service all helicopter transmission epicyclic planet pinion cages P/N 350A32–1081–20 or –21 having 600 hours' or more total time in service and replace with a serviceable part.

(d) For epicyclic planet pinion cages P/N 350A32–1081–20 or –21 with less than 600 hours' time in service, replace with a serviceable part prior to accumulation of 650 hours' total time in service.

Note.—Epicyclic planet pinion cages replaced in accordance with Aerospatiale Telex No. 50069 Telex Service 01.07, as revised by Aerospatiale Telex 6936 comply with the intent of this AD.

This amendment becomes effective September 6, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97–499, January 12, 1983]; 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this act is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on August 16, 1983.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83–23683 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket Number 83–ACE–10]

Designation of Transition Area—Aurora, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Aurora, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Aurora, Missouri, Memorial Airport, utilizing the Springfield, Missouri VORTAC as a navigational aid. This action will change the airport status from VFR to IFR. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Aurora, Missouri, Memorial Airport, utilizing the Springfield VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Aurora, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 28667, 28668 of the Federal Register dated June 23, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Aurora, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT November 24, 1983, by designating the following transition area:

Aurora, Missouri

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Aurora Memorial Airport (Latitude 36°57'40" N.; Longitude 93°41'45" W.)

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on August 17, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–23678 Filed 8–26–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 22050; SFAR No. 44–7]

Special Federal Aviation Regulation No. 44–4 and SFAR 44–5; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds and removes Special Federal Aviation Regulation (SFAR) No. 44–4 and amends SFAR 44–5 so as to permanently allocate slots formerly used by Braniff Airways and temporarily allocated to other airlines under SFAR 44–4 to the carriers currently having those slots in their base. The amendment provides that certain slots will be available for Braniff if certain conditions are met by September 15, 1983. This amendment, in part, responds to a letter dated May 19, 1983, from Braniff making a formal request for slots and to a petition for rulemaking submitted by Continental Airlines.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: J. E. Murdock III, Chief Counsel, Federal Aviation Administration, 800

Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 426–3773.

SUPPLEMENTARY INFORMATION:

Background

On Wednesday, May 12, 1982, Braniff Airways, Inc. (Braniff), suspended operations and filed bankruptcy papers under Chapter 11 of the Federal Bankruptcy Code. Braniff had been using a significant number of arrival slots at various airports within the contiguous United States. Those slots had been allocated to Braniff under the FAA's Interim Operations Plan, consistent with a number of Special Federal Aviation Regulations (SFAR), including SFAR 44–3 (47 FR 7816; February 22, 1982). Braniff had been allocated approximately 400 arrival slots, of which about 150 were at Dallas/Fort Worth Regional Airport (DFW). Immediately after Braniff suspended operations, approximately 25 percent of the slots used by Braniff were allocated to other carriers on an emergency basis to minimize the impact on the traveling public of Braniff's suspension of operations.

In order to allocate the remainder of the slots previously utilized by Braniff, the FAA on May 20, 1982, issued SFAR 44–4 (47 FR 22492; May 24, 1982). Under this SFAR, a random draw was held on May 27, 1982, to determine the order in which the slots used by Braniff would be allocated. The preamble to the SFAR included the following language:

> Braniff slots, either under this SFAR or on an emergency basis, are allocated on a temporary basis only. The slots are for up to a 60-day period. During that time, Braniff's Chapter 11 proceedings will be closely monitored. If Braniff does again operate, then the slots necessary for continued Braniff operations will be returned to Braniff. The carriers should be able to use these slots for 60 days, but all parties are put on notice that the award of these slots may be revoked upon 24-hour notice. Carriers should not apply for these slots unless they will be in a position to operate under these conditions. At no later than the end of that 60-day period, this temporary approval may be extended or a longer term allocation procedure for the particular slots may be promulgated.

The slots so allocated were designated "DS" on FAA records and retain that designation today.

