

## SUBCHAPTER K—ADMINISTRATIVE REGULATIONS

### PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

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AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40113, 44702, 45303.

SOURCE: Docket No. 1151, 27 FR 4951, May 26, 1962, unless otherwise noted.

EDITORIAL NOTE: For miscellaneous amendments to cross references in this part 183, see Amdt. 183-1, 31 FR 9211, July 6, 1966.

#### Subpart A—General

##### § 183.1 Scope.

This part describes the requirements for designating private persons to act as representatives of the Administrator in examining, inspecting, and testing persons and aircraft for the purpose of issuing airman and aircraft certificates. In addition, it states the privileges of those representatives and prescribes rules for their exercising of those privileges.

#### Subpart B—Certification of Representatives

##### § 183.11 Selection.

(a) The Federal Air Surgeon, or his authorized representative within the FAA, may select Aviation Medical Ex-

aminers from qualified physicians who apply. In addition, the Federal Air Surgeon may designate qualified forensic pathologists to assist in the medical investigation of aircraft accidents.

(b) Any local Flight Standards Inspector may select a pilot examiner, technical personnel examiner, or a designated aircraft maintenance inspector whenever he determines there is a need for one.

(c)(1) The Manager, Aircraft Certification Office, or the Manager's designee, may select Designated Engineering Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Engineering Representative."

(2) The Manager, Aircraft Certification Directorate, or the Manager's designee, may select Designated Manufacturing Inspection Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Manufacturing Inspection Representative."

(d) The Associate Administrator for Air Traffic, may select Air Traffic Control Tower Operator Examiners.

(e) The Director, Aircraft Certification Service, or the Director's designee, may select Designated Airworthiness Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Airworthiness Representative."

(Approved by the Office of Management and Budget under control number 2120-0035)

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-7, 45 FR 32669, May 19, 1980; Amdt. 183-8, 48 FR 16179, Apr. 14, 1983; Amdt. 183-9, 54 FR 39296, Sept. 25, 1989]

##### § 183.13 Certification.

(a) A "Certificate of Designation" and an appropriate Identification Card is issued to each Aviation Medical Examiner and to each forensic pathologist designated under § 183.11(a).

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(b) A “Certificate of Authority” specifying the kinds of designation for which the person concerned is qualified and stating an expiration date is issued to each Flight Standards Designated Representative, along with a “Certificate of Designation” for display purposes, designating the holder as a Flight Standards Representative and specifying the kind of designation for which he is qualified.

(c) A “Certificate of Authority,” stating the specific functions which the person concerned is authorized to perform and stating an expiration date, is issued to each Designated Airworthiness Representative, along with a “Certificate of Designation” for display purposes.

(Secs. 601 and 602, 72 Stat. 752, 49 U.S.C. 1421-1422; secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-2, 32 FR 46, Jan. 5, 1967; Amdt. 183-8, 48 FR 16179, Apr. 14, 1983]

### § 183.15 Duration of certificates.

(a) Unless sooner terminated under paragraph (d) of this section, a designation as an Aviation Medical Examiner is effective for 1 year after the date it is issued, and may be renewed for additional periods of 1 year in the Federal Air Surgeon’s discretion. A renewal is effected by a letter and issuance of a new identification card specifying the renewal period.

(b) Unless sooner terminated under paragraph (d) of this section, a designation as a Flight Standards and Aircraft Certification Service Designated Representative is effective for one year after the date it is issued and may be renewed for additional periods of one year in the Administrator’s discretion.

(c) Unless sooner terminated under paragraph (d) of this section, a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the Certificate of Authority.

(d) A designation made under this subpart terminates—

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(1) Upon the written request of the representative;

(2) Upon the written request of the employer in any case in which the recommendation of the employer is required for the designation;

(3) Upon the representative being separated from the employment of the employer who recommended him for certification;

(4) Upon a finding by the Administrator that the representative has not properly performed his duties under the designation;

(5) Upon the assistance of the representative being no longer needed by the Administrator; or

(6) For any reason the Administration considers appropriate.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-3, 33 FR 1072, Jan. 27, 1968; Amdt. 183-8, 48 FR 16179, Apr. 14, 1983; Amdt. 183-9, 54 FR 39296, Sept. 25, 1989]

### § 183.17 Reports.

Each representative designated under this part shall make such reports as are prescribed by the Administrator.

