

\$100,000, except that any real property disposed of by lease or exchange shall only be subject to paragraphs (a) (2) through (4) of this section;

(2) Any real property disposed of by lease for a term of 5 years or less; if the estimated fair annual rent is in excess of \$100,000 for any of such years;

(3) Any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is in excess of \$100,000; or

(4) Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(b) No explanatory statement need be prepared for a disposal of property authorized to be disposed of without advertising by any provision of law other than section 203(e) of the Act.

* * * * *

Dated: March 1, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-7118 Filed 3-23-89; 8:45 am]

BILLING CODE 6820-95-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 83-752, FCC 89-22]

Provision of Network Channel Terminating Equipment for Group and Supergroup Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In an Order released February 16, 1989 the Commission decided not to detariff analog Network Channel Terminating Equipment. All the commenting parties agreed that the costs of deregulating this equipment far outweigh the benefits. This Order terminates this investigation.

EFFECTIVE DATE: April 24, 1989.

FOR FURTHER INFORMATION CONTACT: Linda M. Trochim, 202-632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket 83-752, adopted January 27, 1989; released February 16, 1989. The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete texts may also be purchased from the Commission's copy contractor, International Transcription

Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC, 20037.

Summary of Report and Order

In an Order released February 16, 1989, the Commission determined that there would be no practical benefits resulting from detariffing analog Network Channel Terminating Equipment (NCTE) used in conjunction with group and supergroup services.

Group and supergroup facilities are analog channels with nominal bandwidths of 48 and 240 kHz, respectively, that can be used to carry bundles of up to 12 and 60 nominal 4 kHz voice channels, respectively, to transport a variety of types of signals.

The Commission initiated this investigation to examine the provision of analog NCTE used in conjunction with group and supergroup services, it had required AT&T to offer to other common carriers and the general public.

The parties commenting on this matter agreed that the existing amount of analog group and supergroup NCTE is small and has become obsolete. Furthermore, there was no competitive market for it and the costs of deregulating it far outweigh the benefits. Noting that demand for this equipment is small and diminishing, and that deregulation of this largely obsolete equipment would entail lengthy and costly procedures to develop technical interface standards and protection criteria, the Commission determined that it would not be in the public interest to deregulate this equipment.

Ordering Clauses

Accordingly, the Commission orders that the investigation in CC Docket No. 83-752 is terminated.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 89-6822 Filed 3-23-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-200; RM-6124, RM-6186]

Radio Broadcasting Services; Dunn, Fuquay-Varine, Hope Mills, Topsail Beach, and Williamston, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Landsman-Webster Communications of North Carolina, Inc., substitutes Channel 278C2 for Channel 276A at Dunn, NC, modifies its license

for Station WKDS to specify the higher powered channel, and substitutes Channel 283A for Channel 278A at Hope Mills, NC. Channel 278C2 can be allotted to Dunn in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.3 kilometers (18.2 miles) south to avoid a short-spacing to the construction permit of Station WKKE, Channel 279C1, Williamston, NC, and to Station, WAZZ, Channel 280A, Fuquay-Varina, NC. Channel 283A can be allotted to Hope Mills with a site restriction of 7.4 kilometers (4.6 miles) east to avoid a short-spacing to Stations, WEZC, Channel 284C, Charlotte, NC, and to Station WDCG, Channel 286C, Durham, NC. In addition, the Commission is dismissing the request of MECA Broadcasting, Inc. to substitute Channel 280C2 for Channel 280A at Fuquay-Varina, NC, to modify its license for Station WAZZ to specify operation on the higher powered channel, and to make necessary changes at Topsail Beach and Williamston, NC, based on its withdrawal of interest in the allotment at Fuquay-Varina. The coordinates for Channel 278C2 at Dunn are North Latitude 35-02-45 and West Longitude 78-36-30. The coordinates for Channel 283A at Hope Mills are North Latitude 34-57-30 and West Longitude 78-52-04. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-200, adopted February 21, 1989, and released March 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, is revised for Dunn, North Carolina, by deleting Channel 276A and adding Channel 278C2 and for Hope

Mills, North Carolina by deleting Channel 278A and adding Channel 283A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-6949 Filed 3-23-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 391, and 393

[FHWA Docket No. MC-88-18]

RIN 2125-AC21

Federal Motor Carrier Safety Regulations; General; Exempt Intracity Zone; Foreign Motor Carriers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule and request for comments.

