

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 187**

[Docket No. 28967; Notice No. 97-11]

RIN 2120-AG14

Fees for Providing Production Certification-Related Services Outside the United States**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to establish fees by voluntary agreement for production certification-related services pertaining to aeronautical products manufactured or assembled outside the United States (U.S.). In addition, the NPRM outlines the methodology for determining the fees, describes how and when the FAA would provide these services, and describes the method for payment of fees. This proposed action, if adopted, would allow the FAA to recover certain costs in providing requested production certification-related services abroad and help to ensure that such services are provided in a responsive and timely manner.

DATES: Comments must be received on or before August 14, 1997.

ADDRESSES: Comments on this proposal may be delivered or mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 28967, Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments submitted must be marked: "Docket No. 28967." Comments may also be sent electronically to the following Internet address 9-nprm-cmts@faa.dot.gov. Comments may be examined in Room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ramona L. Johnson, Aircraft Certification Service, AIR-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone: (202) 267-8361.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to

the environmental, energy, federalism, or economic impact that might result from adopting the proposal in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must reference the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address identified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before proceeding with this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed as a result of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 28967." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

This document may be downloaded from the FAA regulations section of the FedWorld electronic bulletin board (telephone: 703-321-3339), the **Federal Register's** electronic bulletin board (telephone: 202-512-1661).

Internet users may access the FAA's web page at <http://www.faa.gov> or the **Federal Register** web page at http://www.access.gpo.gov/su_docs to download recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must reference the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request a copy of Advisory Circular (AC) No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure. This document can be obtained from the FAA Office of Rulemaking.

Background

Under Title 49 U.S.C. Section 44701, the FAA is responsible for the regulation and promotion of safety of flight. Title 49 U.S.C. Section 44704(b) authorizes the FAA Administrator to issue production certificates. Section 44704(b) provides, in part, that:

The Administrator shall issue a production certificate authorizing the production of a duplicate of any aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing * * *.

The production certification-related services that the FAA provides to fulfill its statutory responsibilities may be generally described as follows:

1. Processing applications for the following: production under a type certificate only, production under an approved production inspection system, production under a production certificate or extension of a production certificate, production under a technical standard order authorization, and production under a parts manufacturer approval. The processing of applications includes a review of data, response to the applicant, and evaluation of the applicant's further responses as necessary.
2. Certificate management of the manufacturing facility quality assurance system.
3. Witnessing tests and performing conformity inspections of articles.
4. Managing designees.
5. Investigating incidents, accidents, allegations and other unusual circumstances.

These FAA services are provided to Production Approval Holders (PAH). A person who holds a parts manufacturer approval (PMA), a Technical Standard Order (TSO) authorization, or a production certificate (PC), or who holds a type certificate (TC) and produces under that TC, is referred to as a PAH. The regulatory services provided to a PAH include: initial PAH qualification, ongoing PAH and supplier surveillance, designee management, conformity inspections; as well as initial PAH qualification and ongoing surveillance for production certificate extensions outside the U.S. The specialists who perform these functions on behalf of the FAA are Aviation Safety Inspectors, Aviation Safety Engineers, and Flight Test Pilots.

Currently, the FAA performs production certification-related services both domestically and internationally. It does not issue production approvals

outside of the U.S. However, in some international situations, the FAA allows PAH use of suppliers outside the U.S. if parts or sub-assemblies can be 100% inspected by the PAH upon their receipt in the U.S. or if parts or subassemblies are produced under a PAM's supplier control system that has been accepted by the FAA. Under certain circumstances, production outside the U.S. of complex parts, subassemblies, or products is approved by the FAA on a case-by-case basis.

PAHs who choose to perform manufacturing outside the U.S. receive significant and special benefits as a result of FAA's international production oversight. By using manufacturing facilities located outside the U.S., a PAH may benefit through lower labor costs, may increase its market share, or may reap other benefits. Further, since it is FAA's responsibility to prescribe and enforce standards in the interest of safety for the design, materials, workmanship, construction, and performance of civil aeronautical products, the FAA's oversight of manufacturing facilities located outside the U.S. helps assure public confidence in the products and parts manufactured there.

The Need for Rulemaking

Globalization of the aircraft manufacturing industry increases the challenges to the FAA in carrying out its statutory mandate to ensure that safety and airworthiness standards for civil aircraft are being met during manufacture.

To be more competitive, production approval holders are requesting approval from the FAA to expand their activities, to use more facilities around the world, and to manufacture more complex subassemblies, including complete aircraft.