## Subpart C—Kinds of Designations: Privileges

### § 183.21 Aviation Medical Examiners.

An Aviation Medical Examiner may—

(a) Accept applications for physical examinations necessary for issuing medical certificates under part 67 of this chapter;

(b) Under the general supervision of the Federal Air Surgeon or the appropriate senior regional flight surgeon, conduct those physical examinations;

(c) Issue or deny medical certificates in accordance with part 67 of this chapter, subject to reconsideration by the Federal Air Surgeon or his authorized representatives within the FAA;

(d) Issue student pilot certificates as specified in § 61.85 of this chapter; and

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(e) As requested, participate in investigating aircraft accidents.

(Secs. 601 and 602, 72 Stat. 752, 49 U.S.C. 1421-1422)

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-2, 32 FR 46, Jan. 5, 1967; Amdt. 183-5, 38 FR 12203, May 10, 1973]

### § 183.23 Pilot examiners.

Any pilot examiner, instrument rating examiner, or airline transport pilot examiner may—

(a) As authorized in his designation, accept applications for flight tests necessary for issuing pilot certificates and ratings under this chapter;

(b) Under the general supervision of the appropriate local Flight Standards Inspector, conduct those tests; and

(c) In the discretion of the appropriate local Flight Standards Inspector, issue temporary pilot certificates and ratings to qualified applicants.

### § 183.25 Technical personnel examiners.

(a) A designated mechanic examiner (DME) (airframe and power plant) may—

(1) Accept applications for, and conduct, mechanic, oral and practical tests necessary for issuing mechanic certificates under part 65 of this chapter; and

(2) In the discretion of the appropriate local Flight Standards Inspector, issue temporary mechanic certificates to qualified applicants.

(b) A designated parachute rigger examiner (DPRE) may—

(1) Accept applications for, and conduct, oral and practical tests necessary for issuing parachute rigger certificates under part 65 of this chapter; and

(2) In the discretion of the appropriate local Flight Standards Inspector, issue temporary parachute rigger certificates to qualified applicants.

(c) An air traffic control tower operator examiner may—

(1) Accept applications for, and conduct, written and practical tests necessary for issuing control tower operator certificates under part 65 of this chapter; and

(2) In the discretion of the Associate Administrator for Air Traffic issue temporary control tower operator certificates to qualified applicants.

(d) A designated flight engineer examiner (DFEE) may—

(1) Accept applications for, and conduct, oral and practical tests necessary for issuing flight engineer certificates under part 63 of this chapter; and

(2) In the discretion of the appropriate local Flight Standards Inspector, issue temporary flight engineer certificates to qualified applicants.

(e) A designated flight navigator examiner (DFNE) may—

(1) Accept applications for, and conduct, oral and practical tests necessary for issuing flight navigator certificates under part 63 of this chapter; and

(2) In the discretion of the appropriate local Flight Standards Inspector, issue temporary flight navigator certificates to qualified applicants.

(f) A designated aircraft dispatcher examiner (DADE) may—

(1) Accept applications for, and conduct, written and practical tests necessary for issuing aircraft dispatcher certificates under part 65 of this chapter; and

(2) In the discretion of the appropriate local Flight Standards Inspector, issue temporary aircraft dispatcher certificates to qualified applicants.

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-9, 54 FR 39296, Sept. 25, 1989]

### § 183.27 Designated aircraft maintenance inspectors.

A designated aircraft maintenance inspector (DAMI) may approve maintenance on civil aircraft used by United States military flying clubs in foreign countries.

### § 183.29 Designated engineering representatives.

(a) A structural engineering representative may approve structural engineering information and other structural considerations within limits prescribed by and under the general supervision of the Administrator, whenever the representative determines that information and other structural considerations comply with the applicable regulations of this chapter.

(b) A power plant engineering representative may approve information relating to power plant installations

within limitations prescribed by and under the general supervision of the Administrator whenever the representative determines that information complies with the applicable regulations of this chapter.

(c) A systems and equipment engineering representative may approve engineering information relating to equipment and systems, other than those of a structural, powerplant, or radio nature, within limits prescribed by and under the general supervision of the Administrator, whenever the representative determines that information complies with the applicable regulations of this chapter.

(d) A radio engineering representative may approve engineering information relating to the design and operating characteristics of radio equipment, within limits prescribed by and under the general supervision of the Administrator whenever the representative determines that information complies with the applicable regulations of this chapter.

(e) An engine engineering representative may approve engineering information relating to engine design, operation and service, within limits prescribed by and under the general supervision of the Administrator, whenever the representative determines that information complies with the applicable regulations of this chapter.

(f) A propeller engineering representative may approve engineering information relating to propeller design, operation, and maintenance, within limits prescribed by and under the general supervision of the Administrator whenever the representative determines that information complies with the applicable regulations of this chapter.

