

violations of the case assignment rotation requirement in 5 U.S.C. 3105.

The Board finds that this suggestion fails to state a persuasive objection to the amendment of its regulation since the revised standard would permit consideration of an ALJ's involuntary resignation claim that is based on the agency's improper interference with his decisionmaking by assigning cases out of rotation.

5. One commenter supports the proposed amendment and urges the Board to provide upon issuance of the amended regulation that it will be applicable to pending cases.

The Board finds that retroactive application of the amended regulation would be contrary to the court's decision in *Tunik*, which held that the cases in that consolidated appeal were subject to the standard stated in the former regulation because it could not be repealed in an adjudication. Under *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988), the Board must have express statutory authority to make a substantive rule retroactive, authority which the Board does not have. The amended regulation that the Board is issuing is such a rule because it repeals the substantive standard for constructive removal stated in the old regulation and makes effective the standard for such a removal now contained in the Board's case law.

#### List of Subjects in 5 CFR Part 1201

Administrative personnel, Actions against administrative law judges, Actions filed by administrative law judges.

■ For the reasons set forth in the Preamble, the MSPB is amending 5 CFR part 1201 as follows:

#### PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for 5 CFR part 1201 is revised to read as follows:

**Authority:** 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. Accordingly, the Board revises 5 CFR 1201.142 to read as follows:

#### § 1201.142 Actions filed by administrative law judges.

An administrative law judge who alleges a constructive removal or other action by an agency in violation of 5 U.S.C. 7521 may file a complaint with the Board under this subpart. The filing and serving requirements of 5 CFR 1201.37 apply. Such complaints shall be adjudicated in the same manner as agency complaints under this subpart.

Dated: June 8, 2006.

**Bentley M. Roberts, Jr.**,  
*Clerk of the Board.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1210

[Doc. No. FV-05-704-IFR]

#### Watermelon Research and Promotion Plan; Redistricting

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule invites comments on changing the boundaries of all seven districts under the Watermelon Research and Promotion Plan (Plan) to apportion producer and handler membership on the National Watermelon Promotion Board (Board). This will make all districts equal according to the previous three-year average production records. Pursuant to the provisions of the Plan and regulations, these changes are based on a review of the production and assessments paid in each district and the amount of watermelon import assessments, which the Plan requires at least every five years.

**DATES:** Effective June 15, 2006. Comments must be received by July 14, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535-S, 1400 Independence Avenue, SW., Washington, DC 20250-0244; fax (202) 205-2800; e-mail: [daniel.manzoni@usda.gov](mailto:daniel.manzoni@usda.gov); or Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours or can be viewed at: <http://www.ams.usda.gov/fv/rpb.html>.

**FOR FURTHER INFORMATION CONTACT:** Daniel Rafael Manzoni, Research and Promotion Branch, FV, AMS, USDA, Room 2535-S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250-0244; telephone

(202) 720-5951 or (888) 720-9917 (toll free); fax: (202) 205-2800; or e-mail [daniel.manzoni@usda.gov](mailto:daniel.manzoni@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Watermelon Research and Promotion Plan (Plan) [7 CFR part 1210]. The Plan is authorized under the Watermelon Research and Promotion Act (Act) [7 U.S.C. 4901-4916].

#### Executive Orders 12886

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### Executive Order 12988

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act allows producers, producer-packers, handlers, and importers (if covered by the program) to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

#### Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], AMS has examined the economic impact of this rule on the small producers, handlers, and importers that would be affected by this rule.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than \$6.5 million. Under these definitions, the majority of the producers, handlers,

and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

According to the Board, there are approximately 1,301 producers, 442 handlers, and 346 importers who are eligible to serve on the Board.

The Plan requires producers to be nominated by producers, handlers to be nominated by handlers, and importers to be nominated by importers. This would not change. Because some current members are in states or counties which would be moved to other districts under this rule, one handler vacancy in the new District 4, one producer member vacancy in the new Districts 5, and one handler member vacancy in the new District 2 is created with this rule change. Nomination meetings will be held in the new districts to fill these vacancies.

The overall impact is favorable because the new district boundaries provide more equitable representation for the producers and handlers who pay assessments in the various districts. The current importer membership will not change.