SUMMARY: The FHWA is amending Parts 390, 391, and 393 of the Federal Motor Carrier Safety Regulations (FMCSRs). This action amends the intracity zone exemption to make it consistent with the Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) (Title IX, Subtitle B, of Pub. L. 100-690, 102 Stat. 4181). It also exempts certain foreign motor carriers from the provisions of 49 CFR Part 393, Parts and Accessories Necessary For Safe Operation, for a period of 1 year from the date of enactment of the Act (i.e., November 18, 1989). The Act also requires the Secretary to report to Congress on the effects of this delayed application and recommend "on the extent to which foreign motor carriers may or should comply with all or any of the requirements contained in such Part 393." To comply with the Congressional mandate, the FHWA is requesting comments from all interested parties concerning this issue.

DATES: The effective date for Parts 390 and 391 is April 24, 1989. The effective date for Part 393 is November 18, 1988. Written comments concerning future applicability of Part 393 to foreign motor carriers must be received on or before June 22, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. MC-88-18, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from

8:30 a.m. to 3:30 p.m. e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 9102, Commercial Zone Exemption, of the Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) requires the Department of Transportation (DOT) to amend certain provisions contained in Parts 390, 391, and 393 of the Federal Motor Carrier Safety Regulations (FMCSRs).

The final rule, published in the Federal Register on May 19, 1988 (53 FR 18042, Docket MC-114), and effective on November 15, 1988, accomplished three things concerning "intracity zone" operations that the Act requires be revised or rescinded. They are:

1. Rescission of the "intracity zone" exemption except where States have adopted and enforce compatible requirements applicable to such "intracity zone" operations.

2. Initiation of a 2-year grandfather clause for drivers who have been operating under the original "intracity zone" exemption.

3. A requirement that a driver be physically examined every two years and meet the physical requirements contained in 49 CFR 391.41. The rule allowed the examining physician to make an individual determination regarding four medical examination criteria. These items will be individually discussed below.

Intracity Zone Rescission

The final rule generally rescinded the "intracity zone" exemption to the FMCSRs. The rescission did not affect operations in an exempt intracity zone, as defined in § 390.5, if a State has adopted and enforces State laws and regulations, compatible with the FMCSRs applicable to such intracity zone operation.

The Act precludes the exemption of any person or commercial motor vehicle from the requirements of the FMCSRs, solely on the basis that the operations of such person or vehicle are entirely in a municipality or commercial zone thereof. Thus, the exception to the

general applicability of the FMCSRs (§ 390.3(f)(6)) is being removed.

Grandfather Provision

Under the November 15 final rule, drivers who are not physically qualified, but who generally meet the physical qualification requirements, may continue to drive if they were regularly employed by a motor carrier as of May 19, 1988, and their operations were wholly within an exempt intracity zone. After November 15, 1990, those drivers would no longer be allowed to drive commercial motor vehicles operated in interstate commerce.

The Act requires that revisions be made to the grandfather clause. The FHWA is deleting 49 CFR 390.3(g), limited exceptions, and amending 49 CFR 391.2, General exemptions, to conform to the provisions of section 9102 of the Act. The amendment to § 391.2 will require those previously exempt intracity zone drivers to be physically examined by a physician in accordance with §§ 391.41 and 391.43. Those drivers who do not meet the medical or physical requirements as of July 1, 1988, may continue to drive under the grandfather provision of the Act only within an exempt intracity zone. These drivers may continue to drive a commercial motor vehicle wholly within an intracity zone provided the examining physician determines during a subsequent examination that a particular condition, which would cause a driver to be unqualified, has not substantially worsened since July 1, 1988.

