Rules and Regulations

Federal Register
Vol. 45, No. 208
Friday, October 24, 1980

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 276; Lemon Reg. 275, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 26–November 1, 1980, and increases the quantity of such lemons that may be so shipped during the period October 19–25. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective October 26, 1980, and the amendment is effective for the period October 19–25, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on October 21, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.576 is added as follows:

§ 910.576 Lemon Regulation 276.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 26, 1980, through November 1, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defiend in the marketing order.

2. Paragraph (a) of § 910.575 Lemon Regulation 275 (45 FR 68912) is amended to read as follows:

§ 910.575 Lemon Regulation 275.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 19, 1980, through October 25, 1980, is established at 210,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 22, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service

[FR Doc. 80-33466 Filed 10-23-80; 11:55 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization-Field Service: Redesignation of Ajo, Ariz., and Naco, Ariz. Sub-Stations as Border Patrol Stations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This rule redesignates the Ajo, and Naco, Ariz. border patrol substations as border patrol stations.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: 8 CFR 100.2 sets forth the delegation of authority from the Attorney General to the Commissioner of the Immigration and Naturalization Service relating to the administration of the Service, including the designation of Border Patrol sector headquarters, stations, and sub-stations necessary to enforce the Immigration and Nationality Act and all other laws relating to immigration and naturalization. Consistent with such authority, the former Border Patrol substations at Ajo and Naco, Arizona are re-designated as Border Patrol stations within the Tucson, Arizona Border Patrol Sector Number 14. This rule is published to notify the public of this change in the Service's organizational structure. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking is not required because the amendment merely up-dates the Service's organization table.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

§ 100.4 [Amended]

In 100.4 (d), "Sector No. 14—Tucson, Arizona" is reviewed to read as follows:

Sector No. 14—Tucson, Ariz.

Ajo, Ariz.
Casa Grande, Ariz.
Douglas, Ariz.
Gila Bend, Ariz.
Naco, Ariz.
Nogales, Ariz.
Phoenix, Ariz.
Tucson, Ariz.
Willcox, Ariz.

* * * * *

(Sec. 103, 8 U.S.C. 1103)

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-33274 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 235

Inspection of Persons Applying for Admission; Canadian Residents Entering the United States by Small Craft

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule liberalizes the inspection procedure for Canadian residents who enter the United States by small craft at Puget Sound during the navigation season. It also extends visit privileges in the United States from 24 hours to 72 hours and enlarges the areas for such visits.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT:
For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street N.W., Washington, D.C. 20536, Telephone: (202) 633-3048.

For specific information: Alvin Braunstein, Immigration Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-2725.

SUPPLEMENTARY INFORMATION: 8 CFR 235.1(e) is revised to include Puget Sound, an inlet of the Pacific Ocean in northwestern Washington, under the Form I-68, Canadian border boat landing procedure. Under this procedure, U.S. citizens, lawful permanent residents of the United States, Canadian nationals and other residents of Canada who enter the United States by small craft may be issued a Form I-68, Canadian Border Boat Landing Card, without application or fee after an initial inspection, and may thereafter enter the United States along the immediate shore area from time to time for the duration of the navigation season without additional inspections. The revision also extends a nonresident alien's authorized visit in the United States from the former 24 hours to 72 hours and also extends the area of such visit from the immediate shore area to nearby shopping areas, nearby residential neighborhoods, and other contiguous areas.

The provision of the Administrative Procedure Act (5 U.S.C. 553) relative to notice of proposed rulemaking is unnecessary because the liberalized rule relieves the former restrictive practices and geographic limitations.

Accordingly, Part 235 of Chapter 1 of Title 8 is amended by revising § 235.1(e) as follows:

PART 235—INSPECTIONS OF PERSONS APPLYING FOR ADMISSION

§ 235.1 [Amended]

* * * * *

(e) *U.S. Citizens, lawful permanent residents of the United States, Canadian nationals, and other residents of Canada having a common nationality with Canadians, entering the United States by Small craft.* Upon being inspected by an immigration officer and found eligible for admission as a citizen of the United States, or found eligible for admission as a lawful permanent resident of the United States, or in the case of a Canadian national or other resident of Canada having a common nationality with Canadians being found eligible for admission as a temporary visitor for pleasure, a person who desires to enter the United States from Canada in a small pleasure craft of less than 5 net tons without merchandise may be issued, without application or fee, Form I-68, Canadian Border Boat Landing Card, and may thereafter enter the United States along with the immediate shore area of the United States on the body of water designated on the Form I-68 from time to time for the duration of that navigation season without further inspection. In the case of a Canadian national or other resident of Canada having a common nationality with Canadians, the Form I-68 shall be valid only for the purpose of visits not to exceed 72 hours and only if the alien will remain in nearby shopping areas, nearby residential neighborhoods, or other similar areas adjacent to the immediate shore area of the United States. If the bearer of Form I-68 seeks to enter the United States by means other than small craft of less than 5 net tons without merchandise, or if he or she seeks to enter the United States for other purposes, or if he or she is an alien, other than a lawful permanent resident alien of the United States, and intends to proceed beyond an area adjacent to the immediate shore area of the United States, or remains in the United States longer than 72 hours, he or she must apply for admission at a United States port of entry.

