

fourth and fifth airplanes led to this request for a waiver.

Denial of Waiver: It is FAA policy to consider for the possibility of waiver only those airplanes in operation by an operator on the date of the petition. In this instance, the petitioner was operating three Boeing 737-200 airplanes, but it had already committed to leasing two more that were scheduled for delivery in September and October 1994. As early as March 1994, before its airplane leases began, the petitioner was investigating bringing the airplanes it planned to operate into compliance. However, since the petitioner elected to lease a Stage 2 airplane as its fourth airplane and take delivery of it in September, as well as a fifth airplane in October, the FAA found that the petitioner was apparently unwilling to adapt its business plans to achieve compliance with a regulation that predates the existence of the airline. During this time, the petitioner also began discussions regarding the lease of a Stage 3 airplane, and indicated to the FAA that even if such a lease were negotiated, it could not bring the airplane into service in time to meet the compliance date. The FAA found that commencing such complex actions so close to the compliance date was not a viable compliance plan nor did it demonstrate a good faith effort to comply. Also, the FAA was unable to conclude that the public interest claimed by the petitioner in its providing service outweighed the larger public interest in compliance and the integrity of the phased transition to an all Stage 3 fleet by the year 2000.

No. 6 petitioner: By petition dated August 3, 1994, Docket No. 27869, counsel for the petitioner petitioned the FAA on behalf of the petitioner for a waiver that would allow the petitioner to operate all of its Stage 2 airplanes beyond the interim compliance date of December 31, 1994.

The petitioner operates an all-cargo service on a charter basis worldwide and by scheduled service between the United States and Central and South America. The petitioner operated a fleet of four Stage 2 airplanes, three Boeing 707's and one McDonnell Douglas DC-8. To comply with the December 31, 1994, interim compliance date in § 91.865, the petitioner needed to retrofit or ground one of its four airplanes or replace it with a Stage 3 airplane.

Denial of Waiver: The petitioner initially reported to the FAA that it planned to meet the compliance requirements by "retirement of Stage 2 or addition of Stage 3 aircraft." In two subsequent reports, the petitioner

indicated that it planned to comply in 1994 by phasing out 25% of its Stage 2 airplanes without further detail. The petitioner's petition did not contain any information as to changed circumstances or why the retirement of one airplane was no longer feasible. The FAA cannot accept the nonexistence of retrofit equipment as the basis for a waiver. If it did, the agency would be obligated to grant a waiver to every operator of such equipment, ostensibly for the entire interim compliance period. In this case, the FAA determined that no good faith effort had been demonstrated, since the petitioner did not show a willingness to adhere to its own compliance plan, but appeared to be relying on the existence of the waiver provision to continue the same level of operations after the December 31, 1994, compliance date.

No. 7 petitioner: By petition dated December 7, 1994, Docket No. 27994, the petitioner petitioned the FAA for a waiver that would allow it to operate a fleet of four all Stage 2 airplanes until January 31, 1995.

The petitioner is a new entrant air carrier that began service on December 4, 1994. At the time the petitioner petitioned for a waiver on December 7, 1994, it operated a fleet of two Stage 2 airplanes. The petitioner exercised an option to add two additional Stage 2 airplanes to its fleet and was awaiting delivery of another airplane currently undergoing installation of Stage 3 hushkits. Since this Stage 3 airplane was not to be delivered to the petitioner until January 16, 1995, to comply with the December 31, 1994, interim compliance date in § 91.867, the petitioner would have had to ground one of its four Stage 2 airplanes.

Denial of Waiver: After the petitioner knew that there was a possibility that its hushkitted airplane would be delayed until after the compliance date, it chose to apply for a waiver for airplanes it had not yet exercised its option to lease. The petitioner then exercised the lease option, apparently doing so knowing that the possibility of delay existed for the delivery of its Stage 3 airplane. Accordingly, the FAA cannot accept the argument that the petitioner made a good faith effort to comply or conclude that a waiver was even necessary when the application was submitted. When the petitioner exercised its option to lease the airplanes, it made a business decision to possibly put itself out of compliance, and knew that on the compliance date it might possibly possess a fleet of airplanes that required a waiver to operate fully. If the petitioner had committed to leasing the two additional Stage 2 airplanes and

later been informed that the delivery of its Stage 3 airplane would be delayed until after the compliance date, the FAA might have been able to look at the circumstances more favorably given the petitioner's efforts to secure the timely delivery of a Stage 3 airplane. But the statement in the petitioner's petition that it knew there might be a problem before it exercised its lease option denies that this was the case. The FAA is unable to conclude that the petitioner's statements reflect a net public benefit in the grant of a waiver. The possibility that the petitioner would have had to ground one of its airplanes for a short time, partially because of its own actions taken after it was told of a possible problem with the delivery of its Stage 3 airplane, does not outweigh the significant public interest inherent in full compliance with the rule.

