

assessments for flights operated between March 1, 2003 and February 29, 2004.

If the amount of the air carrier's credit exceeds the amounts of unpaid liability in (1) and (2), the air carrier may request a direct refund in lieu of a credit. If it does not have a net credit, than the FAA will invoice the air carrier for the remaining amount owed for the period ending February 29, 2004. Any air carrier that does not pay any remaining invoice amount owed for the period ending February 29, 2004, may be subject to enforcement action by the FAA as authorized by section 229(c) of Vision 100. Overflight Fees for services provided beginning on March 1, 2004 will be separately assessed and invoiced.

This determination is administratively final. Any person seeking judicial review of this order must file a petition for review within 60 days of the date of issuance of this order in the United States Court of Appeals for the District of Columbia Circuit, or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

Dated: July 21, 2004.

**Marion C. Blakey,**  
Administrator.

[FR Doc. 04-17744 Filed 8-3-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of the Federal Aviation Administration Overflight Fee Aviation Rulemaking Committee Charter

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

**ACTION:** Notice of the Federal Aviation Administration Overflight Fee Aviation Rulemaking Committee Charter.

**SUMMARY:** The FAA is publishing the Charter of the Overflight Fee Aviation Rulemaking Committee recently created after the FAA issued a final order on July 21, 2004, directing the disposition of certain fees.

**SUPPLEMENTARY INFORMATION:** The FAA created an Overflight Fee Aviation Rulemaking Committee on July 21, 2004 pursuant to the Administrator's authority under 49 U.S.C. 106(p)(5). The Charter of this Committee is published to provide the public notice as to the objectives, scope of activities, duties, organization and administration of the

Committee. The Charter follows this notice.

**Michael Chase,**

Regulations Division, Office of the Chief Counsel.

#### Federal Aviation Administration Overflight Fee Aviation Rulemaking Committee Charter

1. *Purpose.* This order constitutes the charter for the Overflight Fee Aviation Rulemaking Committee (the "Committee") that is designated and established pursuant to the Administrator's authority under 49 U.S.C. 106(p)(5).

2. *Distribution.* This order is distributed at the director level in Washington headquarters and throughout the Office of the Associate Administrator for Financial Services and the Air Traffic Organization.

3. *Background.* a. Section 273 of the Federal Aviation Reauthorization Act of 1996, 49 U.S.C. 45301 (the "1996 Act"), authorized the FAA to impose fees on aircraft that traverse U.S.-controlled airspace but neither take off nor land in the United States. Under the 1996 Act, "[s]ervices for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States." 49 U.S.C. 45301(b)(1)(B). At the time of its enactment, section 273 provided that the FAA Administrator "shall ensure that each of the [overflight] fees \* \* \* is directly related to the Administration's costs \* \* \* of providing the service rendered." 49 U.S.C. 45301(b)(1)(B)(1996). In November 2001, Section 273 was amended to state that the Administrator "shall ensure that each of the fees \* \* \* is reasonably related to the Administration's costs, as determined by the Administrator, of providing the service rendered \* \* \*." Section 119(d) of the Aviation and Transportation Security Act of 2001, Pub. L. 107-71.

b. In the years following enactment of the 1996 Act the FAA has issued two Interim Final Rules and a Final Rule attempting to establish those fees. In each instance, affected users successfully challenged the FAA's action in court. Additionally, the Congress has twice made changes to the basic statutory requirements related to overflight Fees. The most recent statutory change directly addressed the

issue of overflight Fees. Section 229 of Vision 100 provides as follows:

(a) Adoption and Legalization of Certain Rules—

(1) Applicability and Effect of Certain Law—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

(2) Adoption and Legalization—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

(3) Fees to Which Applicable—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

(b) Deferred Collection of Fees—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in *Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA*, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

(c) Enforcement—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.

c. Only July 21, 2004, the FAA issued a Final Order that (i) addresses the FAA's authority to impose overflight fees under Section 229 and other relevant law; (ii) provides, subject to conditions, refunds and/or credits for certain overflight fees previously paid; and (iii) assesses new overflight fees under the August 2001 Final Rule on both a retroactive and prospective basis.

d. The Administrator deems it appropriate to create the Overflight Fees Aviation Rulemaking Committee to provide users an in-depth opportunity to evaluate the data supporting the fee

amounts and provide advice and recommendations on the appropriate amounts for future Overflight Fees.