* * * * *

(Sec. 103 and 235, 8 U.S.C. 1103 and 1225)

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization Service.

[FR Doc. 80-33275 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 238

Contracts With Transportation Lines; Air Florida

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulation of the Immigration and Naturalization Service adds a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: October 8, 1980.

FOR FURTHER INFORMATION CONTACT:
Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536—Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code [80 Stat. 383], as amended by Pub. L. 93-502 [88 Stat. 1561], and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of Immigration and Naturalization Service entered into agreement with the following named carrier on the date indicated to guarantee the passage through the United States of aliens in immediate and continuous transit destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR: Air Florida.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Air Florida"

* * * * *

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d))

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-33276 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Marion County and a portion of Volusia County in Florida, and a portion of Harris County in Texas, because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Marion County, Florida, on October 13, 1980, in Volusia County, Florida, on October 7, 1980, and in Harris County, Texas, on October 3, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected areas.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT:
C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Marion County and a portion of Volusia County in Florida, and a portion of Harris County in Texas, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3 (a)(1)(i), (a)(1)(iii), and (a)(3)(i) are added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *Florida.* (i) The premises of Ocala Pet Center (Gary Fielder), 161 Northwest 59th Court, Ocala, Marion County.

* * * * *

(iii) The premises of Reef Imports (Garald Smith), Tomoka Farms, Halifax Drive, Volusia County.

* * * * *

(3) *Texas.* (i) The premises of Sam T. Wisialowski, 10206 Golden Sunshine Street, Houston, Harris County.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 20th day of October, 1980.

Pierre A. Chaloux,

Deputy Administrator Veterinary Service.

[FR Doc. 80-33170 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Office of the Controller

10 CFR Part 1009

Pricing Policy: General Policy for Pricing and Charging for Materials and Services Sold by the Department of Energy

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This regulation formulated a general policy for establishing prices or charges for materials and services sold by the Department of Energy (DOE). This regulation is intended to apply to materials and services for which prices and charges are not otherwise provided for by statute, Executive order, or regulation. This regulation is published under the authority of Section 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. (42 U.S.C. 7254 et seq.))

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Kenneth E. Cohen, Office of General Counsel, Room 6A-171, Mail Station 6A-152, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-8618.
Mr. Lawrence M. Pope, Chief, Product Accounting and Pricing Branch, Office of Finance and Accounting, Room GB-215, Mail Station 4A-139, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-4862.
Mr. Joseph P. Muskey, Product Accounting and Pricing Branch, Office

of Finance and Accounting, Room GB-215, Mail Station, 4A-139, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-4862).

SUPPLEMENTARY INFORMATION: On July 29, 1980 DOE issued a proposed rule, 45 FR 50355, formulating a general policy for establishing prices or charges for materials and services sold by DOE. Having received no comments, DOE has determined to adopt the rule as proposed.

The general pricing policy of the Department is to establish prices or charges which recover the full cost to the Federal Government for materials and services sold.

The intent of this regulation is to provide uniform criteria for pricing materials and services covered by this regulation. The implementation of the criteria will be reflected in price and charge lists that can be obtained from the DOE office providing the material or service, or from the responsible program office.

This regulation applies to materials and services for which prices and charges are not otherwise provided for by statute, Executive Order, or regulation. The regulation does not apply to DOE's prices and charges for materials and services related to DOE's principal sources of revenue, such as from sales of uranium enrichment services, sales by power marketing activities, or sales from the Naval Petroleum and Oil Shale Reserves. Instead, this regulation pertains to the sale of materials and services generating a lesser volume of revenue, such as sales of reactor materials, and sales of stable isotopes and radioisotopes. Most of these materials and services are sold under the authority of the Atomic Energy Act of 1954, as amended. (42 U.S.C. 2011 et seq.).

In consideration of the foregoing, Title 10 of the Code of Federal Regulations is amended by establishing Part 1009 as set forth below.

