(f) The inspections and replacement shall be done in accordance with the following service document:

Document No.	Pages	Date
TCM MSB No. MSB94–9. Total pages: 2.	1–2	Oct. 21, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (334) 438–3411. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 13, 1995.

Issued in Burlington, Massachusetts, on February 8, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service. [FR Doc. 95–4124 Filed 2–23–95; 8:45 am] BILLING CODE 4910–13–P

Office of the Secretary

14 CFR Parts 300 and 385

[Docket No. 48582]

RIN 2105-AB89

Rules of Conduct in DOT Proceedings

AGENCY: Department of Transportation, Office of the Secretary. **ACTION:** Final rule.

SUMMARY: The Department of Transportation is amending its procedural regulations to permit Department staff to communicate informally with applicants and any objectors or other commenters in the investigation stage of docketed air carrier initial certificate application and continuing fitness cases (collectively referred to as "fitness cases") where the issues are limited solely to fitness and/ or U.S. citizenship. Such communications may be initiated only by Department career staff for the purpose of clarifying information filed, or by an applicant or other interested party upon grant of a limited waiver of the regulations in order to engage in substantive communication with Department staff. In other respects, the Department's current ex parte restrictions will continue to govern substantive communications both before and after a show-cause order or an order instituting a formal proceeding has been issued. The amendment being

promulgated differs from that proposed in the Notice of Proposed Rulemaking (NPRM) in that the latter did not restrict the permitted ex parte communications to those initiated by Department staff or by other interested persons only pursuant to a waiver. The amendment will give the Department an added degree of flexibility in seeking information from all interested parties and will decrease the burden on applicants as well as objectors and other commenters. However, it will still provide those parties a fair and complete opportunity to be heard and ensure an adequate record for the proceeding.

EFFECTIVE DATE: The rule shall become effective on March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Carol A. Woods, Air Carrier Fitness Division, X–56, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366– 9721.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Department issued an NPRM (58 FR 516, January 6, 1993) to amend its procedural regulations (14 CFR Part 300) to permit Department staff to communicate informally with applicants and any objectors or other commenters in docketed cases involving determinations of air carrier fitness and/ or U.S. citizenship only, during the initial investigation stages before the issuance of a show-cause order or an order instituting a formal proceeding. After the issuance of either of those orders, the Department's current ex parte restrictions would apply.

The amendment was designed to eliminate unnecessary delays and complications in processing initial certificate applications and docketed continuing fitness cases that arise because, under the current rule (14 CFR 300.2), the Department may not discuss informally, either orally or in writing, substantive aspects of the cases with the applicants or objecting parties once a written objection is filed. Instead, the Department's staff routinely goes through the burdensome task of putting all of its questions in writing, filing them in the docket, and serving them on all parties. The applicant must likewise respond in writing through the docket, with copies to all parties. Often responses to staff questions need clarification or spawn further inquiries. Moreover, questions asked of the applicant by the Department's staff may themselves require clarification before a proper response can be made. As a

result, often matters that could be cleared up in minutes by telephone or in a meeting can drag on for days or weeks solely due to the procedures of the on-the-record communications required under the current rules. Overall, the process is often cumbersome and time-consuming.

Carrier applicants are not the only persons who suffer as a result. For example, the Department's staff may not under present ex parte rules ask simple questions of an objector in an effort to verify the facts contained in the filing objecting to the application without similar written procedures. The amendment would allow the Department the flexibility to seek clarifications and additional information from interested persons in an informal manner, thereby relieving all parties of the burden of having to file such communications in the docket and serve them on all interested persons. Since the current *ex parte* communication rules would continue to apply after the issuance of a show-cause order or an order instituting formal procedures, the amendment would ensure that all parties would have a fair and complete opportunity to be heard and that an adequate record would be assembled for the proceeding.

Comments on the NPRM were received from American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), United Air Lines, Inc. (United), and the Regional Airline Association.

Summary of Comments

The Regional Airline Association stated that it supported the Department's proposed amendment to Part 300. American declared that it had no objection to the proposed change if limited to docketed initial fitness proceedings. Delta objected to ex parte communications in any "controversial cases involving significant issues of law and/or public policy." United stated that it did not object to a change allowing ex parte communications for the purpose of clarifying factual issues in routine fitness cases, such as financial documents, personnel backgrounds, or safety violations, but maintained that ex parte communications were not appropriate in any type of fitness proceeding that involved citizenship issues.

Delta declared that the proposed change would allow "secret" communications between the Department and the subjects of fitness reviews in contested, controversial cases where prohibitions on such communications are particularly needed to protect the rights of all parties and the integrity of the Department's