Limited resources make it difficult for the FAA to support these initiatives as international ventures by U.S. aircraft manufacturers become more diverse and complex. Congress recognized the impact of FAA's resource limitations in the Federal Aviation Administration Authorization Act of 1994, P.L. 103-305 (108 Stat. 1569). As stated in Conference Report No. 103-677 on H.R. 2739:

Safety regulatory efforts to keep pace with the trend of globalization can be hampered by resource constraints * * * the Aircraft Certification Service should be able to offset expenditures made in support of aircraft or airline safety regulatory programs of both U.S. and foreign owned companies outside the United States.

Therefore, in passing PL 103-305, Congress permitted the FAA to recover

its costs "to provide safety regulatory services abroad in a more responsive and timely manner."

In addition, under Title V of the Independent Offices of Appropriations Act of 1952 (IOAA), 31 U.S.C. 9701, the FAA is authorized to establish a fair and equitable system for recovering the cost for any service, such as the issuance of a certificate, that provides a special benefit to an individual beyond those that accrue to the general public. Title 31 U.S.C. 9701(a) provides, in part, as follows:

It is the sense of the Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

Title 31 U.S.C. 9701(b) further provides:

The head of each Federal agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies shall be as uniform as practicable. Each charge shall be—

- (1) Fair; and
- (2) Based on—
 - (A) The costs to the Government;
 - (B) The value of the service or thing to the recipient;
 - (C) Public policy or interest served; and
 - (D) Other relevant facts.

The Proposed Rule

If adopted, the proposed rule allows PAHs to enter into a voluntary agreement with the FAA for the provision of production certification-related services outside the U.S. on mutually agreed terms and conditions. This would include PAHs who elect to use organizations or facilities outside the U.S. to manufacture, assemble, or test, aeronautical products, after the effective date of a final rule. Since not all members of the domestic aerospace industry choose to use organizations or facilities outside the U.S., FAA oversight of these activities outside of the U.S. is above and beyond the oversight services regularly provided to PAHs.

An agreement for services between the PAHs and FAA for production certification-related services for products manufactured, assembled, or tested outside the U.S. would allow the FAA to provide services upon request in a more responsive and timely manner. By charging for its services outside the U.S., the FAA would be able to support more complex manufacturing activities and provide acceptance of parts, sub-assemblies, and products that would

otherwise need to be disassembled when received in the U.S. Under this proposal, when production certification-related services are requested and provided outside the U.S., no duplication of FAA work or reinspection of parts is anticipated, except as otherwise required of domestic manufactured parts during the PAH receiving inspection process.

Guidelines for Cost Recovery

The FAA has developed this proposed rule consistent with the IOAA and with the Office of Management and Budget's (OMB) Circular A-25, entitled "User Charges."

FAA fees may be assessed to persons who are recipients of special benefits conferred by FAA's production certification-related services outside the U.S. These special benefits would include services: (1) Rendered at the request of an applicant; (2) for the issuance of a required production approval; and (3) to assist an applicant or certificate holder in complying with its regulatory obligations.

The FAA has determined that all services associated with the issuance, amendment, or inspection of a production certificate or approval as detailed in this NPRM would be subject to cost recovery. All direct and indirect costs incurred by the FAA in providing special benefits outside of the U.S. would be recovered. Each fee would not exceed the FAA's cost in providing the service to the recipient. Calculation of agency costs would be performed as accurately as is reasonable and practical, and would be based on the specific expenses identified to the smallest practical unit.

To determine the smallest practical unit for the various FAA services covered, a letter of application would be made by the PAH to the FAA requesting FAA production certification-related services outside the U.S. The proposed application procedure would apply to any PAH; i.e., holders or applicants for production under a type certificate only, under an approved production inspection system, under a production certificate or extension of a production certificate, under a technical standard order authorization, or under a parts manufacturer approval. Based on the details provided in the application, the FAA would determine the cost and terms of providing the requested services to the PAH outside the U.S. and detail those costs to the applicant. The applicant would then request the provision of those services from FAA.

Methodology for Fee Determination and Collection

Fee Determination

The FAA proposes to recover the full cost associated with providing production certification-related services outside of the U.S. Costs to be recovered include personnel compensation and benefits (PC&B), travel and transportation costs, and other agency costs.

PC&B: For the purpose of these computations, average PC&B rates for participating Aircraft Certification Service employees would be charged per activity. PC&B charges would reflect the actual hours spent participating in the activity as well as preparatory time, travel time, and the time spent on follow-up activities.