Issued in Washington, D.C. October 16, 1980.

P. Marshall Ryan,

Controller.

10 CFR Chapter X is amended by adding a new Part 1009, reading as follows:

PART 1009—GENERAL POLICY FOR PRICING AND CHARGING FOR MATERIALS AND SERVICES SOLD BY DOE

Sec.

Authority: Sec. 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7254)). Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) "User Fee Statue", 31 U.S.C. 483a. 42 U.S.C. 2111, 2112 and 2201.

§ 1009.1 Purpose and scope.

(a) This part establishes Department of Energy policy for establishing prices and charges for Department materials and services sold to organizations and persons outside the Federal Government.

(b) This part applies to all elements of the Department except the Federal Energy Regulatory Commission.

§ 1009.2 Definitions.

For the purposes of this regulation:

(a) "Allocable Cost" means a cost allocable to a particular cost objective (i.e., a specific function, project, process, or organization) if the costs incurred are chargeable or assignable to such cost objectives in accordance with the relative benefits received or other equitable relationships. Subject to the foregoing, a cost is allocable if: (1) it is incurred solely for materials or services sold; (2) it benefits both the customer and the Department in proportions that can be approximated through use of reasonable methods, or (3) it is necessary to the overall operation of the Department and is deemed to be assignable in part to materials or services sold.

(b) "Byproduct Material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(c) "Charges" means an accumulation of job related costs for materials and services sold by the Department.

(d) "Commerical price" means the price that a willing buyer is currently paying or would pay a willing seller for materials and services in the market.

(e) "Direct cost" is any cost which can be identified specifically with a particular final cost objective.

(f) "Full cost" includes all direct costs and all allocable costs of producing the material or providing the service consistent with generally accepted accounting principles. Direct costs and allocable costs may include, but are not limited to, the following cost elements:

(1) Direct labor.

(2) Personnel fringe benefits.

(3) Direct materials.

(4) Other direct costs.

(5) Processing materials and chemicals.

(6) Power and other utilities.

(7) Maintenance.

(8) Indirect cost, i.e., common costs which cannot be directly assigned to specific cost objectives and are therefore allocated to cost objectives in a systematic cost allocation process.

(9) Depreciation which includes depreciation costs that are directly associated with facilities and equipment utilized, and allocated depreciation costs for support and general facilities and equipment.

(10) Added factor includes general and administrative costs and other support costs that are incurred for the benefit of the Department, an organizational unit or a material or service as a whole.

(g) "Prices" means the monetary amounts generally established and published for recurring sales of the same materials and services.

(h) "Source Material" means uranium or thorium.

(i) "Special Nuclear Material" means plutonium, uranium enriched in the isotope 233 or in the isotope 235, or any materials artificially enriched by any of the foregoing. Special Nuclear Material does not include source material.

§ 1009.3 Policy.

(a) The Department's price or charge for materials and services sold to persons and organizations outside the Federal Government shall be the Government's full cost for those materials and services, unless otherwise provided in this part.

(b) Exceptions from the Department pricing and charging policy may be authorized in accordance with the following provisions:

(1) Prices and charges for byproduct material sold pursuant to 42 U.S.C. 2111 and 42 U.S.C. 2112 et seq. shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the Department if it is determined that such lower prices and charges (i) will provide reasonable compensation to the Government for such material, (ii) will not discourage the use of or the development of sources of supply independent of the DOE of such material, and (iii) will encourage research and development. In individual cases, if (ii) and (iii) cannot be equally accommodated, greater weight will be given to encouragement of research and development.

(2) Prices and charges for materials and services sold pursuant to 42 U.S.C. 2201 shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the

Department if it is determined that such lower prices and charges will provide reasonable compensation to the Government and will not discourage the development of sources of supply independent of the DOE of such material.

§ 1009.4 Exclusions.

This part shall not apply when the amount to be priced or charged is otherwise provided for by statute, Executive Order, or regulations. This part does not apply to:

(a) Fees, penalties and fines established by the Economic Regulatory Administration of DOE.

(b) Power marketing and related activities of the Alaska Power Administration, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Power Administration.

(c) Crude oil, natural gas and other petroleum products and services by or from the Naval Petroleum and Oil Shale Reserves.

(d) Uranium enriching services, source material, and special nuclear material.

(e) Requests for information under the Freedom of Information Act and the Privacy Act.

(f) Energy data and information provided by the Energy Information Administration.

(g) Crude oil and related materials and services from the Strategic Petroleum Reserve.

(h) The disposal of excess and surplus property.