Currently, an examining physician may limit the certification period of any driver examined if the examining physician finds evidence that, his/her expert opinion, warrants reexamination of a particular driver before the minimally required 24-month period elapses. In an effort to minimize the safety risk to the general public in intracity zones, the Congress limited the grandfather opportunity to those instances where the particular medical or physical condition, which otherwise would cause a driver to be unqualified, has not worsened since July 1, 1988. The FHWA views this requirement as a continuing one and believes that an intracity zone driver should be found unqualified whenever it is determined the medical or physical condition that existed on July 1, 1988 has worsened. The FHWA recognizes that a person's medical or physical condition may deteriorate in a short period of time so that the driver presents an increased and unacceptable safety risk to the public if allowed to continue operating a

commercial motor vehicle. Thus, consistent with Congressional intent, the FHWA believes it prudent to require, as a minimum, an annual reassessment of a driver's ability to operate under this grandfather provision. This annual reassessment should, in large part, guarantee that the general public will face no greater risk than that which exists today. Therefore, the FHWA is requiring an exempt intracity driver to be medically recertified at least every 12 months. Motor carriers, intracity zone drivers, and examining physicians are also reminded that recertification can only be made following a complete medical examination as required by 49 CFR 391.41 and 391.43.

The Act allows any person, who was authorized to operate wholly within an exempt intracity zone throughout the 1-year period ending on the date of enactment of the Act (November 18, 1988), to operate a commercial motor vehicle entirely in that zone if the person's medical or physical condition (1) would prevent such person from operating a commercial motor vehicle under the regulations contained in Title 49 of the Code of Federal Regulations, (2) existed on July 1, 1988, (3) has not substantially worsened, and (4) does not involve alcohol or drug abuse.

As stated above, the Act allows a driver to drive in an exempt intracity zone if an otherwise disqualifying medical or physical condition, other than those which involve alcohol or drug abuse, existed on July 1, 1988, and has not substantially worsened. An examining physician may, in some situations, find it difficult to determine whether a driver's condition existed on July 1, 1988. In such a case, the physician should base a determination of the driver's qualifications on currently available information and the physician's own findings. Such findings would then be used subsequently by an examining physician as the "benchmark" to make future determinations of whether the medical or physical condition has substantially worsened.

The FHWA recognizes that there will always be a degree of difficulty when making a determination that a medical or physical condition has substantially worsened since a specific date. The FHWA believes it would be prudent and in the best interests of safety when conducting subsequent physical examination on drivers permitted to continue to drive in "exempt intracity zones," if the examining physician, has as much information as possible that may help in making the required determination. To this end, the FHWA is

requiring the driver to furnish the examining physician with a copy of the medical findings that led to the issuance of the first certificate of medical examination which allowed the driver to continue to operate a commercial motor vehicle wholly within an "exempt intracity zone" under those grandfather provisions. Drivers who do not provide this information cannot be recertified to continue driving a commercial motor vehicle wholly within an "exempt intracity zone."

Should the examining physician certify a person as eligible to drive within an exempt intracity zone with a medical or physical condition that would otherwise render the person unqualified, the following statement, or other statement identifying the holder as a grandfathered driver, must appear on the medical examiner's certificate: "medically unqualified unless driving within an exempt intracity zone."

To emphasize the intent of the Act and the actions taken by the FHWA, it should be noted that the grandfather provision provided by the Act and discussed above applies only to the driver medical qualification and age requirements of the FMCSRs. All the other requirements pertaining to vehicle standards, operation, inspection, etc. must be met.