Use of Interchange Agreements for Noise Compliance

The FAA reminds all operators of Stage 2 noise level airplanes subject to the phaseout under §§ 91.865 or 91.867 that, as of March 14, 1995, new compliance arrangements that rely on sharing Stage 3 airplanes by placing them on the operators specifications of more than one operator are prohibited, and that existing arrangements cannot be used to comply with December 31, 1996, and subsequent requirements. This prohibition applies to U.S. and non-U.S. operators of Stage 2 airplanes covered by the Stage 3 transition rules. A full statement of this policy and the reasons for its adoption were published in the Federal Register on March 14, 1995, at 60 FR 13627.

Issued in Washington, DC on August 9, 1996.

James D. Erickson,

Director of Environment and Energy.

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Federal Transit Administration

Charter Services Demonstration Program; Public Meeting

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting, open to all interested parties, to discuss and comment on the Federal Transit Administration's (FTA) draft final report to Congress on the charter services demonstration program mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Under

the current charter regulations, a recipient of FTA assistance may not provide charter service except under certain limited exceptions.

DATES: The meeting will take place on September 12, 1996, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in room 10234-10238 at the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Walter Kulyk, Office of Mobility Innovation, Federal Transit Administration (TRI-10), at 202-366-4991.

SUPPLEMENTARY INFORMATION:

Background

Section 3040 of ISTEA directed FTA to issue regulation to implement a charter service demonstration in not more than four states. During the demonstration, public transit operators would be permitted to provide charter service to meet the charter needs of government, civic, charitable, and other community organizations that would not otherwise be served in a cost effective or efficient manner. Section 3040 required FTA to submit a report to Congress evaluating the effectiveness of the charter demonstration program and providing recommendations for improving the current service regulations.

In conformance with section 3040, FTA established in eight sites nationwide a demonstration program aimed at determining whether FTA's charter regulations should be amended to allow public transit agencies to provide charter service to government, charitable, civic, and community groups that would otherwise not be served in a cost effective and efficient manner. The report provides detailed information about the type and amount of service provided during the demonstration, as well as the impact of the demonstration on customers served and on private charter operators.

FTA Charter Demonstration

FTA established a Federal Advisory Committee (FAC), comprised of individuals equally representing public and private operators, to assist FTA in implementing regulations establishing the charter demonstration. FTA issued a Notice of Proposed Rulemaking (NPRM) in the Federal Register on October 28, 1992, soliciting proposals from transit agencies to participate in the demonstration. FTA received six proposals and, after consulting with the FAC, selected the following public

operators to participate in the demonstration:

* Monterey-Salinas Transit, Monterey, California.

* Central Oklahoma Transportation and Parking Authority, Oklahoma City, Oklahoma.

* Bi-State Development Agency, St. Louis, Missouri.

* Michigan Department of Transportation on behalf of four unnamed transit agencies within the State of Michigan.

* Yolo County Transit Authority, Yolo County, California.

MDOT subsequently selected the following public transit operators to participate in the demonstration in Michigan:

* Isabella County Transportation Commission, Isabella County, Michigan.

* Capital Area Transit Authority, Lansing, Michigan.

* Marquette County Area Transportation Authority, Marquette County, Michigan.

* Muskegon Area Transit System, Muskegon, Michigan.

FTA issued the Final Rule on July 9, 1993 implementing the charter demonstration for a one-year period from August 9, 1993 through August 9, 1994. FTA subsequently extended the demonstration to October 31, 1994, and again to October 31, 1995, to address public operators' concerns that the demonstration did not provide adequate time for full implementation.

Local Implementation of the Charter Demonstration

The Charter Bus Demonstration Regulations emphasized the need for a local decision making process. The final rule provided for the selection of a local advisory committee, appointed by the Board, composed of equal representation of public and private operators. The local advisory committees in each site developed a local charter policy, and the Board approved it. The Board automatically approved the local charter policy if the Committee unanimously approved it. The Committee provided a means for both the public and private sectors to express their opinions and encouraged cooperation among the groups.

In each demonstration site, the local committees agreed to broad categories of customers that the public operator could serve during the demonstration. Several of the committees debated in the initial meetings whether to permit broad categories or to review exceptions on a case-by-case basis. Generally, committee members agreed that the process of reviewing each charter request to determine whether the public operator

could provide the service was cumbersome and did not serve the customer well.

Although each local advisory committee developed its own policy for the demonstration, the local charter policies focused on the following groups and types of charter:

* Member governments.

* Economic development groups and chambers of commerce.

* Convention-related charters.

* Community organizations and events.

* Charters with unique equipment.

* Charters for private individuals and organizations through a referral process.

The Draft Final Report

In conformance with section 3040 of ISTEA, FTA has prepared a draft final report that sets out the findings of the demonstration program and makes proposals for improving the current charter regulations. The report provides detailed data on the amount and type of service provided by public operators during the demonstration, the categories of groups served, and the impact of this service on both customers and private charter operators.

Prior to finalizing this report and its proposals for modifying the current charter regulations, FTA wishes to convene a public meeting to discuss the demonstration findings and conclusions.

This meeting will be open to all interested parties. FTA will submit a final report to Congress after the meeting.

Issued on: August 14, 1996.

Gordon J. Linton,
Administrator.

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Maritime Administration

[Docket No. M-022]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before October 21, 1996.

FOR FURTHER INFORMATION CONTACT: John M. Pisani, Director, Office of Ports and