

PART 93—AIRCRAFT ALLOCATION

Sec.

93.1 Issuance of aircraft allocations.

93.3 Reporting requirements.

AUTHORITY: Sec. 9, 80 Stat. 944; 49 U.S.C. 1657.

§ 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, DC 20590.

[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.

[32 FR 20778, Dec. 23, 1967]

PART 95—ADVISORY COMMITTEES

Sec.

95.1 Applicability.

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AUTHORITY: Sec. 9, 80 Stat. 944 (49 U.S.C. 1657); E.O. 11007, 3 CFR, 1959-1963 Comp., p. 573.

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.

[33 FR 467, Jan. 12, 1968, as amended by Amdt. 95-2, 35 FR 5331, Mar. 31, 1970; Amdt. 95-3, 36 FR 431, Jan. 13, 1971]

§95.3 Definitions.

For the purposes of this part:

(a) *Advisory committee* includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee, or other subgroup thereof, which is formed within the Department in the interest of obtaining advice or recommendations, or for any other purpose, and which is not composed wholly of officers or employees of the Government. It also includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or subgroup thereof, which is not formed within the Department, but only during the period it is being used by the Department in the same manner as a Government-formed advisory committee.

(b) *Industry advisory committee* includes any advisory committee composed predominately of members or representatives of a single industry or group of related industries, or any subdivision of a single industry, made on a geographic, service, or product basis.

(c) *Department* means Department of Transportation.

(d) *Secretary* means the Secretary of Transportation.

§95.5 Use of advisory committees generally.

(a) Advisory committees are formed to provide a means of obtaining advice, views, and recommendations of benefit to the operations of the Government from industrialists, businessmen, scientists, engineers, educators, and other public and private citizens whose experience and talents would not otherwise be available to the Department. An advisory committee may be used when its counsel is desired on matters under consideration by any part of the Department. Unless specifically authorized by law to the contrary, no advisory committee may be used for func-

tions which are not solely advisory. Determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends may be made only by a full-time, salaried officer or employee of the Government.

(b) An advisory committee may be established to serve the Department as a whole, the Office of the Secretary, any operating administration, any combination of the Office of the Secretary and the operating administrations, or the operating administrations collectively. However, no advisory committee may be formed or used unless (1) the committee is specifically authorized by law, or (2) the committee is specifically approved, in writing, by the Secretary or his designee, to be in the public interest in connection with the performance of duties imposed on the Department or any part of it.

§95.7 Industry advisory committees: Membership.

Each industry advisory committee must be reasonably representative of the group of industries, the single industry, or the product segment thereof to which it relates, taking into account the size and function of business enterprises in the industry or industries and their location, affiliation, and competitive status among other factors. Selection of industry members shall, unless otherwise provided by statute, be limited to persons actively engaged in operations in the particular industry, industries, or segments concerned, except in cases in which the Secretary or his designee considers that such a limitation would interfere with effective committee operations.

§95.9 Meetings; other than industry advisory committees.

(a) Meetings of an advisory committee, other than an industry advisory committee, may be held only at the call, or with the advance approval, of a full-time, salaried officer or employee of the Department, with an agenda formulated or approved by that officer or employee.

(b) Each meeting shall be chaired by, or be conducted in the presence of, a full-time, salaried officer or employee of the Government who is required to

adjourn the meeting whenever he considers it to be in the public interest.

(c) Minutes shall be kept of each meeting. As a minimum, the minutes must contain a record of the persons present, a description of the matter discussed and conclusions reached, and a copy of any report received, issued, or approved by the committee. The accuracy of all minutes must be certified by a full-time, salaried officer or employee of the Government who was present during the meeting to which the minutes pertain.

(d) The Secretary or his designee may waive any requirement of this section in any case in which he determines that:

(1) Compliance with that requirement would interfere with the proper functioning of the committee or would be impracticable;

(2) Adequate provisions are made to assure otherwise that the operation of the committee is subject to Government control and purpose; and

(3) The waiver is in the public interest.

§ 95.11 Meetings; industry advisory committees.

(a) Meetings of an industry advisory committee may be held only at the call of a full-time, salaried officer or employee of the Department, with an agenda formulated by that officer or employee.

