

the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division office in Hawthorne, California.

The City of Chandler, Arizona, submitted the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 1997 through January 2000 to the FAA on February 19, 1999 and May 28, 1999. The Chandler Municipal Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on June 24, 1999. Notice of this determination was published in the **Federal Register** on July 8, 1999.

The Chandler Municipal Airport study contains a proposed Noise Compatibility Program comprised of actions designed for implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in Section 104(b) of the Act. The FAA began its review of the program on January 13, 2000 and was

required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained sixteen proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Associate Administrator for Airports approved the overall program effective July 10, 2000.

All sixteen of the program elements were approved. The following three measures were approved as voluntary measures: Request aircraft departing on Runway 22L to fly to runway end before turning left; request aircraft departing on Runway 22R to fly to runway end before turning right; and, promote use of AOPA Noise Awareness Steps by light single and twin engine aircraft. The following thirteen measures were approved outright: Relocate heliport to east side of airport; establish Airport Influence Area; use combined 2003 and 2020 noise contours as basis for noise compatibility planning; set 55 DNL as the threshold for promoting airport-compatible development; establish noise compatibility guidelines for the review of development projects within the 55 DNL contour; amend Airport Impact Overlay Zoning Ordinance; enact Airport Impact Overlay Zoning Ordinance (Maricopa County, Town of Gilbert); amend subdivision regulations to require recording of fair disclosure covenants and granting of avigational easement in Airport Impact Overlay District; amend building code to add sound insulation standards supporting Airport Impact Overlay zoning requirements; maintain system of receiving, analyzing, and responding to noise complaints; review Noise Compatibility Plan implementation; Update Noise Exposure Maps and Noise Compatibility Program; and, publish pilot guide.

These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on July 10, 2000. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the city of Chandler, Arizona.

Issued in Hawthorne, California on July 17, 2000.

**Herman C. Bliss,**

*Manager, Airports Division, AWP-600  
Western-Pacific Region.*

[FR Doc. 00-19529 Filed 8-1-00; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Index of Administrator's Decisions and Orders In Civil Penalty Actions; Publication

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

**ACTION:** Notice of publication.

**SUMMARY:** This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. This publication represents the quarter ending on June 30, 2000. This publication ensures that the agency is in compliance with statutory indexing requirements.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number. The indexes are published on a quarterly basis (*i.e.*, January, April, July, and October.)

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 4055; 1/19/93.

The previous quarterly publications of these indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89-9/30/90 ....	55 FR 45984; 10/31/90.
10/1/90-12/31/90 ..	56 FR 44886; 2/6/91.
1/1/91-3/31/91 .....	56 FR 20250; 5/2/91.
4/1/91-6/30/91 .....	56 FR 31984; 7/12/91.
7/1/91-9/30/91 .....	56 FR 51735; 10/15/91.
10/1/91-12/31/91 ..	57 FR 2299; 1/21/92.
1/1/92-3/31/92 .....	57 FR 12359; 4/9/92.
4/1/92-6/30/92 .....	57 FR 32825; 7/23/92.
7/1/92-9/30/92 .....	57 FR 48255; 10/22/92.
10/1/92-12/31/92 ..	58 FR 5044; 1/19/93.
1/1/93-3/31/93 .....	58 FR 21199; 4/19/93.
4/1/93-6/30/93 .....	58 FR 42120; 8/6/93.
7/1/93-9/30/93 .....	58 FR 58218; 10/29/93.
10/1/93-12/31/93 ..	59 FR 5466; 2/4/94.
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4/1/94-6/30/94 .....	59 FR 39618; 8/3/94.

Dates of quarter	Federal Register publication
7/1/94-12/31/94 ....	60 FR 4454; 1/23/95.
1/1/95-3/31/95 .....	60 FR 19318; 4/17/95.
4/1/95-6/30/95 .....	60 FR 36854; 7/18/95.
7/1/95-9/30/95 .....	60 FR 53228; 10/12/95.
10/1/95-12/31/95 ..	61 FR 1972; 1/24/96.
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10/1/96-12/31/96 ..	62 FR 2434; 1/16/97.
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4/1/97-6/30/97 .....	62 FR 38339; 7/17/97.
7/1/97-9/30/97 .....	62 FR 53856; 10/16/97.
10/1/97-12/31/97 ..	63 FR 3373; 1/22/98.
1/1/98-3/31/98 .....	63 FR 19559; 4/20/98.
4/1/98-6/30/98 .....	63 FR 37914; 7/14/98.
7/1/98-9/30/98 .....	63 FR 57729; 10/28/98.
10/1/98-12/31/98 ..	64 FR 1855; 1/12/99.
1/1/99-3/31/99 .....	64 FR 24690; 5/7/99.
4/1/99-6/30/99 .....	64 FR 43236; 8/9/99.
7/1/99-9/30/99 .....	64 FR 58879; 11/1/99.
10/1/99-12/31/99 ..	65 FR 1654; 1/11/00.
1/1/00-3/31/00 .....	65 FR 35973; 6/6/00.