Travel and transportation costs: These charges would include all costs pertaining to domestic, local, and international transport of persons and equipment. These costs may include fares, vehicle rental fees, mileage payment, and any expenses related to transportation such as baggage transfer, insurance for equipment during transport, and communications. FAA personnel would adhere to all U.S. Government travel regulations.

Fees would be charged for lodging, meals, and incidental expenses in accordance with U.S. Government per diem rates, rules, and regulations. Incidental expenses include fees, tips, and other authorized expenses.

Other agency costs: Also included in these computations would be other direct costs; for example, all printing and reproduction services, supplies and materials purchased for the activity, conference room rental, and other activity-related expenses. An additional percentage charge, as established by the FAA in accordance with OMB Circular A-25, would be added to the total cost of this activity to compensate for agency overhead.

The Aircraft Certification Service of the FAA maintains a data system to which employees submit periodic records identifying the number of work hours used to provide service to customers. Travel vouchers are also submitted and audited. This data would be maintained for each applicant and project. The Aircraft Certification Service tracks work hour records quarterly to determine the costs associated with providing its services. This information would be used in assessing and adjusting fees. In this manner, the FAA would be able to assure applicants that they are paying only for expenses incurred in

connection with services provided to that specific applicant.

Fee Collection

All charges would be estimated and agreed upon between the FAA and the applicant before the FAA provides services outside the U.S.

Under the proposal, payment would be made to the FAA in advance for all production certification-related activities scheduled during the upcoming 12-month period unless a shorter period is mutually agreeable between the PAH and the FAA. The amounts set forth in the cost estimate would be adjusted to recover the FAA's full costs. If cost are expected to exceed the estimate by more than 10 percent, notification would be made to the applicant as soon as possible. No services would be provided until the FAA receives the full estimated payment for the entire upcoming year. As activities are completed the full costs of the activities would be charged against the advance account. Any remaining funds would either be returned or applied to future activities as requested by the applicant.

Payment for services rendered by the FAA would be in the form of a check, money order, draft, or wire transfer, and would be payable in U.S. currency to the FAA and drawn on a U.S. bank. Bank processing fees would also be added to the fees charged to the applicants, where such processing fees are charged to the U.S. Government.

In any case where an applicant has failed to pay the agreed fee for FAA services, the FAA may suspend or deny any application for service and may suspend or revoke any production-related approval granted.

In accordance with the agreement that would be signed by the FAA and the applicant (Appendix C(d)(3)), this arrangement may be terminated at any time by either party by providing 60 days written notice to the other party. Any such termination would allow the FAA and additional 120 days to close out its activities.

If this proposal is adopted, the FAA will issue an Advisory Circular further detailing the requirements of the application. A notice of availability will be published concurrently with this NPRM.

Section-by-Section Discussion of the Proposals

This NPRM contains proposals to amend sections of 14 CFR part 187.

Section 187.15 Payment of Fees

The FAA proposes to amend § 187.15 to reference all fees under part 187. In

addition, charges would be made for banking services if they are necessary to expedite the deposit of funds to the U.S. Government.

Section 187.17 Failure by Applicant To Pay Prescribed Fees

The FAA proposes to add a new § 187.17 that would detail FAA actions in the event the applicant fails to pay the fee agreed to for FAA services. The proposed actions range from not processing the application to suspending or revoking any approval granted outside the U.S.

Appendix C to Part 187—Fees for Providing Production Certification-Related Services Outside the United States

The FAA proposes to add a new Appendix C to part 187 that would contain the following:

1. The methodology for the calculation of fees for production certification-related services outside the U.S. that are performed by the FAA.
2. The applicability to certain manufacturers.
3. Definitions of terms associated with these fees: "manufacturing facility," "production certification-related services," "supplier facility," and "U.S. production approval holder."
4. The process for obtaining FAA production certification-related services outside the U.S.
5. The manner in which the FAA would review fees to ensure that the fees will not exceed the full cost of providing the service.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Authorities requirements and has identified no comparable requirements applicable to this proposed rule.

Paperwork Reduction Act

In this NPRM, proposed part 187, Appendix C contains information collection requirements (basically application requirements). As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted a copy of these proposed sections to the Office of Management and Budget (OMB) for its review.

The information to be collected is needed to allow the FAA to understand the scope of production activities outside the U.S. that are envisioned by an applicant.

The total annual reporting and recordkeeping burden on all the PAHs

is estimated to be 1,800 to 2,000 hours and is broken down as follows:

Preparation of the letter of application identifying the company, the proposed location of manufacturing, a general description of the product to be manufactured and the manufacturing activities to be performed, estimated start and end dates, as well as unique requirements (estimated at 2 to 20 hours for each application).