Foreign Carriers

The rules contained in Part 393, Parts and Accessories Necessary For Safe Operations are applicable to every commercial motor vehicle engaged in interstate or foreign commerce and being operated in the United States. Paragraph (b) of section 9102 of the Act requires a 1-year exemption from the requirements of Part 393 for a foreign motor carrier if (1) such carrier is or will be required to obtain a certificate of registration from the Interstate Commerce Commission (ICC) for operation of a commercial motor vehicle in a municipality or the intracity zone thereof which encompasses a border between the United States and a contiguous foreign country; (2) the State in which such municipality or intracity zone is located has in effect a law or regulation pertaining to commercial motor vehicle safety which applies to such carrier; and (3) such State has adopted and is enforcing the North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria established by the Commercial Vehicle Safety Alliance. This document may be purchased from the Commercial Vehicle Safety Alliance, 1620 Eye Street NW., Washington, DC 20006.

It is important to note that the Congress has required the affected foreign motor carriers to meet all three of the prerequisites before being allowed the 1-year exemption from the provisions of Part 393 of the FMCSRs. Thus, it is expected that the various States will actively conduct roadside inspections of foreign motor carrier vehicles in accordance with the CVSA established inspection criteria. It is also worthy of note that the exemption applies only to Federal enforcement of safety regulations in Part 393 and no way are State or local enforcement efforts foreclosed. In view of the above, the FHWA is amending 49 CFR 393.1 to reflect the provisions set forth in the Act.

The Act requires the Secretary to report to Congress on the effects of this delayed application and recommend "on the extent to which foreign motor carriers may or should comply with all or any of the requirements contained in such Part 393." The FHWA is, therefore, requesting comments from all interested parties concerning this issue.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the amendments contained in this document, except as noted below, reflect statutory language mandated by the Truck and Bus Safety and Regulatory Reform Act of 1988, public comment on the amendments is impracticable and unnecessary. Therefore, the FHWA finds good cause to make the revisions final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act (5 U.S.C. 553). However, to give affected parties adequate time to implement certain revisions, the amendments to Parts 390 and 391 will become effective in 30 days. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information because of the ministerial nature of this rulemaking action. However, as discussed above, public comment is requested on the issue of whether foreign motor carriers should be subject to the requirements contained in Part 393.

It is anticipated that the economic impact of this rulemaking, although mandated by the statutory provisions

themselves, will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Federalism Assessment

This final regulation principally amends Parts 390, 391, and 393 of the FMCSRs. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety regulations which, at the current time, may be supplemented by the States, except for the adoption of inconsistent regulations. The statutory basis for Federal regulation of interstate commerce has been outlined above. The issues addressed in this particular final rule, which are not themselves sufficient to warrant the preparation of a Federalism Assessment, involve policies that have federalism implications. However, these issues were generally addressed separately in a Federalism Assessment in the "SUPPLEMENTARY INFORMATION" section of the final rule published in the *Federal Register* on May 19, 1988 (53 FR 18042, at 18052). This particular final rule limits the policymaking discretion of the States only in narrow ways, and does so only to achieve the national purposes of the Act.

List of Subjects in 49 CFR Parts 390, 391, and 393

Highway safety, Highways and roads, Motor carriers, Drivers, Reporting and recordkeeping requirements, and Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, motor carrier safety)
Issued on: March 17, 1989.

Robert E. Farris,
Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending 49 CFR Parts 390, 391, and 393 as follows:

PART 390—[AMENDED]

1. The authority citation for Part 390 continues to read as follows:

Authority: 49 U.S.C. App. 2503 and 2505; 49 U.S.C. 3102 504 and 49 CFR 1.48.

§ 390.3 [Amended]

2. In § 390.3, paragraph (f)(6) is removed and paragraph (f)(7) is redesignated as (f)(6).

3. In § 390.3, paragraphs (g) and (h) are removed.

PART 391—[AMENDED]

4. The authority citation for Part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

5. In § 391.2, paragraph (d) is added and reads as follows:

§ 391.2 General exemptions.