(i) Access permits for uranium enrichment technology issued in accordance with 10 CFR 725.

(j) Materials and services provided pursuant to a cooperative agreement, research assistance contract or grant, or made available to a DOE contractor in connection with a contract, the primary purpose of which is to procure materials or services for DOE.

§ 1009.5 Supersessions.

Prices which appear in **Federal Register** Notices previously published by the Department, or its predecessor agencies, for materials and services covered by this rule are hereby superseded.

§ 1009.6 Dissemination of prices and charges.

Current prices and charges for specific materials and services are available from the DOE laboratory or office providing the material or service, or from the responsible program office. If this office cannot be determined, inquiries regarding the appropriate contact office should be addressed to the Office, of Finance and Accounting, Product Accounting and Pricing Branch, Mail Station 4A–139, 1000 Independence Avenue, SW., Washington, D.C. 20585.

[FR Doc. 80–33307 Filed 10–23–80; 8:45 am]
BILLING CODE 6450–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PS–98; Amdt. No. 75; Docket 37982]

Statements of General Policy: Domestic Passenger Fare Flexibility

AGENCY: Civil Aeronautics Board.

ACTION: Interim policy statement.

SUMMARY: The CAB amends its upward flexibility zones within which airlines may set domestic passenger fares between markets in the 48 contiguous States and the District of Columbia with limited risk of suspension by the agency. The revised policy establishes the ceiling of the regulatory no-suspend zone in all markets at the current Standard Industry Fare Level (SIFL) plus $15, plus an additional upward flexibility of 30 percent. This policy responds to criticisms that the current mileage-based fare flexibility is discriminatory either in appearance or fact. It is designed to counteract a bias against short-haul markets that is built into the previous zone of fare flexibility and to ease the transition to the full pricing deregulation that is mandated by the Airline Deregulation Act.

DATES: Adopted: October 21, 1980. Effective: The policy was put into effect September 24, 1980. The amendment of 14 CFR Part 399 is effective October 21, 1980.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION:

Introduction and Background

On April 3, 1980, we issued a notice of rulemaking inviting comments on six options to make domestic passenger fare policies more flexible (PSDR–66; 45 FR 24178; April 9, 1980).

After considering the comments at our May 13, 1980 Sunshine Meeting, we adopted, effective May 14, 1980, the following combination of the proposed options as an interim policy: full downward flexibility in all markets; full upward flexibility for flights up to 200 miles; 50 percent upward flexibility for flights between 201 and 400 miles; 30 percent upward flexibility for flights above 400 miles. The percentages were applied to the Standard Industry Fare Level (SIFL) as defined by section 1002(d) of the Federal Aviation Act. This new flexibility was originally limited to flights within the 48 contiguous States and the District of Columbia (PS–94, 45 FR 40969; June 17, 1980). This policy was later made applicable with minor change to service between the mainland and Puerto Rico/Virgin Islands, Hawaii or Alaska (PS–96, 45 FR 48600; July 21, 1980). Since these markets are all above 400 miles, upward flexibility is 30 percent.

On May 23, 1980, 11 United States Senators filed a Motion for Reconsideration. By PSDR–66A, 45 FR 40994, June 17, 1980, we granted the motion and asked for public comments on our interim fares policy adopted in PS–94, *supra*. Initial comments were due on July 17, 1980, with reply comments due August 1, 1980. On July 21, 1980, the Indianapolis Airport Authority asked for a 30-day extension of the reply comments. By PSDR–66C, 45 FR 50614, July 30, 1980, we granted an extension for reply comments until August 7, 1980. The docket is now properly before us again for consideration.

The Comments

Seventy-four comments were filed in response to the supplemental notice of proposed rulemaking, by members of the U.S. Congress, air carriers, representatives of small communities, airport operators, and others. A list of the commenters with a summary of their arguments is attached. (Attachment A.)

The majority of commenters to the interim policy either opposed any increased upward price flexibility, particularly in short-haul markets, or argued that any upward flexibility granted should be equal in percentage terms across all distances. Unequal percentage flexibility across mileage blocks, it was argued, would lead to discriminatory pricing: short-haul passengers, where flexibility was unlimited or very substantial, would be exposed to exorbitant prices while long-haul passengers remained protected by more stringent regulation. There were more specific proposals. For example, Piedmont Airlines recommended an alternative fare flexibility policy based on the SIFL fare formula plus $20, plus an additional 20 percent upward fare flexibility in all markets. The Indianapolis Airport Authority urged that any upward fare flexibility above 10 percent be offset by a corresponding reduction in off-peak coach fares. Bell Helicopter-Textron recommended an