

Procedure gives its staff the same prosecutorial discretion as that approved by the Commission for use by other SROs in their minor rule violation procedures. In addition, the Procedure limits the staff's discretion by requiring that the Panel impose all fines against alleged violators. Moreover, as has been noted above, the Procedure is to be utilized in situations where a rule violation is technical and objective or minor in nature; the Commission expects that the Exchange will resolve more serious violations of such rules through the use of formal disciplinary proceeding. The Comment Letters make the related argument that the availability of the Procedure opens the possibility that the Exchange could abuse its discretion and utilize either the Procedure or full disciplinary proceedings depending upon the identity of the alleged violator. The Commission believes that this concern is alleviated by the Commission's ability to review the disciplinary actions taken by the Exchange through both the CHX's formal reporting under Rule 19d-1 and proposed quarterly reporting under the Plan, and as part of the Commission's regular oversight inspections of the Exchange.

Second, the Commission notes that the commenter's concern that the roles of the CHX's President, under the Exchange's existing disciplinary procedures and the Procedure, as originally filed, would create an unsound result has been rendered moot by the removal in Amendment No. 3 of any role on the part of the President in the imposition of fines under the Procedure.

Third, the commenter argues that because any contest of a fine imposed under the Procedure converts the matter into a formal disciplinary proceeding with the potential for the imposition of more severe sanctions, the Procedure imposes a chilling effect on a member's ability to contest such a fine. The Commission believes that the commenter's argument is misplaced. The availability of a minor rule violation procedure benefits not only an exchange, for the reasons noted above, but alleged violators of rules deemed minor rule violations as well. In having the ability to pay a fine assessed under a minor rule violation procedure instead of being subject to the initiation of formal disciplinary procedures as a matter of course, an alleged violator has the opportunity to avoid the expenditure of time and resources, as well as the attendant publicity, that a formal disciplinary proceeding may entail. An alleged violator receives these benefits while retaining his or her due

process rights to contest the charges in a formal disciplinary proceeding.

As for the commenter's suggestion that the Exchange could prevent such a "chilling effect" by amending the proposed rule change to provide that no more severe sanction could be imposed in any formal disciplinary proceeding arising out of a contest of a minor rule violation fine than that originally imposed under the Procedure, the Commission believes that such a provision would limit unduly the Exchange's discretion to impose what it believed were appropriate sanctions as a result of the findings it made with regard to a matter in a formal disciplinary proceeding.³⁶

Finally, the commenter questions the necessity for the Procedure given the existence of summary disciplinary procedures in Article XII, Rule 2(a) of the Exchange's rules. The Commission does not believe that an Exchange's ability to adopt a minor rule violation procedure and reporting plan should be limited by the existence of other summary procedures in an exchange's rules. Additionally, the Commission notes that the Article XII, Rule 2(a) procedure is incompatible with a minor rule violation reporting plan, as any proceeding under Rule 2(a) is considered a formal disciplinary proceeding under CHX rules, making any action taken under these procedures a "final disciplinary action" under Rule 19d-1, and therefore immediately reportable to the Commission.

C. Minor Rule Violation Reporting Plan

In adopting Rule 19d-1, the Commission noted that the Rule was an attempt to balance the informational needs of the Commission against the reporting burdens of the SROs.³⁷ In promulgating paragraph (c)(2) of Rule 19d-1, the Commission attempted to reduce the reporting burdens of the SROs by permitting, where immediate reporting was unnecessary, periodic reporting of minor rule violations.³⁸

³⁶ Specifically, in the context of a formal disciplinary proceeding the Exchange has the ability to discipline its members and any persons associated with a member "by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction." See CHX Rules, Article XII, Rule 8(a). As the Panel may only impose monetary fines under the Procedure, the commenter's proposal could restrict the Exchange to imposing such fines in formal disciplinary proceedings arising out of appeals of minor rule violations, thus depriving the Exchange of the opportunity to impose what may be a more appropriate sanction in light of its findings in a formal hearing.

³⁷ See Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36411 (July 14, 1977).

³⁸ See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984).

Any minor rule violation reporting plan adopted pursuant to Rule 19d-1(c)(2) is intended to be limited to rules which relate to areas that can be adjudicated quickly and objectively.