(g) A flight analyst representative may approve flight test information, within limits prescribed by and under the general supervision of the Administrator, whenever the representative determines that information complies with the applicable regulations of this chapter.

(h) A flight test pilot representative may make flight tests, and prepare and approve flight test information relating to compliance with the regulations of this chapter, within limits pre-

scribed by and under the general supervision of the Administrator.

(i) An acoustical engineering representative may witness and approve aircraft noise certification tests and approve measured noise data and evaluated noise data analyses, within the limits prescribed by, and under the general supervision of, the Administrator, whenever the representative determines that the noise test, test data, and associated analyses are in conformity with the applicable regulations of this chapter. Those regulations include, where appropriate, the methodologies and any equivalencies previously approved by the Director of Environment and Energy, for that noise test series. No designated acoustical engineering representative may determine that a type design change is not an acoustical change, or approve equivalencies to prescribed noise procedures or standards.

[Doc. No. 1151, 27 FR 4951, May 26, 1962, as amended by Amdt. 183-7, 45 FR 32669, May 19, 1980; Amdt. 183-9, 54 FR 39296, Sept. 25, 1989]

#### **§ 183.31 Designated manufacturing inspection representatives.**

A designated manufacturing inspection representative (DMIR) may, within limits prescribed by, and under the general supervision of, the Administrator, do the following:

(a) Issue—

(1) Original airworthiness certificates for aircraft and airworthiness approvals for engines, propellers, and product parts that conform to the approved design requirements and are in a condition for safe operation;

(2) Export certificates of airworthiness and airworthiness approval tags in accordance with subpart L of part 21 of this chapter;

(3) Experimental certificates for aircraft for which the manufacturer holds the type certificate and which have undergone changes to the type design requiring a flight test; and

(4) Special flight permits to export aircraft.

(b) Conduct any inspections that may be necessary to determine that—

(1) Prototype products and related parts conform to design specifications; and

(2) Production products and related parts conform to the approved type design and are in condition for safe operation.

(c) Perform functions authorized by this section for the manufacturer, or the manufacturer's supplier, at any location authorized by the FAA.

[Doc. No. 16622, 45 FR 1416, Jan. 7, 1980]

**§ 183.33 Designated Airworthiness Representative.**

A Designated Airworthiness Representative (DAR) may, within limits prescribed by and under the general supervision of the Administrator, do the following:

(a) Perform examination, inspection, and testing services necessary to the issuance of certificates, including issuing certificates, as authorized by the Director, Flight Standards Service, in the area of maintenance, or as authorized by the Director, Aircraft Certification Service, in the areas of manufacturing and engineering.

(b) Charge a fee for his or her services.

(c) Perform authorized functions at any authorized location.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); sec.6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No. 23140, 48 FR 16179, Apr. 14, 1983, as amended by Amdt. 183-9, 54 FR 39296, Sept. 25, 1989]

**PART 185—TESTIMONY BY EMPLOYEES AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS, AND SERVICE OF LEGAL PROCESS AND PLEADINGS**

Sec.

185.1 Purpose.

185.3 Acceptance of service on behalf of the Secretary of Transportation or the Administrator.

185.5 Testimony by employees and production of records in legal proceedings.

AUTHORITY: 49 U.S.C. 106(g), 40113-40114, 46104; 49 CFR part 9.

SOURCE: Docket No. 9900, 34 FR 16622, Oct. 17, 1969, unless otherwise noted.

**§ 185.1 Purpose.**

(a) The purpose of this part is to name the FAA officials who, pursuant to part 9 of the regulations of the Office of the Secretary of Transportation (49 CFR part 9) as amended (34 FR 11972, July 16, 1969), are those:

(1) Upon whom legal process or pleadings may be served in any legal proceeding concerning the FAA, and who have authority to acknowledge the service and take further action thereon; and

(2) Who otherwise perform the functions prescribed by part 9 in legal proceedings concerning the FAA with respect to testimony by FAA employees and production of FAA records in legal proceedings.

(b) For purposes of this part, "legal proceedings" includes any proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding.

**§ 185.3 Acceptance of service on behalf of the Secretary of Transportation or the Administrator.**

Legal process or pleadings in any legal proceeding concerning the FAA may be served, at the option of the server, on the Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Litigation Division, of the FAA, or any other FAA official designated by the Chief Counsel, with the same effect as if served upon the Secretary of Transportation or the Administrator. The official accepting the service under this section acknowledges the service and takes further action as appropriate.