4. *Objectives and Scope of Activities.* The Committee's primary task is to identify the services rendered to overflights by the FAA, to determine the FAA's costs of providing services to overflights, and, based upon that determination, to make recommendations to the Administrator regarding the level of future overflight fees that would be consistent with the provisions of the 1996 Act, as amended.

5. *Duties.* a. The Committee is to evaluate information regarding the services rendered to overflights by the FAA and the costs of providing those services to overflights, and, based on that evaluation, to make recommendations regarding future overflight fees, including possible modifications to, or replacement of, the fees currently being charged by the FAA.

b. The Committee, and any working group thereof, shall be given access to FAA's financial and accounting system and records, and to personnel within the financial department, for the purpose of examining and analyzing the issues and data pertaining to the costs incurred by the FAA to provide air traffic control and related services to overflights. The committee, and any working group thereof, also shall have access to personnel of the Air Traffic Organization with knowledge pertaining to the nature and level of services provided to aircraft generally, and specifically with respect to overflights, and relevant documents and information possessed by the Air Traffic Organization, to assist the committee in its examination and analysis of the actual costs incurred by the agency to render services to overflights.

c. The Committee and any working group thereof, may request relevant information and views from entities outside the FAA pertaining to the tasks undertaken by the Committee.

d. At the discretion of the Chair, the Committee may conduct public meeting(s) to provide interested parties outside the Committee an opportunity to present information and views relevant to the tasks undertaken by the Committee.

e. The Committee shall provide its recommendations to the Administrator by December 30, 2005, unless that deadline is extended by the Administrator.

6. *Organization and Administration.* a. Except for the Chair, the Committee shall consist of representatives of the airline industry and other system users that are subject to the FAA's imposition

of overflight fees. The Committee shall be led by:

(i) A Chair, who shall be appointed by the Associate Administrator for Financial Services, and shall be a full-time employee of the FAA; and

(ii) A Vice Chair, who shall not be employed by the FAA and who shall be a representative of foreign air carriers or trade associations of those carriers, or other system users who are subject to Overflight Fees.

b. In addition to the Chair and Vice Chair, the Committee shall be comprised of at least 15 but not more than 25 employees or other representatives of the foreign air carriers (or trade associations of those carriers) or other system users that are subject to the FAA's overflight fees. The members shall be selected by the FAA and, to the extent possible, the membership also shall be geographically diverse and include representatives that conduct primarily enroute overflights and primarily oceanic overflights. Further, the members should include persons possessing relevant knowledge and experience with regard to (i) the nature of enroute and/or oceanic overflights; (ii) air traffic control procedures; (iii) air navigation systems; (iv) cost accounting matters; and/or (v) legal and regulatory issues pertaining to the FAA and overflight fees. Each organization or entity, selected for membership on the Committee may designate one representative and one alternate to serve on the Committee. Each member of the Committee shall have one vote.

c. Members may permit their employees and consultants (including financial, technical and legal professionals) to attend any Committee meeting and review Committee documents.

d. Additional FAA personnel may participate, as directed by the Associate Administrator for Financial Services, as adjunct non-members of the Committee.

e. The Committee may retain the services of a non-government economic consultant selected by the Committee Chair and Vice Chair.

f. The Associate Administrator for Financial Services is the sponsor of the Committee. The Associate Administrator for Financial Services shall receive all Committee recommendations and reports. The Associate Administrator shall also be responsible for providing administrative support for the Committee and shall provide a secretariat. The Chair and Vice Chair shall jointly be responsible for establishment of the procedures, consistent with this charter, under which the Committee shall operate. The Chair and Vice Chair may jointly

establish working groups. These working groups will report to the Committee at each regular Committee meeting, and will be established for the length of the specific assigned task only.

g. Meetings shall be held as frequently as needed, but no less than once each quarter, unless the Chair and Vice Chair agree. The Chair and Vice Chair shall jointly determine when a meeting is required and where it will be held. Meetings shall not be conducted in the absence of the Chair and the Vice Chair, unless the Chair or Vice Chair designates another individual to represent that respective person at the meeting.