* * * * *

(d) *Limited exceptions for exempt intracity zone drivers.* The provisions of §§ 391.11(b)(1) and 391.41 (b)(1) through (b)(11) do not apply to a person who:

(1) Was otherwise qualified to operate and operated a commercial motor vehicle in a municipality or exempt intracity zone thereof throughout the 1-year period ending November 18, 1988;

(2) Meets all the other requirements of this section;

(3) Operates wholly within the exempt intracity zone (as defined in § 390.5);

(4) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1813); and

(5)(i) Was not 21 years of age on July 1, 1988; or

(ii) Has a medical or physical condition which:

(A) Would prevent such person from operating a commercial motor vehicle under the Federal Motor Carrier Safety Regulations contained in this subchapter;

(B) Existed on July 1, 1988, or at the time of the first required physical examination after that date; and

(C) The examining physician has determined has not substantially worsened since July 1, 1988, or the time of the first required physical examination after that date.

6. In § 391.43, paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f), respectively; a new paragraph (c) is added; and paragraph (f)(3) is revised to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(c) Any driver authorized to operate a commercial motor vehicle within an exempt intracity zone pursuant to § 391.2(d) shall furnish the examining physician with a copy of the medical

findings that led to the issuance of the first certificate of medical examination which allowed the driver to operate a commercial motor vehicle wholly within an exempt intracity zone.

* * * * *

(f) * * *

(3) If a medical examiner determines the driver is qualified to drive only in an exempt intracity zone, the following statement or other statement identifying the holder as a grandfathered driver, shall appear on the medical examiner's certificate: "Medically unqualified unless driving within an exempt intracity zone."

7. In § 391.45, the introductory text and paragraphs (a) and (b) are revised to read as follows:

§ 391.45 Persons who must be medically examined and certified.

Except as provided in § 391.67, the following persons must be medically examined and certified in accordance with § 391.43 as physically qualified to operate a commercial motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to operate a commercial motor vehicle;

(b)(1) Any driver who has not been medically examined and certified as qualified to operate a commercial motor vehicle during the preceding 24 months; or

(2) Any driver authorized to operate a commercial motor vehicle only within an exempt intracity zone pursuant to § 391.2(d), if such driver has not been medically examined and certified as qualified to drive in such zone during the preceding 12 months; and

* * * * *

PART 393—[AMENDED]

8. The authority citation for Part 393 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.

9. Section 393.1 is revised to read as follows:

§ 393.1 Scope of the rules of this part.

(a) *General.* Every employer and employee shall comply and be conversant with the requirements and specifications of this part. No employer shall operate a commercial motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with the requirements and specifications of this part.

(b) *Exception.* The requirements of this part do not apply until November 18, 1989, to commercial motor vehicles operated within the United States by

motor carriers domiciled in a contiguous foreign country if—

(1) The foreign motor carrier operating those vehicles is or will be required to obtain a certificate of registration from the Interstate Commerce Commission for operation of a commercial motor vehicle in a municipality or the intracity zone thereof which encompasses a border between the United States and a contiguous foreign country;

(2) The State in which such municipality or intracity zone is located has in effect a law or regulation pertaining to commercial motor vehicle safety which applies to such motor carrier; and

(3) Such State has adopted and is enforcing the North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria¹ established by the Commercial Vehicle Safety Alliance.

[FR Doc. 89-7083 Filed 3-23-89; 8:45 am]

BILLING CODE 4910-22-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

Rules of Practice in Air Safety Proceedings

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: By these rule changes, the Board is amending certain provisions to expand the periods of time afforded to parties for the filing of replies to certain pleadings in cases where the established time frame has been found to be unnecessarily restrictive. These amendments are in part responsive to the petition of the National Transportation Safety Board Bar Association.