**§ 185.5 Testimony by employees and production of records in legal proceedings.**

The Chief Counsel, and each Assistant Chief Counsel, each Regional Counsel, the Aeronautical Center Counsel, and the Technical Center Counsel, with respect to matters arising within their respective jurisdictions, and any other FAA official designated by the Chief Counsel, perform the functions in legal proceedings (other than one described in § 185.3 of this part) as prescribed by part 9 of the regulations of the Office of the Secretary of Transportation, with

respect to testimony by FAA employees and production of FAA records in legal proceedings.

[Doc. No. 9900, 34 FR 16622, Oct. 17, 1969, as amended by Amdt. 185-1, 54 FR 39296, Sept. 25, 1989; Amdt. 185-3, 62 FR 46866, Sept. 4, 1997]

## PART 187—FEES

Sec.

187.1 Scope.

187.5 Duplicates of licenses.

187.7 Copies; seal.

187.15 Payment of fees.

187.17 Failure of applicant to pay prescribed fees.

APPENDIX A TO PART 187—METHODOLOGY FOR COMPUTATION OF FEES FOR CERTIFICATION SERVICES PERFORMED OUTSIDE THE UNITED STATES

APPENDIX B TO PART 187—FEES FOR FAA SERVICES FOR CERTAIN FLIGHTS

APPENDIX C TO PART 187—FEES FOR PRODUCTION CERTIFICATION-RELATED SERVICES PERFORMED OUTSIDE THE UNITED STATES

AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 49 U.S.C. 106(1)(6), 40104-40105, 40109, 40113-40114, 44702.

SOURCE: Docket No. 8347, 32 FR 12051, Aug. 22, 1967, unless otherwise noted.

### § 187.1 Scope.

This part prescribes fees only for FAA services for which fees are not prescribed in other parts of this chapter or in 49 CFR part 7. The fees for services furnished in connection with making information available to the public are prescribed exclusively in 49 CFR part 7. Appendix A to this part prescribes the methodology for computation of fees for certification services performed outside the United States. Appendix A to this part prescribes the methodology for computation of fees for certification services performed outside the United States. Appendix B to this part prescribes the fees for certain aircraft flights that transit U.S.-controlled airspace.

[Doc. No. 8347, 32 FR 12051, Aug. 22, 1967, as amended by Amdt. 187-7, 62 FR 13503, Mar. 20, 1997; Amdt. 187-7, 63 FR 40000, July 24, 1998; Amdt. 187-11, 65 FR 36008, June 6, 2000]

### § 187.5 Duplicates of licenses.

The fee for furnishing to a person entitled thereto a replacement, duplicate, or facsimile of a certificate or other

document evidencing a license, for which a fee is not specifically provided elsewhere in this chapter, is \$2.

### § 187.7 Copies; seal.

The fees for furnishing photostatic or similar copies of documents and for affixation of the seal for a certification or validation are the same as those provided in subpart H of 49 CFR part 7.

### § 187.15 Payment of fees.

(a) The fees of this part are payable to the Federal Aviation Administration by check, money order, wire transfers, 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.

(c) Applicants for the FAA services described in Appendix A of this part shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.

(d) The fees described in appendix B of this part are payable to the Federal Aviation Administration in U.S. currency. Remittance of fees of \$1,000 or more are to be paid by electronic funds transfer. Remittances below \$1,000 may be paid by electronic funds transfer, check, money order, credit card, or draft.

[Doc. No. 27809, 60 FR 19631, Apr. 19, 1995, as amended by Amdt. 187-7, 62 FR 13503, Mar. 20, 1997; Amdt. 187-7, 62 FR 23295, Apr. 29, 1997; Amdt. 187-10, 62 FR 55703, Oct. 27, 1997; Amdt. 187-7, 63 FR 40000, July 24, 1998; Amdt. 187-11, 65 FR 36008, June 6, 2000]

### § 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.

[Doc. No. 28967, 62 FR 55703, Oct. 27, 1997]

APPENDIX A TO PART 187—METHODOLOGY FOR COMPUTATION OF FEES FOR CERTIFICATION SERVICES PERFORMED OUTSIDE THE UNITED STATES

(a) Fixed fees and hourly rates have been derived using the methodology described below to ensure full cost recovery for certification actions or approvals provided by the FAA for persons outside the United States.