h. The Chair and Vice Chair shall jointly formulate an agenda for each meeting. The Chair shall arrange notification to all members of the time, place and agenda for any meeting through the secretariat and shall ensure that, to the extent practicable, any materials to be considered at the meeting are distributed to Committee members in advance. The Chair and Vice Chair shall jointly conduct the meeting. The Committee is not required to keep minutes, but may elect to do so. Committee recommendations to the Administrator must be approved by at least a two-thirds vote of the members. The Chair shall have the right to submit a separate report or recommendation to the Administrator.

7. *Compensation.* All non-government Committee members shall serve without compensation from the U.S. government, and shall bear all costs related to their participation on the Committee.

8. *Public Participation.* Unless otherwise decided by the Chair, all meetings of the Committee shall be closed. Interested persons wishing to attend a meeting who are not members of the Committee (or employees or consultants invited by a member) must request and receive approval in advance of the meeting from the Chair.

9. *Availability of Records.* Subject to the provisions of the Freedom of Information Act, Title 5 U.S.C. 522, records, reports, agendas, working papers, and other documents that are made available to, prepared by, or prepared for the Committee shall be available for public inspection and copying at the FAA Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591. Fees shall be charged for the information furnished to the public in accordance with the fee schedule published in part 7 of title 49, Code of Federal Regulations.

10. *Public Interest.* The formation of the Committee is determined to be in the public interest in connection with

the performance of duties imposed on the FAA by law.

11. *Effective Date and Duration.* This Committee is effective on August 1, 2004. The Committee shall remain in existence for two years after that date unless sooner terminated or extended by the Administrator.

Dated: July 21, 2004.

**Marion C. Blakey,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2004-60]

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

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

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. 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 24, 2004.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2003-16770, FAA-2002-13872, FAA-2002-14091, FAA-2002-14092, FAA-2002-14093, FAA-2002-14094, FAA-2004-17083, FAA-2004-17084, FAA-2004-17085, or FAA-2004-18020, at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing the petition, any

comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1-800-647-5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Susan Boylon, (425-227-1152), Transport Airplane Directorate (ANM-113), Federal Aviation Administration, 1601 Lind Ave, SW., Renton, WA 98055-4056; or John Linsensmeyer (202-267-5174), Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on July 26, 2004.

**Anthony F. Fazio,**

Director, Office of Rulemaking.

#### Petitions for Exemption

*Docket No.:* FAA-2003-16770.  
*Petitioner:* Maryland Air Industries, Inc.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Fairchild Model F27 and FH227 airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2002-13872.  
*Petitioner:* Airbus UK.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Airbus Model BAC-1-11 -200/400 airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2002-14091.  
*Petitioner:* Rogerson Aircraft Corp.  
*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Boeing Model 707 airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2002-14092.  
*Petitioner:* Rogerson Aircraft Company.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Boeing Model 767 airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2002-14093.  
*Petitioner:* Rogerson Aircraft Company.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Boeing Model DC9-30 (C9-B) airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2002-14094.

*Petitioner:* Rogerson Aircraft Company.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Boeing Model 707 airplanes to operate without meeting the requirements of SFAR-88.

*Docket No.:* FAA-2004-18020.

*Petitioner:* Omega Air.

*Section of 14 CFR Affected:* SFAR 88.  
*Description of Relief Sought:* To permit Boeing Model 707 airplanes to operate without meeting the requirements of SFAR-88.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2004-61]

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

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

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. 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.

**FOR FURTHER INFORMATION CONTACT:** Susan Boylon, (425-227-1152), Transport Airplane Directorate (ANM-113), Federal Aviation Administration, 1601 Lind Ave, SW., Renton, WA 98055-4056; or John Linsensmeyer (202-267-5174), Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on July 26, 2004.

**Anthony F. Fazio,**

Director, Office of Rulemaking.

#### Dispositions of Petitions

*Docket No.:* FAA-2004-17909.

*Petitioner:* The Boeing Company.

*Section of 14 CFR Affected:* 14 CFR 25.301, 25.303, 25.305 and 25.901(c).