On December 23, 1982, Braniff filed an application for approval of a proposed agreement between Braniff and Pacific Southwest Airlines (PSA). On December 30, 1982, Braniff filed with the Bankruptcy Court a "Memorandum of Understanding" as a basis for a proposed settlement and compromise of all claims, counter-claims, and potential litigations by and among Braniff, certain unsecured creditors, and certain secured creditors. The "Memorandum" contained a proposed arrangement between Braniff and PSA in which PSA would obtain a number of Braniff's aircraft, airport leases and other equipment, and Braniff's landing slots would be transferred to PSA.

On January 26, 1983, the Administrator advised Braniff that the proposed agreement between Braniff and PSA did not satisfy the conditions for the return of the slots set forth in SFAR 44–4; therefore, the slots were not returned to Braniff. The Administrator also stated that it was his intention to take action to permanently allocate these slots.

On March 2, 1983, the United States Court of Appeals for the Fifth Circuit reversed the lower court orders approving the agreement and transfer of slots (In Re Braniff Airways, Inc., 700 F.2d 935 (1983)). The Court of Appeals held that, even under the broad terms of Section 105 of the Bankruptcy Act, slots were not property and that, therefore, the District Court did not have jurisdiction to order the FAA to return landing slots to Braniff or a "successor" of Braniff. Even if the slots rose to "some limited proprietary interest," the Fifth Circuit held that the FAA still had sole authority to approve the transfer contemplated.

On December 30, 1982, Continental Air Lines, Inc., filed a petition for rulemaking requesting the agency to institute proceedings for the adoption of rules to govern the long-term allocation of airport landing slots formerly assigned to Braniff. In support of its petition, Continental stated that the allocation of the slots formerly used by Braniff was originally intended to be for a temporary 60-day period to permit the FAA to monitor Braniff's bankruptcy proceedings. Continental further stated that the agency seems to have contemplated that slots necessary for continued operations would be returned to Braniff if Braniff resumed operations in the near term; otherwise, incumbents would be allowed to continue to use the slots, or some new long-term allocation procedure would be adopted.

By letter (copy is in docket) dated May 19, 1983, Howard Putnam, President of Braniff, formally requested authority to use 188 of the slots previously utilized by Braniff. Mr. Putnam stated that the planned start-up date was October 1, 1983.

On June 16, 1983, the FAA issued Notice No. 83–7 which proposed alternative methods for the disposition of the Braniff slots and the May 19 Braniff request.

On June 23, 1983, an agreement was filed in the Bankruptcy Court between Braniff and Hyatt Air, Inc., which would allow Braniff to resume oeprations.

Discussion of Comments and the Rule

The FAA received a number of comments on Notice No. 83–7. The comments were basically split among the alternatives proposed in the notice.

One commenter questioned the amount of time given to respond to the notice. The NPRM did contain an 8-day comment period. The June 28 slot selection session was a major factor in determining the length of the comment period. It was necessary for the agency to receive comments on the notice prior to the date of the session.

Since the session was set for June 28, it was necessary to ask for comments by June 24. The FAA, in fact, provided advance notice to all air carriers. It must be noted that on May 27, 1983, the FAA issued a telex to all air carriers announcing a change in the date for the slot allocation session. In that telex, the agency stated that several alternative methods to allocate slots to Braniff were being considered, including one which "would be to allocate some or all of the necessary arrivals out of the September 1 allocation." The agency further stated that "such a procedure might diminish or eliminate the need for recall for some or all of the SFAR 44–4 slots." Therefore, the agency raised the specific alternatives discussed in the NPRM with all directly affected parties several weeks before the NPRM was issued. When that telex was sent, the agency reminded all parties that the SFAR 44–4 Docket was open for comment.

In this connection, the issue of disposition of the Braniff slots was initially raised in Continental Airlines' December 30, 1982, petition for rulemaking. Continental's petition requested that the FAA make permanent those former Braniff slots allocated to other carriers while providing some priority to allow Braniff to obtain newly available slots. The petition was published in the **Federal Register**. The majority of the comments submitted in response to Continental's request to permanently allocate the "Braniff" slots supported portions of the petitions. Therefore, the issue of alternative methods of allocating slots to Braniff was originally raised in December by Continental's petition. Thus, interested parties were given several opportunities during the past 6 months to submit their views on this issue. Numerous comments were submitted on that petition as well as in response to Notice No. 83–7.