(b) These rates are based on aviation safety inspector time rather than calculating a separate rate for managerial or clerical time because the inspector is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time management.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

- (1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.
- (2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).
- (3) Transportation of things, budget code series 2200.
- (4) Rental, communications, utilities, budget code series 2300.
- (5) Printing and reproduction, budget code series 2400.
- (6) Contractual services, budget code series 2500.
- (7) Supplies and materials, budget code series 2600.
- (8) Equipment, budget code series 3100.
- (9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Standards Operations Budget, excluding the items enumerated above, by the number of aviation safety inspections (OMB position series 1825) on board at the beginning of the fiscal year, to determine the annual cost of an aviation safety inspector. This annual cost of an aviation safety inspector is divided by 2,087 hours, which is the annual paid hours of a U.S. Federal Government employee. This result in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

- (1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.
- (2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect work factor. The calculation of an indirect work factor is discussed in paragraph (f) of this appendix.

(f)(1) The indirect work factor is determined using the following formula:

$$\left( 1 + \sum_{i=1}^k a_i \right) (1 + b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work.

(2) The components of the formula are derived as follows:

(i) *a=indirect work rate.* Indirect work rate is take from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and surveillance work. The indirect work activities are:

- (A) Development of master minimum equipment lists on Flight Operations Evaluation Board.
- (B) Development of aircraft training documents on Flight Standardization Board.
- (C) Development of Maintenance program documents on Maintenance Review Board.
- (D) Providing technical assistance.
- (E) Assisting legal counsel.
- (F) Evaluation of technical documents.
- (G) Leave (all types).
- (H) Training.
- (I) Administrative time.
- (J) Travel for indirect work.

(ii) *b=leave usage (total leave hours divided by total hours available for work)*. This is computed by using OMB guidelines of 280 average annual leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(h) Certifications and approvals for which there are fixed times, such as airman tests, are determined by multiplying the time used in the Flight Standards Staffing Standard or airman test guidelines by the inspector hourly billing rate.

(i) Certifications and approvals for which there are no fixed work rates, such as airman and repair station facilities (air agencies), are billed at the hourly inspector billing rate.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in this Appendix. The User fee schedule is published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States." A copy of this publication may be obtained from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests, authorizations, certifications, permits, or ratings.

(n) Notice of each change to a fee for a service described in the user fee schedule will be published in the "Notices" section of the FEDERAL REGISTER.

[Amdt. 187-5, 60 FR 19631, Apr. 19, 1995]

#### APPENDIX B TO PART 187—FEES FOR FAA SERVICES FOR CERTAIN FLIGHTS

(a) *Applicability*. Except as provided in paragraphs (b) and (c) of this appendix, this appendix applies to any person who conducts a flight through U.S.-controlled airspace that does not include a landing or takeoff in the United States. U.S.-controlled airspace is defined as all U.S. airspace either directly owned by the United States or allocated to the United States by the International Civil Aviation Organization or by other countries. This is further defined, for this section only,

as enroute and oceanic airspace. Enroute airspace is defined, for this section only, as airspace where primarily radar-based air traffic services are provided. Oceanic airspace is defined, for this section only, as airspace where primarily procedural air traffic services are provided.

(b) *Governmental flights*. This appendix does not apply to any military or civil flight operated by the United States Government or by any foreign government.

(c) *Canada-to-Canada flights*. This appendix will not apply to any operator of a flight that takes off and lands in Canada, without an intermediate stop outside Canada, that operates in U.S.-controlled airspace.

(d) *Services*. Persons covered by paragraph (a) of this appendix must pay a fee for the use of certain services, including but not limited to the following:

(1) Air traffic management.

(2) Communications.

(3) Navigation.

(4) Radar surveillance, including separation services.

(5) Flight information services.

(6) Procedural control.

(7) Emergency services and training.

(e) *Methodology for the computation of fees*.

(1) For the use of any of the services listed in paragraph (d) of this appendix, the fee is computed based on the distance flown in either enroute or oceanic airspace (U.S.-controlled airspace.) Distance flown is based on the great circle distance (GCD) for the actual point of entry and the actual point of exit of U.S.-controlled airspace. Fees are assessed using the methodology presented in paragraph (e)(2) of this appendix. Where actual entry and exit points are not available, the best available flight data will be used to calculate the fee.

(2) A User (operator of an overflight) is assessed a fee for each 100 nautical miles (or portion thereof) flown in U.S.-controlled airspace. Separate calculations are made for transiting enroute and oceanic airspace. The total fee charged for an overflight between any two cities is equal to the sum of these two charges. This relationship is summarized as:

$$R_{ij} = \$20.16 * DO_{ij} + \$37.43 * DE_{ij},$$

Where:

$R_{ij}$  = the fee charged to aircraft flying between city i and city j,

$DO_{ij}$  = distance traveled in U.S.-controlled oceanic airspace expressed in hundreds of nautical miles for aircraft flying between city i and city j,

$DE_{ij}$  = distance traveled in U.S.-controlled enroute airspace expressed in hundreds of nautical miles for aircraft flying between city i and city j.

