore, requiring evidentiary hearings would probably not improve the quality of rulemaking decisions by much, for ''cross-examination is perhaps not a terribly useful tool for extracting the truth about what are at bottom complex economic phenomena.'' 766 F.2d at 1121.

Sabre nonetheless asserted that this proceeding involves disputed issues of material adjudicative fact that cannot fairly be resolved through notice-and-comment rulemaking procedures. Sabre Petition at 18–19. Since this is a rulemaking, our decision will not involve adjudicative fact-finding. Moreover, even if the proceeding did involve disputes over adjudicative facts, Sabre's position would be erroneous. As we pointed out in the parity clause rulemaking, we have decided adjudicatory cases without holding a formal hearing, and the courts have upheld such procedural choices. 62 FR at 59800, citing *City of St. Louis* v. *DOT,* 936 F.2d 1528, 1534, n.1 (8th Cir. 1991). In adjudicatory proceedings, we have resolved factual disputes over antitrust issues, even in controversial cases, through show-cause procedures that provided no opportunity for cross-examination. *See, e.g., U.S.–U.K. Alliance Case,* Orders 2001–12–5 (December 4, 2001) and 2002–1–12 (January 25, 2002); *American Airlines* v. *Iberia, Lineas Aereas de Espana,* Order 90–6–21 (June 8, 1990) at 13–14. Because the presence of material antitrust issues in an adjudication does not mandate an evidentiary hearing, the presence of such issues in this rulemaking similarly cannot mandate such a hearing.

Sabre primarily grounded its petition for a ''fact hearing'' on a charge that our notice of proposed rulemaking set forth no factual support, based on recent data, for our tentative findings and proposals. Sabre thus complained that the notice of proposed rulemaking ''is virtually devoid of information reflecting developments since the 1992 modifications of the rule,'' such as ''new Internet technology, increasingly 'Web-savvy' air travelers (and travel agents); airlines' divestiture of their CRS ownership; and airlines' attempts to reach consumers via direct marketing promotions.'' Sabre Petition at 15. These allegations ignore the lengthy discussions of these matters in the notice of proposed rulemaking. *See* 67 FR 69373–69375, 69376–69378, 69379–69380, 69411–69415 (airline, travel agent, and consumer use of the Internet); 67 FR 69373, 69382–69383, 69384–69385 (system ownership changes). For example, we considered whether the Internet and other changes in airline distribution would give airlines some bargaining leverage against the systems. We tentatively found that the travel agencies' ability to access Web sites for airline information and bookings should give airlines some ability to bypass the systems, although the possible inefficiency of using multiple sources of information might deter travel agents from routinely booking airline tickets outside of a system. We based this factual analysis on, among other things, comments submitted last year by travel agency parties in a related rulemaking and recent press articles. 67 FR 69373, 69379, 69391. We also suggested that the Internet in some respects may not have weakened the systems' market power. 67 FR 69376–69377. We further noted, however, that the airlines' ability to deny the systems access to their E-fares (or webfares) could give airlines some bargaining leverage against the systems, due to the systems' economic interest in obtaining those fares so that travel agents could book them through a system. 67 FR 69381. Some systems have since offered airline participants lower fees in exchange for access to the airlines' E-fares. *See, e.g.*, October 25, 2002, U.S. Airways Press Release; January 21, 2003, Galileo Press Release; and September 25, 2002, American Press Release.

Furthermore, we gave the public notice of our intent to consider these issues by issuing a supplemental advance notice of proposed rulemaking that specifically asked interested persons to file comments addressing the impact of the systems' ownership changes and the growing use of the Internet in airline distribution. 65 FR 45551, July 24, 2000. Sabre, like all other interested persons, had the opportunity to submit comments on these issues with recent factual information.

Sabre additionally argued that the courts in reviewing the validity of our final decision in this proceeding would consider whether the notice of proposed rulemaking satisfied the substantial evidence standard. Sabre Petition at 11–12. This argument has no merit even if the substantial evidence standard would be the applicable standard for judicial review. The substantial evidence standard does not require agencies to adopt rulemaking procedures in addition to those required by the Administrative Procedure Act. Moreover, on review the courts would consider whether our final decision, not the notice of proposed rulemaking, has the necessary support in the record. Sabre's argument also assumes that our notice of proposed rulemaking did not provide a factual basis for our proposals. As shown, that assumption is false.

Sabre wrongly contended that a ''fact hearing'' is necessary to satisfy our obligations under section 515 of the Treasury and General Government Appropriations Act, 2001, Pub. L. 106–554. Sabre Petition at 23. Pursuant to that statute on data quality, agencies provide a process allowing affected persons to seek and obtain corrections of information disseminated by an agency that does not meet applicable guidelines for quality, objectivity, utility, and integrity.

Sabre's suggestion that a fact hearing should be held to ensure compliance with the data quality statute is contrary to our guidelines. There is nothing in the statute or our guidelines or those of the Office of Management and Budget on the subject that require a ''fact hearing.'' Moreover, our guidelines specifically state that we comply with the statute in informal rulemaking proceedings when interested persons have the opportunity to file comments in response to a notice of proposed rulemaking containing alleged factual misstatements, Department Guidelines at 24–25:

> When the Department seeks public comment on a document and the information in it (*e.g.*, a notice of proposed rulemaking * * *.), there is an existing mechanism for responding to a request for correction. This mechanism is a final document that responds to public comments (*e.g.*, the preamble to a final rule).

Sabre's comments on our notice of proposed rulemaking may ask us to correct factual statements in the notice, and we will do so in our final rule if warranted. Sabre has conceded that that is all that our guidelines require in rulemakings. Sabre Petition at 23, n.10.

Finally, Sabre demanded that we supplement the public record with studies considered or available to us during our preparation of the notice of proposed rulemaking, including the report that was to be prepared as a result of the CRS study begun in 1994. Sabre Reply at 4–5. We have already identified the reports that we relied on in preparing the notice of proposed rulemaking, since we cited the sources for each factual statement made in the notice. Since the staff did not prepare a final or draft report on the study begun in 1994, the document sought by Sabre does not exist, except insofar as the notice of proposed rulemaking itself reflects the staff's study and analysis. 67 FR 69369; 65 FR 45551, 45555, July 24, 2000. We will base our final decision in this proceeding on the public record and the material cited in the notice of proposed rulemaking.

Amadeus has asked us to place in the docket the source materials cited by the notice of proposed rulemaking so that the public can more easily prepare comments. Amadeus Reply at 7–8. We have already placed in the docket some of that material, and we are placing additional cited sources in the docket.

Issued in Washington, DC on March 12, 2003.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–6448 Filed 3–17–03; 8:45 am]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 174–1174; FRL–7467–5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an amendment to the Missouri State Implementation Plan (SIP). This amendment pertains to the revision of two Missouri air program rules which control particulate matter emissions from indirect heating sources located in the Springfield-Greene County area and the out-state area.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by April 17, 2003.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 3, 2003.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 03–6306 Filed 3–17–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 175–1175; FRL–7467–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an amendment to the Missouri State Implementation Plan (SIP). This amendment pertains to the revision of a Missouri air program rule which controls volatile organic compound emissions in the Kansas City area.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by April 17, 2003.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 3, 2003.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 03–6308 Filed 3–17–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 171–1171; FRL–7467–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.