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. Also, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callaghan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld).

A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information

regarding these commercial publications and computer databases are provided at the end of this notice. Information regarding the accessibility of materials filed in recently initiated civil penalty cases in FAA civil penalty cases at the DOT Docket and over the Internet also appears at the end of this notice.

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- 2000-12—Evergreen Helicopters of Alaska, Inc.  
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**Civil Penalty Actions—Orders Issued By the Administrator**

*Digests*

(Current as of June 30, 2000)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from April 1, 1999, to June 30, 1999. The FAA will publish non-cumulative supplements to

this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

*These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.*

*In the Matter of USA Jet Airlines, Inc.*

Order No. 2008-8 (5/9/2000)

*Appeal Dismissed.* USA Jet Airlines withdrew its appeal; therefore, its appeal is dismissed.

*In the Matter of Tundra Copters, Inc.*

Order No. 2000-9 (5/11/2000)

*Appeal Dismissed.* Tundra Copters failed to perfect its appeal by filing an appeal brief. Therefore, its appeal is dismissed.



*In the Matter of Johnny Johnson*

Order No. 2000-10 (5/11/2000)

*Appeal Dismissed.* Mr. Johnson failed to perfect his appeal by filing an appeal brief; therefore, his appeal is dismissed.

*In the Matter of Europex Inc.*

Order No. 2000-11 (5/11/2000)

*Appeal Dismissed.* Europex has provided no explanation for its late filing of its notice of appeal; therefore, its appeal is dismissed.

*In the Matter of Evergreen Helicopters of Alaska, Inc.*

Order No. 2000-12 (6/8/2000)

*Dismissal affirmed.* Under a contract with the United Nations, Evergreen transported passengers on a U.S.-registered aircraft as part of a peacekeeping mission, using Angolan pilots on 19 flights that took place entirely inside Angola. The pilots held only Angolan airline transport pilot certificates; they did not hold U.S. airline transport pilot certificates. The Administrator rejected Complainant's argument that Evergreen violated 14 CFR 135.234(a) by using pilots who lacked U.S. airline transport pilot certificates. Regardless of what the drafters intended, the regulation on its face does not require that a pilot-in-command hold a U.S.-issued certificate. Moreover, 14 CFR 61.3 expressly permits the use of a certificate by the country in which the aircraft is operated. This plain meaning interpretation of the regulations is consistent with a prior written interpretation issued by the agency.

*In the Matter of Empire Airlines, Inc.*

Order No. 2000-13 (6/8/2000)

*Failure to Use Approved Data when making a Major Repair.* Conair Aerospace repaired the left engine mount of one of Empire Airlines' Fairchild F-27F aircraft using sleeve repair data set forth in Advisory Circular (AC) 43.13-1A. Neither the Fairchild F-27 overhaul nor structural repair manual provide for sleeve repairs. Instead, the Fairchild overhaul and structural repair manuals provide for repair of non-negligible engine mount corrosion by a patch repair, insertion or replacement, and prohibit patch repairs if the damage is in the middle third of the tube. In this case, the corrosion extended into the middle third of the tube.

Under Section 121.379, a certificate holder may approve an aircraft for return to service after maintenance performed by another person but major repairs or major alterations must be

done in accordance with technical data approved by the Administrator. It was undisputed that the left engine mount repair constituted a major repair, that Empire was obligated to use approved data, and that the Fairchild F-27 series overhaul and structural repair manuals contained approved data for a major repair of that aircraft. The sleeve repair was not included in either of these manuals as approved for the repair of the Fairchild F-27F's engine mount.

AC-43.13-1A is not normally considered to be approved data for a major repair, but it may be used as a basis for approval. There was no evidence that Empire or Conair had sought the approval of a DER for a sleeve repair of the left engine mount.

A sleeve repair was approved for an engine mount of another model aircraft, the Fairchild FH-227. The fact that a sleeve repair may be approved data for the repair of one model aircraft (*i.e.*, the Fairchild FH-227) does not mean necessarily that a sleeve repair is approved for the same type of damage to another similar aircraft (*i.e.*, the Fairchild F-27F). There may be subtle differences that would make a sleeve repair appropriate for the FH-227 and not for the F-27F. Aviation safety demands that maintenance personnel not assume that approved data for the repair of one specific aircraft can be used as approved data for a major repair on a different aircraft.