(b) Each meeting shall be chaired by a full-time, salaried officer or employee of the Government who is required to adjourn the meeting whenever he considers it to be in the public interest. The Secretary or his designee may waive the requirements of this paragraph in any case in which he determines that:

(1) Compliance with that requirement would interfere with the proper functioning of the committee or would be impracticable;

(2) Adequate provisions are made to assure otherwise that the operation of the committee is subject to Government control and purpose;

(3) The waiver is in the public interest; and

(4) The meeting will be conducted in the presence of a full-time, salaried officer or employee of the Government

who is required to adjourn the meeting whenever he considers it to be in the public interest.

(c) A verbatim transcript shall be kept of the proceedings at each meeting, including the name of each person present, his affiliation, and the capacity in which he attended, except in any case in which the Secretary or his designee determines that a verbatim transcript would interfere with the proper functioning of the committee or would be impracticable and therefore waives the requirement as being in the public interest. In such a case the procedure prescribed in § 95.9(c) applies.

(d) No industry advisory committee may receive, compile, or discuss data or reports showing the current or projected commercial operations of any identified business enterprise.

[33 FR 467, Jan. 12, 1968, as amended by Amdt. 95-1, 33 FR 6913, May 3, 1968]

§ 95.13 Antitrust laws.

The activities of advisory committees are subject to the antitrust laws and committee members are not immune from prosecution under those laws. The Department of Justice takes the position that it retains complete freedom to institute proceedings, either civil or criminal, or both, in the event that any particular plan or course of action is used to accomplish unlawful private ends, and to institute civil actions to enjoin continuance of any act or practices found not to be in the public interest and persisted in after notice to desist. This part is intended to minimize the possibility of violating the antitrust laws. Industry representatives and Government personnel officially connected with advisory committees should be advised of the antitrust aspects of the committee activity.

§ 95.15 Conflicts of interest statutes, orders, and regulations.

There is a body of statutes, orders, and regulations prescribed by the President, the Secretary, and other authorities, dealing with conflicts of interest and designed to prevent any conflict between the official duties and status of Government officers and employees and their private interest. Government officers and employees are re-

quired to comply with all applicable laws, orders, and regulations. Part 99 of this chapter sets forth a comprehensive list of the conflicts of interest statutes and guidelines for the employees of the Department to follow in the application of these statutes to part-time advisers and consultants to the Government. Any officer or employee appointed to serve on an advisory committee who has any doubt or question respecting a possible conflict of interest shall seek specific legal advice on his individual situation.

PART 98—ENFORCEMENT OF RESTRICTIONS ON POST-EMPLOYMENT ACTIVITIES

Subpart A—Administration of Enforcement Proceedings

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Subpart B—Administrative Sanctions

- 98.12 Administrative sanctions.

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- 98.13 Judicial review.

AUTHORITY: 18 U.S.C. 207; Pub. L. 96-28.

SOURCE: 48 FR 12383, Mar. 24, 1983, unless otherwise noted.

Subpart A—Administration of Enforcement Proceedings

§ 98.1 Purpose.

The purpose of this part is to set forth the administrative enforcement procedures that the Department of Transportation will follow when there is an allegation that a former employee of the Department has violated 18 U.S.C. 207.

§ 98.2 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Administration* means each of the following:

- (1) The United States Coast Guard.
- (2) The Federal Aviation Administration.
- (3) The Federal Highway Administration.
- (4) The Federal Railroad Administration.
- (5) The National Highway Traffic Safety Administration.
- (6) The Urban Mass Transportation Administration.
- (7) The Saint Lawrence Seaway Development Corporation.
- (8) The Research and Special Programs Administration.
- (9) The Maritime Administration.

(b) *Department* means the Department of Transportation.

(c) *18 U.S.C. 207* means 18 U.S.C. 207 (a), (b), or (c) or any regulations issued under 18 U.S.C. 207.

(d) *Secretary* means the Secretary of Transportation.

§ 98.3 Reports of apparent violations.

Any person may report, to the Assistant General Counsel for Environmental, Civil Rights and General Law, an apparent violation by a former employee of the Department of 18 U.S.C. 207.

§ 98.4 Initiation of administrative disciplinary proceeding.

(a) Whenever the Assistant General Counsel for Environmental, Civil Rights and General Law has determined that there is reasonable cause to believe that a former Departmental employee has violated 18 U.S.C. 207, the Assistant General Counsel for Environmental, Civil Rights, and General Law:

(1) Shall expeditiously provide that information to the Director, Office of Government Ethics, and to the Criminal Division, Department of Justice; and

(2) After coordinating any proceeding with the Criminal Division, Department of Justice, to avoid prejudicing criminal proceedings, may institute an administrative disciplinary proceeding in accordance with this part.