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(b) The rate of subsidy per passenger shall be calculated by dividing the annual subsidy in effect as of July 1 of the prior fiscal year by the total origin-and-destination traffic during the most recent year for which the Department has obtained complete data.

PART 399—STATEMENTS OF GENERAL POLICY

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AUTHORITY: 49 U.S.C. 40101 *et seq.*

SOURCE: PS-21, 29 FR 1446, Jan. 29, 1964, unless otherwise noted.

Subpart A—Applicability and Effects of Policy Statements

§ 399.1 Applicability.

All statements of general policy adopted by the Board for the guidance of the public will be published in this part, except as provided in § 399.2.

§ 399.2 Exclusions.

The following types of policies are generally not included in this part:

- (a) Policies relating solely to the internal management of the Board;
- (b) Policies requiring secrecy in the public interest or in the interest of national defense;
- (c) Policies that are repetitive of section 102 of the Act;
- (d) Policies that are fully expressed in a procedural or substantive rule of the Board, or in any opinion, decision, order, certificate, permit, exemption, or waiver of the Board;
- (e) Expressions of encouragement or admonition to industry to follow a certain course of action;
- (f) Positions on legislative items and on other matters that are outside the scope of the Board's current statutory powers and duties.

[PS-21, 29 FR 1446, Jan. 29, 1964, as amended by PS-63, 40 FR 6643, Feb. 13, 1975]

§ 399.3 Statements in other Board documents.

No statement contained in any Board opinion, decision, order, certificate, permit, exemption, or waiver shall be considered a statement of policy within the meaning of this part, even though such statements may constitute a precedent in future cases or declare future policy to be followed in like cases. Similarly, a denial by the Board or relief sought, or statements of the Board's reasons for failure to issue a rule upon which rulemaking proceedings have been commenced shall not be considered statements of policy, except to the extent that it is specifically stated that such denial or failure is based upon a policy thereafter to be followed.

§ 399.4 Nature and effect of policy statements.

Policy statements published in this part will be observed by the Board until rescinded, but any policy may be amended from time to time as experience or changing conditions may require. Changes in policy may be made with or without advance notice to the public and will become effective upon publication in the FEDERAL REGISTER unless otherwise provided. If it appears to the Board, in its consideration of any matter before it, that the application of a policy published in this part would run counter to an express provision of law or policy enunciated by Congress in the Act, the published policy shall not be applicable to such matter.

§ 399.5 Arrangement of policy statements.

The statements of general policy relating to the various duties and functions of the Board are grouped according to subject matter in the following subparts; the titles of the subparts indicate the general subject matter included therein.

Subpart B—Policies Relating to Operating Authority

§§ 399.10-399.11 [Reserved]

§ 399.12 Negotiation by air carriers for landing rights in foreign countries.

(a) It is the policy of the Board (jointly with the Department of State) that, as a general rule, landing rights abroad for United States flag air carriers will be acquired through negotiation by the U.S. Government with foreign governments rather than by direct negotiation between an air carrier and a foreign government.

(b) It is corollary to the foregoing policy that no United States air carrier may avail itself of representations by one foreign government to further its interest with another foreign government, especially with respect to landing rights, except insofar as such representations have been specifically authorized by the U.S. Government.