

## § 91.11

## Title 49—Transportation

made and the specific items of proof, if any, to be submitted.

(c) On or after January 1 and July 1 of each year, each United States flag carrier claiming a right to reimbursement shall apply for such reimbursement in accordance with the FEDERAL REGISTER notice referred to in paragraph (b) of this section.

(d) The Assistant Secretary shall, on the basis of the application and such other data as may be available, compute the amount to which such carrier is entitled.

(e) Subject to the provisions of § 91.13(b), upon approving the computation made by the Assistant Secretary, the Secretary shall issue such certificate as will entitle each such carrier to payment from the account maintained by the Secretary of the Treasury for this purpose.

### § 91.11 Standards.

(a) To minimize the burden of implementing this part on the United States, on United States flag air carriers and on foreign air carriers, estimates and periodic adjustments will be used to determine the amount of discrimination and compensatory charges therefor.

(b) For the purpose of determining the amount of excessive or otherwise discriminatory charges imposed upon United States flag air carriers by an entity:

(1) A service or use of airport or airway property includes, but is not limited to, fueling, food service, ticketing, baggage handling, runways, ramps, parking areas, navigational aids, communications facilities or any other service necessary and incidental to the conduct of a flight.

(2) An excessive or otherwise discriminatory charge includes, but is not limited to, a charge substantially above the cost of providing a service or any charge for a service that is substantially inferior to that which the United States flag air carrier could have provided for itself, at the same cost, by contract or otherwise (*see also* § 91.3).

(c) In determining the amount of compensatory charge:

(1) The total amount of excessive or otherwise discriminatory charges levied against United States flag air carriers will be estimated in dollars.

(2) The total volume of operations to the United States by air carriers of the nation concerned will be estimated for the succeeding six-month period.

(3) The total amount of excessive or otherwise discriminatory charges in paragraph (c)(1) of this section will be divided by the total volume of operations in paragraph (c)(2) of this section, and

(4) The quotient thus computed (which may be adjusted to reflect the type of aircraft) will constitute the compensatory charge to be collected as a condition to acceptance of the general declaration at the time of landing or takeoff of such air carriers of the nation concerned.

### § 91.13 Refunds.

(a) Where, in his discretion, the Secretary finds that good cause has been shown, the Secretary may authorize a refund of collected compensatory charges. For purposes of this section, good cause includes, but is not limited to, an error of fact, a miscalculation, or a determination that an original conclusion of entitlement was insufficient, invalid, erroneous or invalidated by subsequent events.

(b) Notwithstanding the provisions of § 91.9(e) the Secretary may suspend for a reasonable time the issuance of a certificate of entitlement upon a showing by a payor of compensatory charges that there is a substantial likelihood that the payor will make a showing of good cause under § 91.13(a).

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the issuance of a certificate of entitlement under § 91.9(e) or the distribution to United States flag air carriers of funds collected under this part shall be with prejudice to any claim for refund under this section.

## PART 93—AIRCRAFT ALLOCATION

Sec.

93.1 Issuance of aircraft allocations.

93.3 Reporting requirements.

**§ 93.1 Issuance of aircraft allocations.**

From time to time, the Director, Office of Emergency Transportation, issues planning orders allocating aircraft to the Department of Defense, identified by FAA registration number, for the Civil Reserve Air Fleet Program, or as a reserve fleet for use in certain contingencies in the Civil Reserve Air Fleet Program of the Department of Defense. The current listing of aircraft allocations may be obtained upon request from the Director, Office of Emergency Transportation, Department of Transportation, Washington, D.C. 20590.

(Sec. 9, 80 Stat. 944; 49 U.S.C. 1657)

[32 FR 20778, Dec. 23, 1967, as amended by Amdt. 93-1, 33 FR 7821, May 29, 1968]

**§ 93.3 Reporting requirements.**

In the event any aircraft identified in the allocations in effect—

(a) Is destroyed or suffers major damage the owner or operator, or both, shall give immediate notice thereof to the Director, Office of Emergency Transportation; or

(b) Is sold, leased, or otherwise transferred, the transferor or owner, or both, shall give immediate notice thereof to the Director, Office of Emergency Transportation, together with full information concerning the identity of the transferee, the date and place of transfer, and the terms and conditions of the transfer.

(Sec. 9, 80 Stat. 944, 49 U.S.C. 1657)

[32 FR 20778, Dec. 23, 1967]

**PART 95—ADVISORY COMMITTEES**

Sec.

95.1 Applicability.

95.3 Definitions.

95.5 Use of advisory committees generally.

95.7 Industry advisory committees: Membership.

95.9 Meetings; other than industry advisory committees.

95.11 Meetings; industry advisory committees.

95.13 Antitrust laws.

95.15 Conflicts of interest statutes, orders, and regulations.

**AUTHORITY:** Sec. 9, 80 Stat. 944; 49 U.S.C. 1657. E.O. 11007, 3 CFR (1959-1963 Comp.), unless otherwise noted.

**SOURCE:** 33 FR 467, Jan. 12, 1968, unless otherwise noted.

**§ 95.1 Applicability.**

(a) This part prescribes uniform regulations governing the formation and use of advisory committees by the Office of the Secretary of Transportation, the U.S. Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the National Highway Traffic Safety Administration, and the St. Lawrence Seaway Development Corporation. It does not apply to the National Transportation Safety Board.

(b) This part applies to advisory committees formed or used by the organizations named in paragraph (a) of this section. It also applies to those organizations whenever they affiliate with, participate in, or use similar advisory committees formed or used by other departments or agencies of the Executive Branch of the Government, unless specifically exempted under paragraph (c) of this section. Advisory committees whose membership includes "consultants and advisers" are subject to this part regardless of whether those members are considered to be Government employees on the days they attend committee meetings.

(c) This part does not apply to—

(1) Any advisory committee the purpose, composition, and operation of which is specified by statute, unless and to the extent that statute authorizes the President to prescribe regulations for the committee's formation and use.

(2) Any advisory committee composed wholly of representatives of State or local agencies or of charitable, religious, educational, civic, social welfare, or similar nonprofit organizations.

(3) Any local, regional, or national committee whose only function is to disseminate information for public agencies, or any local civil committee whose primary function is to perform a public service, other than giving advice or making recommendations to the Government.