EFFECTIVE DATE: Thirty days after publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

John M. Stuhldreher, 202-382-6540, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594.

SUPPLEMENTARY INFORMATION:

On November 29, 1988, the Safety Board issued a denial of a petition for rulemaking filed by the National Transportation Safety Board (NTSB) Bar Association for the reasons stated in the document identified as Regulatory

Docket No. 5. In that denial, the Board recognized that there were certain sections of Part 821 in which the period of time to file a responsive pleading is unreasonably or unnecessarily short, particularly where the incoming document is actually received only several days before the responsive pleading must be mailed (filed).

Accordingly, the Board stated that it would consider instituting a rulemaking procedure to address the matter. These amendments incorporate the expansions to time periods that the Board has identified as unreasonably or unnecessarily short.

Specifically, the periods of time that the Board is expanding by these amendments can be found at §§ 821.14(c), 821.33(a)(1), and 821.50(e). Section 821.14 deals with motions, i.e., applications to the Board or to a law judge for an order or ruling not otherwise specifically provided for in Part 821. The Board is expanding the time for the filing of an answer in opposition to any motion that is filed from 7 days after the motion has been served upon the opposing party, to 15 days. Similarly, the Board is amending § 821.33(a)(1) by expanding the time for the filing of an answer to a motion to dismiss based upon the stale complaint rule from 7 to 15 days.

Finally, the Board is amending § 821.50(e) by expanding the time for the filing of an answer to a petition for rehearing, reargument, reconsideration, or modification of any Board Order, from the current 10 days after service to 15 days after service.

These amendments should allow parties a reasonable period of time within which to file a responsive pleading without the additional burden of seeking an extension of time.

Since these amendments to Part 821 are procedural in nature, and are a minor relaxation of the time for filing certain responsive pleadings, they do not require notice and public procedure.

Under the criteria of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Safety Board has determined that these amendments will not have a significant economic impact on any entity.

List of Subjects in 49 CFR Part 821

Administrative procedure, Enforcement, Aviation safety, Time for filing.

Accordingly, 49 CFR Part 821 of the Safety Board's Rules of Practice is amended as follows:

PART 821—[AMENDED]

1. The authority citation for Part 821 continues to read as follows:

Authority: Title VI, Federal Aviation Act of 1958, as amended (49 U.S.C. 1421 et seq.); and Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.), unless otherwise noted.

2. Section 821.14(c) is revised to read:

§ 821.14 Motions.

(c) *Answers to motions.* Except when a motion is made during a hearing, any party may file an answer in support of or in opposition to a motion, accompanied by such affidavits or other evidence as he desires to rely upon, provided that the answer is filed with 15 days after the motion has been served upon him, or such other period as the Board or a law judge may fix. Where a motion is made during a hearing, the answer and the ruling thereon may be made at the hearing, or orally or in writing within such time as the law judge may fix.

3. Section 821.33(a)(1) is revised to read ((a) introductory text is republished):

§ 821.33 Motion to dismiss stale complaint.

(a) In those cases where a complaint does not allege lack of qualification of the certificate holder:

(1) The Administrator shall be required to show by answer filed within 15 days of service of the motion that good cause existed for the delay, or that the imposition of a sanction is warranted in the public interest, notwithstanding the delay or the reasons therefor.

4. Section 821.50(e) is revised to read:

§ 821.50 Petitions for rehearing, reargument, reconsideration, or modification of an order of the Board.

(e) *Reply to petition.* Within 15 days after the service of the petition upon an adverse party, he may reply thereto by filing a copy of the reply with the Board, with proof of service upon the petitioner.

Signed at Washington, DC on this 20th day of March.

James L. Kolstad,
Acting Chairman.

[FR Doc. 89-7082 Filed 3-23-89; 8:45 am]

BILLING CODE 7533-01-M

¹ May be purchased from the Commercial Vehicle Safety Alliance, 1620 Eye Street, NW., Washington, DC 20006.