

well as any other related issues that commenters believe may warrant consideration:

- The Inspector General letter identifies a list of criteria typically used to determine actual control of an air carrier (*i.e.*, (1) control via supermajority or disproportionate voting rights; (2) negative control/power to veto; (3) buy-out clauses; (4) equity ownership; (5) significant contacts; (6) credit agreements/debt; and (7) family relationships/business relationships). Are there any other factors or criteria the Department routinely considers that should be added to this list?

- Is the Department's current informal, undocketed process for reviewing the citizenship of certificated and commuter air carriers following a substantial change in operations, ownership, or management sufficient to meet the statutory goals and requirements of evaluating a carrier's continuing fitness prior to any decision to take public action?

- Should air carriers proposing a substantial change in operations, ownership, or management that may affect their citizenship status be subject to a formal, public review of their citizenship, and if so, under what circumstances?

- What are the benefits and burdens, including time, effort, or financial resources expended, to generate, maintain, or provide information that would be subject to such a docketed public review? How would an air carrier's ability to obtain timely financing be affected?

- What are the advantages and disadvantages of retaining the current rule at 14 CFR 204.5 without revision?

- Should the Department establish separate procedures for handling complex, contentious, and controversial citizenship questions that arise in the context of continuing fitness reviews? If so, what procedures would be appropriate, and what standards should be used to designate such cases?

- Should the Department issue a public notice when it initiates and/or completes a citizenship determination in the context of a continuing fitness review? How would such notice impact an air carrier's business? What impact would such notice have on the willingness of an air carrier contemplating a future change in ownership, operations, and/or management to have candid discussions with the Department before formalizing any transaction?

- How should competition issues and business confidentiality issues be addressed in any change to the current procedures?

To ensure that the Department identifies and considers a full range of issues related to any rulemaking action that may be proposed, comments and suggestions are invited from all interested parties, including certificated and commuter air carriers, industry groups, and the public.

Regulatory Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the Department will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A NPRM may be issued at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The Department has determined preliminarily that this document is a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, will be reviewed by the Office of Management and Budget. The Department has also determined preliminarily that this document is significant under the Department's regulatory policies and procedures given the degree of Congressional interest in this matter. It is not economically significant. At this time, the Department does not believe any proposed regulatory changes will interfere with any action taken or planned by another agency or to materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Changes to the way citizenship issues are addressed in continuing fitness reviews may cause increased burdens on the part of the air carriers, as well as the Department. Currently, there are approximately 175 carriers that hold certificates or commuter authorizations from the Department. All of these carriers are subject to the continuing fitness requirements, and all must report substantial changes in operations, ownership, or management to the Department for review. During calendar years 2001 and 2002, the Department instituted an average of 52 new continuing fitness cases each year, some of which involved citizenship issues. Based on the information received in

response to this ANPRM, the Department intends to carefully consider the costs and benefits associated with this rulemaking.

Executive Order 13132 (Federalism Assessment)

The Department has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials. The Department anticipates that any action taken will not preempt a State law or State regulation or affect the States' ability to discharge traditional State government functions. We encourage commenters to consider these issues, as well as matters concerning any costs or burdens that might be imposed on the States as a result of actions considered here.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. The Department will analyze any action that might be proposed for the purpose of the Regulatory Flexibility Act.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501–3520, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. Any action that might be contemplated in subsequent phases of this proceeding may involve a collection of information requirement for the purpose of the Paperwork Reduction Act of 1995. The Department, however, will evaluate any actions that might be considered in accordance with the terms of the Paperwork Reduction Act. We encourage commenters to consider these issues, as well as matters concerning any burdens that might be imposed as a result of actions considered here. Accordingly, the Department solicits comments on this issue.

Regulation Identifier (RIN)

A regulation identifier (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 contained in the heading of this document can be used to cross-