(f) *Billing and payment procedures*.

(1) *Billing.* The FAA will send an invoice to each user that is covered by this appendix when fees are owed to the FAA. No invoice will be sent unless the monthly (based on Greenwich Mean Time) fees for service equal or exceed \$250. Users will be billed at the address of record in the country where the aircraft is registered, unless a billing address is otherwise provided.

(2) *Payment.* Payment must be made by one of the methods described in §187.15(d).

(g) *Review of fees.* The fees prescribed in this appendix will be reviewed at least once every 2 years and adjusted to reflect the current costs of performing the services covered by this appendix.

[Doc. No. 00-7018, 65 FR 36009, June 6, 2000]

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 United States 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 United States to manufacture or assemble aeronautical products after September 30, 1997.

(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, part, 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 United States; conformity inspections; and witnessing of tests.

*Supplier facility* means a place where production of a part, component, or sub-assembly is performed for a production approval holder.

*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 may apply for FAA production certification-related services provided outside the United States by a letter of application to the FAA detailing when and where the particular services are required.

(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 and can provide the services requested, 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 agreed 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 actual FAA costs of providing production certification-related services.

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

(f) Fees will be reviewed by the FAA periodically and adjusted either upward or downward in order to reflect the current costs of performing production certification-related services outside the United States.

(1) Notice of any change to the elements of the fee formula in this Appendix will be published in the FEDERAL REGISTER.

(2) Notice of any change to the methodology in this Appendix and other changes for the fees will be published in the FEDERAL REGISTER.

[Doc. No. 28967, 62 FR 55703, Oct. 27, 1997]

**PART 189—USE OF FEDERAL AVIATION ADMINISTRATION COMMUNICATIONS SYSTEM**

Sec.

189.1 Scope.

189.3 Kinds of messages accepted or relayed.

189.5 Limitation of liability.

AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40104, 40113, 44502, 45303.

SOURCE: Docket No. 27778, 60 FR 39615, Aug. 2, 1995, unless otherwise noted.

**§ 189.1 Scope.**

This part describes the kinds of messages that may be transmitted or relayed by FAA Flight Service Stations.

**§ 189.3 Kinds of messages accepted or relayed.**

(a) Flight Service Stations may accept for transmission over FAA communication systems any messages concerning international or overseas aircraft operations described in paragraphs (a) (1) through (6) of this section. In addition, Flight Service Stations may relay any message described in this section that was originally accepted for transmission at an FAA Flight Service Station outside the 48 contiguous States, or was received from a foreign station of the Aeronautical Fixed Telecommunications Network that, in normal routing, would require transit of the United States to reach an overseas address:

- (1) Distress messages and distress traffic.
- (2) Messages concerning the safety of human life.
- (3) Flight safety messages concerning—
  - (i) Air traffic control, including—
    - (A) Messages concerning aircraft in flight or about to depart;
    - (B) Departure messages;
    - (C) Flight plan departure messages;
    - (D) Arrival messages;
    - (E) Flight plan messages;
    - (F) Flight notification messages;
    - (G) Messages concerning flight cancellation; and
    - (H) Messages concerning delayed departure;
  - (ii) Position reports from aircraft;
  - (iii) Messages originated by an aircraft operating agency of immediate

concern to an aircraft in flight or about to depart; and

(iv) Meteorological advice of immediate concern to an aircraft in flight or about to depart.

(4) Meteorological messages concerning—

(i) Meteorological forecasts;

(ii) Meteorological observations exclusively; or

(iii) Other meteorological information exchanged between meteorological offices.

(5) Aeronautical administrative messages—

(i) Concerning the operation or maintenance of facilities essential to the safety or regulatory of aircraft operation;

(ii) Essential to efficient functioning of aeronautical telecommunications; or

(iii) Between civil aviation authorities concerning aircraft operation.

(6) Notices to airmen.

(b) The following messages may only be relayed through the FAA communications systems:

(1) Flight regularity messages—

(i) Addressed to the point of intended landing and to not more than two other addressees in the general area of the route segment of the flight to which the message refers, containing information required for weight and balance computation and remarks essential to the rapid unloading of the aircraft;

(ii) Concerning changes, taking effect within 72 hours, in aircraft operating schedules;

(iii) Concerning the servicing of aircraft en route or scheduled to depart within 48 hours;

(iv) Concerning changes in the collective requirements for passengers, crew, or cargo of aircraft en route or about to depart, if the changes are caused by unavoidable deviations from normal operating schedules and are necessary for flight regularity;

(v) Concerning non-routine landings to be made by aircraft en route or about to depart;

(vi) Concerning parts or materials urgently needed to operate aircraft en route or scheduled to depart within 48 hours; or

(vii) Concerning pre-flight arrangement of air navigation services and, in the case of non-scheduled or irregular

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operations, operational servicing of aircraft scheduled to depart within 48 hours.