The Board considered several alignments of the districts in an effort to provide balanced representation for each district. The Board selected the alignment described in this rule as it provides proportional representation on the Board of producers, handlers, and importers.

This rule does not impose additional recordkeeping requirements on first handlers, producers, or importers of watermelons because the number of nominees would remain unchanged.

There are no federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB control number 0581-0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this amendment to the Plan on small entities, and we invite comments concerning potential effects of this amendment.

## Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection. This action will not have any impact on the assessment rates paid by producers, handlers, and importers.

Membership on the Board consists of two producers and two handlers for each of the seven districts established by the Plan, at least one importer, and one public member. The Board currently has 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

The seven current districts were established in 2001. They are:

*District 1*—The Florida counties of Brevard, Broward, Collier, Dade, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Polk, and St. Lucie.

*District 2*—The Florida counties of Alachula, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Clay, Columbia, Desoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Okaloosa, Orange, Pasco, Pinellas, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

*District 3*—Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

*District 4*—Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont,

Virginia, Washington, D.C., West Virginia, and Wisconsin.

*District 5*—Alaska, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming and the California counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Toulumne, Venture, Yolo, and Yuba.

*District 6*—Texas.

*District 7*—Arizona, New Mexico, and the California counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

Pursuant to section 1210.320(c) of the Plan, the Board shall review the seven districts to determine whether realignment of the districts is necessary, every five years. When making a review, the Plan specifies that the Board should consider factors such as the most recent three years of USDA production reports or Board assessment reports if USDA production reports are unavailable, shifts and trends in quantities of watermelons produced, and any other relevant factors. Any realignment should be recommended by the Board at least six months prior to the date of the call for nominations and should become effective at least 30 days prior to this date.

Pursuant to section 1210.320 (e), the Secretary shall review importer representation every five years. According to the Plan, the Secretary shall review a three-year average of watermelon import assessments and adjust, to the extent practicable, the number of importers on the Board.

The Board appointed a subcommittee to begin reviewing the U.S. districts and to determine whether realignment was necessary based on production and assessment collections in the current districts. During the review, as prescribed by the Plan, the subcommittee reviewed USDA's Annual Crop Summary reports for 2002 through 2004, which provide figures for the top 17 watermelon producing states, and the Board's assessment collection records for 2002 through 2004. Both sets of data showed similar trends in production among the various states. However, the Board used the assessment reports because USDA's Annual Crop Summary reports were available for only 17 of the

34 states in which watermelons are produced.

The subcommittee recommended to the Board that the boundaries of all seven districts be changed in order for there to be an equal amount of assessments paid by producers and handlers in the districts.

The subcommittee also provided information that the average annual percentage of assessments paid by importers continued to represent 20 percent of the Board's assessment income during 2002–2004. Because there was no change in the assessments on imports, it is not necessary to change the number of importer representatives on the Board. Therefore, the number of importer Board members remains at six.

Subsequently, the realignment was approved by Board at its February 22, 2005, meeting. Under the realignment, each district would represent, on average, 14 percent of total U.S. production. The composition of the Board would remain at a total of 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

Therefore, this rule realigns the districts as follows:

*District 1*—The Florida counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Marion, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington, and the Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, Seminole, and the states of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, and Virginia.

*District 3*—The Georgia counties not included in District two and the state of South Carolina.

*District 4*—The States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Kentucky, West Virginia, Maryland, New Hampshire, Maine, New Jersey, New York, Pennsylvania, Massachusetts, Rhode Island, Delaware, Vermont, Wisconsin, Connecticut, and Washington, DC.

*District 5*—The States of Alaska, Hawaii, Nevada, Oregon, and Washington and all of the counties in the state of California except for those California counties included in District Seven.

*District 6*—The counties in the state of Texas, except for those counties in Texas included in District Seven.

*District 7*—The counties in the state of Texas; Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childness, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, the states of New Mexico, Arizona, Utah, Colorado, Idaho, Montana, and Wyoming, and the following counties in California; San Bernardino, Riverside, San Diego, and Imperial.