It must be further noted that although June 24 was listed as close of the comment period, 14 CFR 11.47 provides that comments filed late will be considered.

If the agency were to extend the comment period, it would also have had to delay, for a second time, the slot allocation session. The agency agreed with those commenters who urged the agency not to delay the session because of the impact that would have on the air carriers' ability to finalize and make public their September schedules. For this reason, that alternative was not selected.

Since the comment period (and following slot session) could not be postponed and since the public had several opportunities to have input on the agency's decisionmaking process, the length of the comment period in Notice No. 83–7 was reasonable.

Some commenters stated that it was premature to give slots to Braniff. The agency recognizes that several major additional steps must be taken before Braniff will be in a position to operate. In addition, Braniff has not shown that the Braniff/Hyatt arrangement is consistent with the Administrator's previous determination that slots would be made available to Braniff or an air carrier succeeding to the rights, duties, and obligations of Braniff. That determination cannot be made until later this summer after further bankruptcy proceedings. On the other hand, the agency recognizes that if some provision is not made to provide Braniff with the opportunity to select some slots, then slot availability could be the single factor which prevents Braniff from again operating. While the agency would have preferred to make such a slot determination later in the year, if some action were not taken at this time, there would be no slots available for the remainder of the year. Therefore, the agency needs to act now if Braniff is to be given an opportunity to operate.

Since the agency needs to take some action concerning slots for Braniff, the remaining question was which alternative would be selected.

Various commenters submitting comments to Continental's petition for rulemaking and Notice No. 83–7 were opposed to the agency recalling SFAR 44–4 slots and allocating them to Braniff. A number of commenters stated that requiring carriers to return slots would result in a substantial disruption of airline service patterns to the detriment of the traveling public. One commenter stated that this alternative "would be unnecessarily disruptive to the air traffic control system and it would be difficult to implement on an equitable basis."

A number of commenters were opposed to the alternative which would provide Braniff with slots from the September allocation. Those commenters stated that this proposal unfairly rewards carriers still holding Braniff slots over carriers that have used previous selection to obtain improved positions in the June selection. Another commenter stated that this proposal would deprive it of an opportunity to select slots at certain airports.

After issuance of the NPRM, Braniff advised the FAA that November 15, 1983, not October 1, 1983, is a realistic restart date. As a result of that change in proposed startup date, the total number of slots needed by Braniff for a November 15 operation would be 53 slots (19 airport slots and 34 center slots).

As a result of the relatively small number of slots needed for Braniff's operation, setting aside those slots from new capacity is a more reasonable alternative than recalling the "Braniff" slots from carriers currently holding them. The latter alternative would involve a costly and burdensome process which would affect 30 carriers, the approximate number of carriers with "Braniff" slots at the airports and centers in question. It would take several weeks to complete any process selected. That could create scheduling problems for these carriers and could disrupt large numbers of travellers. On the other hand, the impact on the system of withholding 53 slots from allocation is minimal. For example, the number of slots involved at Chicago, Denver, and Los Angeles represents less than 1 percent of arrival slots at those airports. While the agency acknowledges that there are carriers that could have selected those slots, it is purely speculative to suggest which carriers would have been in a position to select specific slots. In addition, that impact should also be minimal since slot restrictions will, in most cases, be eliminated by the end of the year.

Although there is some impact as a result of withholding the 53 slots from allocation, that impact is minimal and is much less disruptive of the entire system than the alternative of recalling slots. For that reason, the agency will not recall the Braniff slots and will, by this amendment, make those allocations permanent.

Assuming that Braniff is able to obtain the necessary approvals to commence operation, it will need slots to begin operation. Because of the number of slots needed, Braniff would not have been able to obtain a sufficient number of slots in the June 24 slot selection session where FAA allocated new capacity for the September-December period. Even if Braniff were granted new entrant status at that session, it would not have been able to obtain the slots it is seeking.