Empire argued that it was not precluded from using a sleeve repair because the manuals did not specifically prohibit the use of sleeve repairs. The Administrator held that it is unreasonable to expect the manufacturer to have listed all of the repairs that would not be appropriate for any given damage, and hence, the manufacturer's silence cannot be regarded as tacit approval of a repair.

The Administrator rejected Empire's argument that it was entitled to rely on the services performed by Conair. Empire's director of quality assurance and its customer coordinator were at the Conair facility when the repair was accomplished, and its customer coordinator observed the damage and the repair. The airworthiness release was signed by a Conair employee acting on Empire's behalf.

An air carrier cannot delegate away its primary responsibility for the airworthiness of its aircraft. While there may be certain limited circumstances in which an air carrier might not be held responsible for maintenance and inspections performed by a contractor or vendor, no such reasons exist in this case.

The Administrator denied Empire's appeal and affirmed the initial decision assessing a \$5,000 civil penalty.

*In the Matter of Warbelow's Air Ventures, Inc.*

Order No. 2000-14 (6/8/2000)

*Reconsideration Denied.* In a timely petition to reconsider FAA Order No. 2000-3, which assessed a \$6,500 civil penalty, Warbelow's renews two previous arguments. First, Warbelow's again challenges the credibility of its former Director of Maintenance, who testified that he failed to ensure that the screws on several fuel pumps were torques to the proper pressure. Second, Warbelow's again argues that the pumps must have been torques to the proper pressure because they did not leak in service. Neither argument is new; both were decided by the law judge and the Administrator. The Rules of Practice provide that the Administrator may summarily dismiss repetitious petitions to reconsider.

The only new argument in Warbelow's petition is its challenge to the factual accuracy of the following statement in FAA Order 2000-3: "Warbelow's demoted and fired [the Director of Maintenance] after he admitted to the FAA inspectors that he had been using an improper method to modify the fuel pumps." Warbelow's is correct that it actually fired the Director of Maintenance before he indicated at the hearing that he failed to use a torque wrench to ensure the proper pressure on the fuel pump screws. This factual error, however does not affected the outcome of this case. A law judge's credibility determinations are entitled to deference on appeal. The law judge was well aware of the Director of Maintenance's possible motives to misrepresent how he reassembled the fuel pumps, and yet the law judge specifically stated in his initial decision that he believed his testimony. Warbelow's has failed to provide sufficient grounds to overturn the law judge's credibility determinations, which were based on his personal observations of the witnesses.

**Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders**

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

*Civil Penalty Cases Digest Service*, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798-1677;

*Federal Aviation Decisions*, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1-800-221-9428.

2. *CD-ROM*. The Administrator's orders and decisions are available on CD-ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733-2483.

3. *On-Line Services*. The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN-FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]
- CompuServe
- FedWorld

#### Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW, Room 926A, Washington, DC, 20591, (tel. No. 202-267-3641). The clerk of the FAA Hearing Docket is Ms. Stephanie McClain. All documents that are required to be filed in civil penalty proceedings must be filed with the FAA Hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.) Materials contained in the docket of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket.

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, are available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Suite PL-401, Washington, DC 20590, (tel. no. 202-366-9329). While the originals are retained in the FAA Hearing Docket, the DOT Docket scan copies of documents in non-security cases in which the complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: <http://dms.dot.gov>.

#### FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 926A, Washington, DC 20591; (202) 267-3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Regional Counsel for the Aeronautical Center (AMC-7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; (405) 954-3296.

Office of the Regional Counsel for the Alaskan Region (AAL-7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271-5269.

Office of the Regional Counsel for the Central Region (ACE-7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426-5446.

Office of the Regional Counsel for the Eastern Region (AEA-7), 1 Aviation Plaza, 159-30 Rockaway Blvd., Springfield Gardens, NY 11434; (718) 553-3285.

Office of the Regional Counsel for the Great Lakes Region (AGL-7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (847) 294-7085.

Office of the Regional Counsel for the New England Region (ANE-7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803; (781) 238-7040.

Office of the Regional Counsel for the Northwest Mountain Region (ANM-7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055; (425) 227-2007.

Office of the Regional Counsel for the Southern Region (ASO-7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305-5200.

Office of the Regional Counsel for the Southwest Region (ASW-7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137; (817) 222-5064.

Office of the Regional Counsel for the Technical Center (ACT-7), William J. Hughes Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485-7088.

Office of the Regional Counsel for the Western-Pacific Region (AWP-7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, CA 90261; (310) 725-7100.

Issued in Washington, DC on July 25th, 2000.

**James S. Dillman,**

*Assistant Chief Counsel for Litigation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2000-27]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

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

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before August 23, 2000.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267-7271, Forest Rawls (202) 267-8033, or Vanessa Wilkins (202) 267-8029 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).