It is estimated that this proposal would affect 90 to 100 production approval holders annually.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 1235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for Federal Aviation Administration. These comments should reflect whether the proposed collection is necessary; whether the agency's estimate of the burden is accurate; how the quality, utility, and clarity of the information to be collected can be enhanced; and how the burden of the collection can be minimized. A copy of the comments also should be submitted to the FAA Rules Docket.

OMB is required to make a decision concerning the collection of information contained in this NPRM between 30 and 60 days after publication in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the NPRM.

Regulatory Evaluation Summary

Proposed changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) Would generate benefits that justify its costs and is a non-significant regulatory action as defined in the Executive Order; (2) is non-significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) would not have a

significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

This proposed rule would not impose any additional costs on any members of society other than those requesting FAA production certification-related services for manufacturing facilities and suppliers located outside the United States. The proposed rule would allow the FAA to recover its full costs for providing certification-related services requested by the users.

The FAA proposes to charge a fee to recover its costs for production certification-related services provided to all PAHs: (1) Who elect to use manufacturing facilities outside the U.S. and are not currently receiving FAA services; or (2) who elect to expand their current manufacturing facilities outside the U.S. or expand their current manufacturing work outside the U.S.

As stated, actual fees to be charged as a result of this rulemaking will be those fees necessary for the FAA to recover its full costs. Since the FAA is not able at this time to state precisely what those fees will be, it is, for the purpose of this proposal, assuming a wide range from \$80.00 to \$200.00 per hour. The FAA estimates that if it would charge an hourly rate of \$80, the first year fees would total about \$2.876 million and if it would charge an hourly rate of \$200, the first year fees would total about \$5.468 million. Due to an anticipated increase in the number of requests for FAA production certification-related services outside the U.S., these annual fees would increase to between \$4.211 million (based on \$80 an hour fee) and \$8.006 million (based on a \$200 an hour fee) in the fifth year, after which they would remain stable.

The primary potential benefit would be that the proposed rule may make it easier for PAHs to use organizations, facilities, and suppliers outside the U.S. to: (1) Take advantage of lower manufacturing costs; and (2) fulfill certain aircraft purchasing agreements that require a PAH to produce a percentage of the aircraft within the purchasing country.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule is expected to have a significant (positive or negative) economic impact on a substantial number of small entities.

The proposed rule would primarily affect PAHs and their facilities and suppliers located outside the U.S. Although some small U.S. companies may be indirectly affected, the FAA has determined that the proposed rule would not have a significant impact on a substantial number of small entities.

International Trade Impact

The globalization of aircraft manufacturing has increased competition among manufacturers. In order for PAHs to remain competitive, they need to have the flexibility to compete on an equal footing with their competitors located around the world. Further, many overseas purchasers of PAH products (particularly aircraft) now require that some percentage of the product be produced in their own country.

The proposal would provide PAHs with more timely FAA service in approving products manufactured outside the U.S. Consequently, it should have a favorable competitive impact on PAHs. However, charging a fee for the FAA's production certification-related services outside the U.S. may raise slightly the costs of using a facility outside the U.S. The FAA does not anticipate that the fee would be a significant deterrent to a PAH's decision regarding whether or not to use a facility or supplier outside the U.S.

Nevertheless, the proposal would reduce the PAHs' costs to use facilities and suppliers outside the U.S. because the increased coordination between the FAA and PAHs would result in reducing the costs currently associated with FAA delays in performing the necessary production certification-related services at a facility or supplier located outside the U.S.

The effect of the anticipated cost reduction could be twofold. First, any increased purchases of products made at facilities outside the U.S. may result in a corresponding reduction in the purchases of those products made in U.S. facilities, if there were to be no subsequent overall increase in the number of aircraft and aircraft engines manufactured. Second, using a less expensive facility and supplier located outside the U.S. could produce a less expensive U.S. aircraft, potentially resulting in new orders or an increase in existing orders. The net effect could be an overall increase in the amount of aircraft products manufactured within the U.S.

Therefore, although the proposed rule may adversely affect some domestic product manufacturers, it could also positively affect other domestic product manufacturers. The FAA anticipates

that the overall effect would be to encourage international trade and to provide a mechanism that may assist U.S. civil aviation industry.

