



12/05/2016

Aviation Group Client Update

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FAA ISSUES FINAL RULE ON OVERFLIGHT FEES

On November 29, 2016, the FAA issued a final rule on [Update of Overflight Fee Rates](#). This rule becomes effective January 1, 2017.

Purpose. This final rule updates existing overflight fee rates and increases the rates for enroute and oceanic overflights using Fiscal Year (FY) 2013 FAA cost accounting and air traffic activity data. Overflight fee rates were last updated in 2011. The FAA is phasing in this rate increase over three years in equal percentage terms. Finally, the FAA is making several organizational and clarifying revisions to the overflight fee requirements.

Background/Summary. Overflight fees were initially authorized in section 273 of the Federal Aviation Reauthorization Act of 1996. After a series of legal challenges and refinements, overflight fee rates were implemented in their current form in 2001. Since that time the fee rates have been based on cost data from the FAA's Cost Accounting System and air traffic data from the FAA's Traffic Flow Management System. They were last updated in 2011 by using cost and activity data for FY 2008. Because the rates had not been updated for 9 years, and the total enroute and oceanic rate increases were significant, the FAA decided to phase in the increases in the 2011 final rule over a 4-year period, with rate increases occurring on October 1 of 2011, 2012, 2013, and 2014.

The higher overflight rates based on FY 2013 unit costs will allow the FAA to move closer to full cost recovery of air traffic control services already being provided to operators. The present value of the fee increases through the third 12-month interval—when the full increase in rates will have taken place—is \$9,560,692 for foreign operators and \$141,888 for domestic operators. The increased fees provide greater incentives for foreign and domestic operators to economize on U.S. air traffic control facilities and U.S.-controlled airspace, thus increasing the efficient allocation of resources. The FAA has, in agreement with many commenters, decided to raise the overflight fee billing threshold from \$250 to \$400. The enroute and oceanic rates also increased under this final rule and are 83% and 40% higher respectively as compared with the rates in the 2001 final rule (\$33.72 for enroute and \$18.94 for oceanic).

If you have any questions or would like further information, please contact Shelley Ewalt.

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