Under this realignment: (1) Eighteen Florida counties are moved from District 2 to District 1; (2) Alabama, Arkansas, Louisiana, Mississippi, and Tennessee are moved from District 3 to District 2; (3) North Carolina, Virginia and Oklahoma are moved from District 4 to District 2; (4) Georgia counties Early, Baker, Miller, Colquitt, Thomas, Grady, Decatur, and Seminole are moved from District 3 to District 2; (5) Montana, Idaho, Wyoming, Utah and Colorado are moved from District 5 to District 7; (6) Texas counties Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carlson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childness, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, and Stonewall, are moved from District 6 to District 7; and (7) California counties Los Angeles and Orange are moved from District 7 to District 5.

Due to the re-alignment of the districts the following vacancies are created: one handler vacancy in District 4, one handler vacancy in District 2, and one producer vacancy in the District 5. Current Board members would be affected because their states or counties would be moved to other districts. Nomination meetings will be held as soon as possible in the new districts to fill the vacancies.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give

preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after the publication in the **Federal Register** because the Board adjustment provided for in this interim final rule needs to be effective as soon as possible in order to complete the 2006 Board appointments. For the same reason, a 30-days comment period is deemed appropriate.

#### List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

■ For the reasons set forth in the preamble, part 1210, Chapter XI of Title 7 is amended as follows:

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

#### PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

##### Subpart C—Rules and Regulations

■ 2. Section 1210.501 is revised to read as follows:

##### § 1210.501 Realignment of districts.

Pursuant to § 1210.320(c) of the Plan, the districts shall be as follows:

*District 1*—The Florida counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Marion, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington, and the Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, Seminole, and the states of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, and Virginia.

*District 3*—The Georgia counties not included in District two and the state of South Carolina.

*District 4*—The States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Kentucky, West Virginia, Maryland,

New Hampshire, Maine, New Jersey, New York, Pennsylvania, Massachusetts, Rhode Island, Delaware, Vermont, Wisconsin, Connecticut, and Washington, DC.

*District 5*—The States of Alaska, Hawaii, Nevada, Oregon, and Washington and all of the counties in the state of California except for those California counties included in District Seven.

*District 6*—The counties in the state of Texas, except for those counties in Texas included in District Seven.

*District 7*—The counties in the state of Texas; Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childness, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, the states of New Mexico, Arizona, Utah, Colorado, Idaho, Montana, and Wyoming, and the following counties in California; San Bernardino, Riverside, San Diego, and Imperial.

Dated: June 8, 2006.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E6-9234 Filed 6-13-06; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. CE247; Special Conditions No. 23-187-SC]

#### **Special Conditions: Thielert Aircraft Engines; Piper PA 28-161 Cadet, Warrior II and Warrior III Series Airplanes; Installation of Thielert TAE-125-01 Aircraft Diesel Engine for Full Authority Digital Engine Control (FADEC) System and the Protection of the System From the Effects of High Intensity Radiated Fields (HIRF)**

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued to Thielert Aircraft Engines, GmbH, Lichtenstein, Germany for a supplemental type certificate for the Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes. The

supplemental type certificate for these airplanes will have a novel or unusual design feature associated with the installation of an aircraft diesel engine that uses an electronic engine control system instead of a mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is: June 7, 2006. Comments must be received on or before July 14, 2006.

**ADDRESSES:** Comments on the special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE-7, Attention: Rules Docket, Docket No. CE247, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE247. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: 816-329-4135, fax: 816-329-4090.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

#### **Comments Invited**

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All

comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE247." The postcard will be date stamped and returned to the commenter.

#### **Background**

On February 11, 2002, Thielert Aircraft Engines applied for a supplemental type certificate for the Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes. The supplemental type certificate will allow Thielert Aircraft Engines to install a Thielert Aircraft engine (TAE 125-01 Aircraft Diesel Engine (ADE)) that is equipped with an electronic engine control system with full authority capability in these airplanes.

#### **Type Certification Basis**

Under the provisions of 14 CFR, part 21, § 21.101, Thielert Aircraft Engines must show that the Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes, as changed, continues to meet the applicable provisions of regulations incorporated by reference in the original certification basis of the Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes, as listed on Type Certificate No. 2A13; exemptions, if any; and the special conditions adopted by this rulemaking action. The Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes were originally certified under Part 3 of the Civil Air Regulations.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, CAR 3; 14 CFR, part 23) do not contain adequate or appropriate safety standards for the Piper PA 28-161 Cadet, Warrior II and Warrior III series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the certification basis for the supplemental type certification basis in accordance with § 21.101. Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other