(2) Messages originated by and addressed to aircraft operating agencies or their representatives that directly bear on the efficient and economic conduct or day to day operations, if adequate non-United States communications facilities are not available and the messages concern—

(i) Matter described in paragraph (b)(1) of this section, but not meeting the time limitations described in paragraph (b)(1) of this section;

(ii) Aircraft parts, equipment, or supplies, air navigation or communications, or essential ground facilities;

(iii) Train or hotel reservations for passengers or employees;

(iv) Lost baggage or personal effects;

(v) Tickets or cargo shipments and payment therefore;

(vi) Location of passengers and cargo;

(vii) New or revised passenger or cargo rates;

(viii) Crew assignments and similar operations personnel matters taking effect within 7 days;

(ix) Post flight reports for record purposes;

(x) Publicity and special handling regarding dignitaries; or

(xi) Reservations, when originated by aircraft operating agencies to secure space required in transport aircraft.

### § 189.5 Limitation of liability.

The United States is not liable for any omission, error, or delay in transmitting or relaying, or for any failure to transmit or relay, any message accepted for transmission or relayed under this part, even if the omission, error, delay, or failure to transmit or relay is caused by the negligence of an employee of the United States.

## PART 191—PROTECTION OF SENSITIVE SECURITY INFORMATION

Sec.

191.1 Application and definitions.

191.3 Records and information withheld by the Federal Aviation Administration.

191.5 Records and information protected by others.

191.7 Sensitive security information.

AUTHORITY: 49 U.S.C. 106(g), 5103, 40113, 40119, 44701–44702, 11705–44706, 44901–44907, 44913–44914, 44932, 44935–44936, 46105.

SOURCE: Docket No. 27965, 62 FR 13744, Mar. 21, 1997, unless otherwise noted.

### § 191.1 Applicability and definitions.

(a) This part governs the release, by the Federal Aviation Administration and by other persons, of records and information that has been obtained or developed during security activities or research and development activities.

(b) For purposes of this part, “record” includes any writing, drawing, map, tape, film, photograph, or other means by which information is preserved.

(c) The authority of the Administrator under this part is also exercised by the Assistant Administrator for Civil Aviation Security and the Deputy Assistant Administrator for Civil Aviation Security, and any other individual formally designated to act in their capacity. For matters involving the release or withholding of information and records containing information described in § 191.7 (a) through (g), and related documents described in (1), the authority may be further delegated. For matters involving the release or withholding of information and records containing information described in § 191.7 (h) through (k), and related documents described in (1), the authority may not be further delegated.

[Doc. No. 27965, 62 FR 13744, Mar. 21, 1997; Amdt. 191–4, 62 FR 15752, Apr. 2, 1997]

### § 191.3 Records and information withheld by the Federal Aviation Administration.

(a) Except as provided in § 191.3 (c) and (d), and notwithstanding 5 U.S.C. 552 or other laws, the records and information described in §§ 191.7 and 191.3(b) are not available for public inspection or copying, nor is information contained in those records released to the public.

(b) The Administrator prohibits disclosure of information developed in the conduct of security or research and development activities under 49 U.S.C. 40119 if, in the opinion of the Administrator, the disclosure of such information would:

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(1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(2) Reveal trade secrets or privileged or confidential information obtained from any person; or

(3) Be detrimental to the safety of persons traveling in air transportation.

(c) If a record contains information that the Administrator determines cannot be disclosed under this part, but also contains information that can be disclosed, the latter information, on proper Freedom of Information Act request, will be provided for public inspection and copying. However, if it is impractical to redact the requested information from the document, the entire document will be withheld from public disclosure.

(d) After initiation of legal enforcement action, if the alleged violator or designated representative so requests, the Chief Counsel, or designee, may provide copies of portions of the enforcement investigative report (EIR), including sensitive security information. This information may be released only to the alleged violator or designated representative for the sole purpose of providing the information necessary to prepare a response to the allegations contained in the legal enforcement action document. Such information is not released under the Freedom of Information Act. Whenever such documents are provided to an alleged violator or designated representative, the Chief Counsel or designee advises the alleged violator or designated representative that—

(1) The documents are provided for the sole purpose of providing the information necessary to respond to the allegations contained in the legal enforcement action document; and

(2) Sensitive security information contained in the documents provided must be maintained in a confidential manner to prevent compromising civil aviation security, as provided in § 191.5 of this part.