Federalism Implications

The proposed regulations herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

This proposed rule does not contain any Federal intergovernmental or private sector mandate because all fees are entered into by voluntary agreement. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Conclusion

For the reasons discussed above, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposal would be nonsignificant under Executive Order 12866, Regulatory Planning and Review, issued October 4 1993. In addition, the FAA certifies that this proposal, if adopted, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and Order DOT 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations, of May 22, 1980. Further, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 would not apply to this proposal. An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 187

Administrative practice and procedures, Air transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend part 187 of Title 14, Code of Federal Regulations (14 CFR part 187) as follows:

PART 187—FEES

1. The authority citation for part 187 continues to read as follows:

Authority: 31 U.S.C. 9701; 49 U.S.C. 106(g), 106(m), 40104–40105, 40109, 40113–40114, 44702.

2. Section 187.15 (a) and (b) are revised to read as follows:

§ 187.15 Payment of fees.

(a) The fees of this part are payable to the Federal Aviation Administration by check, money order, wire transfer, or draft, payable in U.S. currency and drawn on a U.S. bank prior to the provision of any service under this part.

(b) Applicants for the FAA services provided under this part shall pay any bank processing charges on fees collected under this part, when such charges are assessed on U.S. Government.

* * * * *

3. Section 187.17 is added to read as follows:

§ 187.17 Failure by applicant to pay prescribed fees.

If an applicant fails to pay fees agreed to under Appendix C of this part, the FAA may suspend or deny any application for service and may suspend or revoke any production certification-related approval granted.

4. Appendix C is added to read as follows:

Appendix C to Part 187—Fees for Production Certification-Related Services Performed Outside the United States

(a) *Purpose.* This appendix describes the methodology for the calculation of fees for production certification-related services outside the U.S. that are performed by the FAA.

(b) *Applicability.* This appendix applies to production approval holders who elect to use manufacturing facilities or supplier facilities located outside the U.S. to manufacture or assemble aeronautical products after [effective date of the final rule].

(c) *Definitions.* For the purpose of this appendix, the following definitions apply:

Manufacturing facility means a place where production of a complete aircraft, aircraft engine, propeller, component, or appliance is performed.

Production certification-related service means a service associated with initial production approval holder qualification; ongoing production

approval holder and supplier surveillance; designee management; initial production approval holder qualification and ongoing surveillance for production certificate extensions outside the U.S.; conformity inspections; and witnessing of tests.

Supplier facility means a place where production of a part, component, or subassembly is performed for a production approval holder.

U.S. production approval holder means a person who holds an FAA approval for production under type certificate only, an FAA approval for production under an approved production inspection system, a production certificate, a technical standard order authorization, or a parts manufacturer approval.

(d) Procedural requirements. (1) Applicants must apply for FAA services provided outside the U.S. by a letter of application to the FAA detailing the particular services required from the FAA.

(2) The FAA will notify the applicant in writing of the estimated cost and schedule to provide the services.

(3) The applicant will review the estimated costs and schedule of services. If the applicant agrees with the estimated costs and schedule of services, the applicant will propose to the FAA that the services be provided. If the FAA agrees, a written agreement will be executed between the applicant and the FAA.

(4) The applicant must provide advance payment for each 12-month period of requested FAA service unless a shorter period is agreed to between the production approval holder and FAA.

(e) Fee determination. (1) Fees for FAA production certification-related services will consist of: personnel compensation and benefit (PC&B) for each participating FAA employee, actual travel and transportation expenses incurred in providing the service, other agency costs and an overhead percentage.

(2) Fees will be determined on a case-by-case basis according to the following general formula:

$$W_1H_1+W_2H_2 \text{ etc., } +T+O$$

where:

W_1H_1 =hourly PC&B rate for employee 1, times estimated hours

W_2H_2 =hourly PC&B rate for employee 2, etc., times estimated hours

T=estimated travel and transportation expenses

O=other agency costs related to each activity including overhead.

(3) In no event will the applicant be charged more than the full FAA costs of providing production certification-related services.

(4) If the full FAA costs vary from the estimated fees by more than 10 percent, written notice by the FAA will be given to the applicant as soon as possible.

(5) If FAA costs exceed the prepaid fees, the applicant will be required to pay the difference prior to receiving further services. If the prepaid fees exceed the FAA costs, the applicant may elect to apply the balance to future agreements or receive a refund.

(f) Fees will be reviewed by the FAA each year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing production certification-related services outside the U.S.

(1) Notice of any change to the elements of the fee formula will be published in the **Federal Register**.

(2) Notice of any change to the methodology and other changes for the fees will be published in the **Federal Register**.

Issued in Washington, DC, on July 9, 1997.

Thomas E. McSweeney,

Director, Aircraft Certification Service.

[FR Doc. 97-18520 Filed 7-14-97; 8:45 am]

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