The Commission believes that the rules proposed to be deemed minor rule violations under the Exchange's Plan meet this criteria for the same reasons as noted above with regard to the rules proposed for inclusion in its Procedure.³⁹ Violations of these rules are amenable to quick and objective determinations of compliance. Efficient and equitable enforcement of violations of these CHX rules should not entail the complicated factual and interpretive inquiries associated with more sophisticated Exchange disciplinary actions. Therefore, it is reasonable for these rules to be included in such an abbreviated periodic reporting plan.⁴⁰ In addition, the Commission finds that the format proposed by the Exchange to make its quarterly report of violations to the Commission under the Plan is identical, in all material respects, to the minor rule violation reporting plans approved by the Commission for use by other exchanges, and thus in compliance with the requirements of Rule 19d-1(c)(2) under the Act.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act⁴¹ and Rule 19d-1(c)(2) thereunder, that the proposed rule change (SR-CHX-95-25) and minor rule violation reporting plan of the Exchange is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴²

Jonathan G. Katz,

Secretary.

[FR Doc. 96-14177 Filed 6-5-96; 8:45 am]

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³⁹ See *supra* Section IV.A.

⁴⁰ Although the CHX Board of Governors makes the initial determination of whether an Exchange rule violation is "minor" for purposes of inclusion in new Article XII, Rule 9 and the Plan, this determination is subject to SEC review pursuant to Sections 19(b)(1) and (d)(1) of the Act and Rules 19b-4 and 19d-1(c)(2) thereunder. The SEC notes that Article XII, Rule 9 fines in excess of \$2500 are not considered assessed pursuant to the Plan and, accordingly, must be reported on an immediate basis to the SEC under Section 19(d)(1) of the Act and Rule 19d-1 thereunder.

⁴¹ 15 U.S.C. 78s(b)(2)

⁴² 17 CFR 200.30-3(a)(12) and (a)(44).

SMALL BUSINESS ADMINISTRATION**[Declaration of Disaster Loan Area #2852; Amendment #3]****Illinois; Declaration of Disaster Loan Area**

In accordance with a notice from the Federal Emergency Management Agency dated May 23, 1996, the above-numbered Declaration is hereby amended to include Gallatin and Wabash Counties in the State of Illinois as a disaster area due to damages caused by severe storms and flooding beginning on April 28, 1996 and continuing through May 17, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Hardin in Illinois and Union in Kentucky may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 5, 1996, and for loans for economic injury the deadline is February 6, 1997.

The economic injury number for the State of Kentucky is 891500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 30, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96-14173 Filed 6-5-96; 8:45 am]

BILLING CODE 8025-01-M

participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before June 26, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. __, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on June 3, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28541

Petitioner: Mr. Isaac B. Weathers
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)

Description of Relief Sought: To allow Mr. Weathers to conduct recurrent flight training in Beechcraft Bonanza, Baron, and Travel Air aircraft; and recurrent flight training in simulated instrument flight in Beechcraft Baron and Travel Air aircraft, when those aircraft are equipped with a functioning throwover wheel in place of functioning dual controls.

Docket No.: 28554

Petitioner: Phoenix Air Group, Inc.
Sections of the FAR Affected: 14 CFR 91.167(a)(2) and 135.223(a)(2)

Description of Relief Sought: To permit the Phoenix Air Group, Inc., (Phoenix) to operate its aircraft in instrument flight rules (IFR) conditions without carrying enough

fuel to fly to an alternate airport by allowing Phoenix to use commissioned Department of Defense instrument approach procedures, provided certain minimum weather conditions are met, in lieu of standard instrument approach procedures prescribed in part 97.

Dispositions of Petitions

Docket No.: 28458

Petitioner: Gulfstream Aerospace Corporation

Sections of the FAR Affected: 14 CFR 25.571(e)(1)

Description of Relief Sought/

Disposition: To permit the Gulfstream Aerospace Corporation exemption from the 4-pound bird strike requirement of § 25.571(e)(1) from Vc at sea level to 8,000 feet, in favor of Vc at sea level or .85 Vc at 8,000 feet, whichever is greater, for the Gulfstream Model GV.

Grant, May 13, 1996, Exemption No. 6436

[FR Doc. 96-14266 Filed 6-5-96; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Chautauqua County/Jamestown Airport, Jamestown, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Chautauqua County/Jamestown Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 8, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Philip Brito, Manager New York Airports District Office, 600 Old Country Road, Room 446, Garden City, New York, 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Kenneth B. Brentley, Manager of Airports for the County of Chautauqua, New York, at the following address: County of Chautauqua, P.O. Box 51, Falconer, New York 14733.

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Summary Notice No. PE-96-27]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and