### **§ 191.5 Records and information protected by others.**

(a) Each airport operator, air carrier, indirect air carrier, foreign air carrier, and person receiving information under

§ 191.3(d) of this part; and each individual employed by, contracted to, or acting for an airport operator, air carrier, indirect air carrier, or foreign air carrier; and each person receiving information under § 191.3(d) of this part, shall restrict disclosure of and access to sensitive security information described in § 191.7 (a) through (g), (j), (k), and as applicable (l), to persons with a need-to-know, and shall refer requests by other persons for such information to the Administrator.

(b) A person has a need-to-know sensitive security information when the information is necessary to carry out FAA-approved or directed aviation security duties; when the information is necessary to supervise or otherwise manage the individuals carrying out such duties; to advise the airport operator, air carrier, indirect air carrier, or foreign air carrier regarding the specific requirements of any FAA security related requirements; or to represent the airport operator, air carrier, indirect air carrier, foreign air carrier, or person receiving information under § 191.3(d) of this part, in connection with any judicial or administrative proceeding regarding those requirements. For some specific information the Administrator may make a finding that only specific persons, or classes of persons, have a need-to-know.

(c) When sensitive security information is released to unauthorized persons, any air carrier, airport operator, indirect air carrier, foreign air carrier, or individual with knowledge of the release shall inform the Administrator.

(d) Violation of this section is grounds for a civil penalty and other enforcement or corrective action by the FAA.

### **§ 191.7 Sensitive security information.**

Except as otherwise provided in writing by the Administrator as necessary in the interest of safety of persons traveling in air transportation, the following information and records containing such information constitute sensitive security information:

(a) Any approved or standard security program for an air carrier, foreign air carrier, indirect air carrier, or airport operator, and any security program that relates to United States

mail to be transported by air (including that of the United States Postal Service and of the Department of Defense); and any comments, instructions, or implementing guidance pertaining thereto.

(b) Security Directives, Information Circulars, and any comments, instructions, or implementing guidance pertaining thereto.

(c) Any profile used in any security screening process, including for persons, baggage, or cargo.

(d) Any security contingency plan or information and any comments, instructions, or implementing guidance pertaining thereto.

(e) Technical specifications of any device used for the detection of any deadly or dangerous weapon, explosive, incendiary, or destructive substance.

(f) A description of, or technical specifications of, objects used to test screening equipment and equipment parameters.

(g) Technical specifications of any security communications equipment and procedures.

(h) As to release of information by the Administrator: Any information that the Administrator has determined may reveal a systemic vulnerability of the aviation system, or a vulnerability of aviation facilities, to attack. This includes, but is not limited to, details of inspections, investigations, and alleged violations and findings of violations parts 107, 108, or 109, or §129.25, 129.26, or §129.27 of this chapter, and any information that could lead the disclosure of such details, as follows:

(1) As to events that occurred less than 12 months before the date of the release of the information, the following are not released: the name of an airport where a violation occurred, the regional identifier in the case number, a description of the violation, the regulation allegedly violated, and the iden-

tity of the air carrier in connection with specific locations or specific security procedures. The FAA may release summaries of an air carrier's total security violations in a specified time range without identifying specific violations. Summaries may include total enforcement actions, total proposed civil penalty amounts, total assessed civil penalty amounts, number of cases opened, number of cases referred by Civil Aviation Security to FAA counsel for legal enforcement action, and number of cases closed.

(2) As to events that occurred 12 months or more before the date of the release of information, the specific gate or other location on an airport where an event occurred is not released.

(3) The identity of the FAA special agent who conducted the investigation or inspection.

(4) Security information or data developed during FAA evaluations of the air carriers and airports and the implementation of the security programs, including air carrier and airport inspections and screening point tests or methods for evaluating such tests.

(i) As to release of information by the FAA: Information concerning threats against civil aviation.

(j) Specific details of aviation security measures whether applied directly by the FAA or regulated parties. This includes, but is not limited to, information concerning specific numbers of Federal Air Marshals, deployments or missions, and the methods involved in such operations.

(k) Any other information, the disclosure of which the Administrator has prohibited under the criteria of 49 U.S.C. 40119.

(l) Any draft, proposed, or recommended change to the information and records identified in this paragraph.

## SUBCHAPTERS L-M [RESERVED]