

69119

dms.dot.gov

December 17, 1999

Docket Management System
U.S. Department of Transportation
Room PL 401
400 Seventh Street, SW
Washington, DC 20590-0001

DEPT. OF TRANSPORTATION
WASHINGTON, DC 20590

99 DEC 17 PM 10: 21

13
**Comments regarding Docket No. FAA-1999-6622; Notice No. 99-20,
14 CFR Part 11, General Rulemaking Procedures**

I commend any effort to make regulations easier to understand and research. With some exceptions the simplified language and structure contained in the proposal are quite good and should be implemented rapidly.

General

Plain language conversion lends itself to a simple administrative regulation such as FAR Part 11. However, providing similar treatment to more complex parts such as 23 or 121 may prove quite challenging. Yet, this is an effort that must be undertaken for the sake of clarity and understanding for both regulator and regulated.

The spare, simple construction used in the proposal creates something of a childlike "see Spot run" syntax with abrupt, choppy sentences. But, this style is certainly preferable to the twisted bureaucratic circumlocutions found in many current regulations. Simple sentences are preferable; an occasional compound or complex sentence may improve readability.

The question-and-answer format used for section headings in the proposal is an atrocious construction and an offence to the reader. Using this technique presumes that the reader cannot fathom simple declarative section headings. Further, it complicates the structure of the heading, impairs understanding and reduces the ability of the reader to find subject headings.

For instance, I find it difficult to believe that the proposed heading, "May FAA change its regulations without first issuing an ANPRM or NPRM?" is easier to understand than a simple declaration like, "Changing a regulation without notice." And, can, " May I ask FAA to add, amend, or repeal a regulation, or grant relief from the requirements of a current regulation?" be easier to understand than, "Adding, amending, repealing or seeking relief from regulations"?

Timely Action

From the proposal: "New part 11 would not specify time periods for agency action. The FAA will respond to petitions for airspace designations in a timely manner, and will provide a reasonable time for you to submit comments and to participate in any public meetings." And: " If your petition meets these criteria for action, and we are not otherwise addressing the issues you raise, we will respond by issuing a Notice of Proposed Rulemaking (NPRM) no later than 6 months after we receive your petition." Both of these statements provide the FAA a license to provide poor service to the public.

If a business used these time intervals when dealing with their customers it would not survive.

Institute methods to improve response times, create customer service standards and devise feedback methods to ensure customer needs are being met.

Ex Parte Communications

From the proposal: "We have removed the reference now in § 11.65 that says an interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. This provision is contrary to DOT **ex-parte** policy, which prohibits non-public contacts with DOT officials once an NPRM has been issued. Where discussion of a proposal is appropriate, the FAA will hold an open public meeting."

I am not a regulatory attorney and therefore do not understand all implications of **ex parte** communications. However, I am well aware that such communications do occur on a regular basis between regulator and regulated, especially between agency personnel and industry confidants.

Hiding behind legal **ex parte** provisions denies the public informal access to information and an understanding of proposed regulatory intent. The only alternative for the public to be informed is a public hearing, not possible in all cases due to resource constraints. Besides, public hearings often devolve into a pulpit for narrow special interests, partisan bickering and an arena for disinterested bureaucrats.

It may not be necessary to change the **ex parte** rule; it may be possible to provide guidance to government personnel involved in rulemaking or to make the rule apply only to certain designated personnel within a regulatory agency.

Summaries of Petition Actions

From the proposal: "We have removed any reference to the publication of summaries of petitions for rulemaking for public comment. The FAA no longer publishes these summaries because we do an initial screening when we receive your petition." And: "The FAA no longer publishes summaries of denials of petitions for rulemaking, in order to preserve resources for processing priority rulemaking actions."

In the first case it seems that petitioners receive rapid service only if their petition is summarily denied. In both cases, eliminating summaries of petition and action on petitions denies the public an important view of system user needs so that others may respond. Similarly, not telling the public what action has been taken regarding a petition denies the public valuable information regarding FAA regulatory processes and possibilities.

Keep the summaries.

Superfluous Statements

From the proposal: "§ 11.75 Does FAA invite public comment on petitions for rulemaking? Generally, FAA **does** not invite public comment on petitions for rulemaking."

I fail to see the relevance of this section.

Conclusion

The concept of eschewing regulatory obfuscation is commendable; go for it. But, bear in mind that the goal is to serve the needs of the traveling public; the ultimate goal is to provide good customer service

Thank you for the opportunity to comment on this important issue.

John J. Sheehan
172 1 Signature Pl
Wilmington, NC 28405
910-509-1839
jshee11@aol.com