At the June 28 sessions, the Administrator withheld 53 slots. Those slots will be withheld from allocation until September 15. On that date, those slots will be allocated to Braniff if it has obtained all necessary approvals for its proposed reorganization and the Administrator determines that the reorganization is consistent with previous agency statements (including SFAR 44–4) on this subject. It should be noted that preliminary review of material submitted to the Bankruptcy Court shows that the Braniff/Hyatt proposal is consistent with SFAR 44–4.

If those conditions are not satisfied by September 15 or if the Administrator determines at an earlier time that Braniff will not operate by November 15, 1983, then an allocation in accordance with SFAR 44–5 will be held for the 53 slots. In order to accomplish this, the agency will closely monitor the Braniff bankruptcy proceedings. In this connection, it is expected that Braniff and Hyatt officials will keep agency officials advised as to all bankruptcy developments.

In the NPRM, the agency proposed that other carriers be allowed to utilize the slots set aside for Braniff until Braniff operates or until it is determined that Braniff will not operate. The agency has determined not to allow temporary use of these slots. The administrative workload involved in tracking and perhaps recalling those slots outweighs the possible benefits which might be obtained by temporary usage of the slots by a limited number of carriers.

In order to obtain the information needed from Braniff on or before September 15, 1983, as to whether they will be able to operate by November 15, 1983, it is necessary to make this rule effective in less than 30 days. Therefore, I find that good cause exists for making this regulation effective less than 30 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the FAA rescinds and removes Special Federal Aviation Regulation No. 44–4, in Part 91 effective August 25, 1983, and the FAA amends the Appendix to Part 91 of Special Federal Aviation Regulation No. 44–5 to

Part 91 effective August 25, 1983, as follows:

1. The following paragraph is added to paragraph 1.

* * * * *

(c) Slots allocated in accordance with SFAR 44–4 shall be considered to have been allocated under this Appendix.

2. The following paragraph is added to paragraph 2.

* * * * *

(h) If Braniff notifies the FAA, in writing, prior to September 15, 1983, that it has obtained the necessary legal approvals to begin operations by November 15, 1983, and if that operation is approved by the Administrator, then Braniff will be allocated the 53 slots withheld from the June 28 slot allocation session. If Braniff does not provide that notice by September 15 or if the Administrator determines that Braniff will not be able to operate by November 15, an allocation will be held to allocate the slots.

Note.—The FAA has determined that this rule only affects a minor number of slots and the number of carriers holding slots. There are no apparent direct or indirect (non-industry) costs associated with the rule. Therefore, the preparation of a full regulatory evaluation is unnecessary.

Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

(Secs. 307(a) and (c), 313(a) and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and (c), 1354(a), 1421(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)))

Issued in Washington, D.C., on August 24, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83–23704 Filed 8–25–83; 2:47 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 83F–0049]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of fluorine-treated polyethylene as a food-contact surface. This action responds to a petition filed by the Union Carbide Corp.

DATES: Effective August 29, 1983; objection by September 28, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 29, 1983 (48 FR 13098), FDA announced that a petition (FAP 8B3394) had been filed by the Union Carbide Corp., Old Saw Mill River Rd., Tarrytown, NY 10591, proposing that the food additive regulations be amended to provide for safe use of fluorine-treated polyethylene as a component of food-contact surfaces.

FDA has evaluated the data in the petition and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 177 is amended in Subpart B by adding new § 177.1615, to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1615 Polyethylene, fluorinated.

Fluorinated polyethylene, identified in paragraph (a) of this section, may be safely used as food-contact articles in accordance with the following prescribed conditions:

(a) Fluorinated polyethylene food-contact articles are produced by modifying the surface of polyethylene articles through action of fluorine gas in combination with gaseous nitrogen as an inert diluent. Such modification affects only the surface of the polymer, leaving the interior unchanged. Fluorinated polyethylene articles are manufactured from basic resins containing not less than 85 weight-percent of polymer units derived from ethylene and identified in § 177.1520 (a)(2) and (3)(i).

(b) Fluorinated polyethylene articles conform to the specifications and use limitations of § 177.1520(c), items 2.1 and 3.1.

(c) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields fluoride ion not to exceed 5 parts per million calculated on the basis of the volume of food held by the food-contact article.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 28, 1983 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such