

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 189**

[Docket No. 27778; Amendment No. 189-3]

RIN 2120-AE68

**Use of Federal Aviation Administration Communications Systems**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This action modifies the Federal Aviation Regulations (FAR) relating to the use of FAA communications systems by removing outdated fee provisions and services. Due to enhanced commercial communications (i.e., telecommunications, satellites, etc.) the FAA has determined that the need to accept messages (and to charge fees for this service) that address such topics as lost baggage, hotel reservations, crew assignments, and other commercial matters (Class B messages) no longer exists. This action does not affect the FAA's transmission of messages relating to flight safety, flight plans, and weather (Class A messages). Also, this rule will not alter the current practice of relaying messages received from an FAA Flight Service Station (FSS) outside of the 48 contiguous States and the District of Columbia, or received from a foreign station of the Aeronautical Fixed Telecommunications Network (AFTN).

**EFFECTIVE DATE:** September 18, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ellen E. Crum, Air Traffic Rules Branch, ATP-230, Airspace-Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8783.

**SUPPLEMENTARY INFORMATION:****Background**

The predecessor of part 189 (part 612—Aeronautical Fixed Communications, published in the August 25, 1950, **Federal Register**) became effective on September 1, 1950. Part 612 specified that airlines could send certain messages over specific Government circuits. The specific circuits were established between several Pacific Islands. The United States government made this communications network available, at the users expense, to transmit Class B messages since there were few other communication systems established.

Subsequent amendments to part 612 accomplished the following: (1) Expanded the service to any station services by the Integrated International Aeronautical Network (now AFTN); (2) defined the specific messages that would be accepted free of charge and those for which fees would be charged; (3) established the priority given to two categories of messages; and (4) limited the Government's liability in the handling of all messages accepted under these provisions.

Concurrent with the evolution of part 612, similar International Civil Aviation Organization (ICAO) procedures were developed. Beginning in 1951, ICAO procedures were implemented whereby each country would: (1) Accept, free of charge, messages that were meant for “\* \* \* ensuring safety of air navigation and regularity of air traffic between aeronautical fixed stations of the different States \* \* \*”; (2) accept other messages that did not fall in the above category provided there was an “\* \* \* absence of rapid commercial telecommunications \* \* \*”; and (3) determine the acceptability of messages.

Communication systems and the air traffic control system have improved greatly in the last several decades. Consequently, users have elected to transmit Class B messages through communications systems other than the FAA's.

The FAA has previously considered the need for, and removal of, part 189 of the FAR. In 1981, all FAA Regional offices were queried regarding what operational effect, if any, the complete removal of part 189 would have. At that time, only the Alaska region objected to this action. The International Flight Service Station (IFSS) in Anchorage, Alaska, handled a high volume of Class B messages, and the Region felt strongly that complete removal of part 189 would preclude them from continuing this service. In 1992, the Regions were again queried regarding their positions with respect to the proposed amendment to part 189. All of the Regions concurred with this proposal. Since the IFSS in Anchorage, Alaska was decommissioned in 1984, aircraft that had previously utilized its communications services are now using a private communications company; therefore, the prior concerns of the Alaska Region are no longer relevant.

**Current Requirements**

Part 189 stipulates that domestic FSS's may accept for transmission only messages related to distress and distress traffic, safety of human life, flight safety (including air traffic control messages), weather, aeronautical administration,

and Notices to Airmen (NOTAM's) (Class A messages). The acceptance and transmission of these messages is completed without charge. This amendment will not alter that service.

In addition to accepting Class A messages, IFSS's and those FSS's located outside the 48 contiguous States and the District of Columbia, may accept messages originated by and addressed to aircraft operating agencies, or their representatives, that directly bear on the efficient and economic conduct of day to day operations. These messages (Class B messages) include such things as new or revised passenger or cargo rates and train or hotel reservations. The current rule provides for a fee of 25 cents for each group of 10 words. FSS acceptance of these messages is based on the absence of adequate non-USA communication facilities.

In recent years additional means of communication have been developed, including satellites, computer networks, and cellular telephones. Therefore, the need to use the FAA AFTN system for the transmission of Class B messages has been greatly reduced. In January, 1988, a communication network called National Airspace Data Interchange Network (NADIN) was commissioned in the United States. The capability to segregate Class B messages, which required payment from the user, was intentionally omitted from the system because the need for such a capability is negligible. However, part 189 was not amended when NADIN was commissioned; consequently the rule still contains outdated provisions for the collection of fees for the transmission of Class B messages.

Annex 10, an International Civil Aviation Organization (ICAO) document, provides guidance to FSS's for handling the operational aspects of international aeronautical telecommunications. The FAA relays Class A or B messages that were originally accepted for transmission at an FAA FSS outside of the 48 contiguous States and the District of Columbia that were received from a foreign station of the AFTN, and that in normal routing would require transit of the 48 contiguous States or the District of Columbia in order to reach an overseas address.

**Discussion of Comments**

Interested persons were invited to participate in this rulemaking action by submitting written data, views, or arguments. The comment period closed on September 7, 1994. The FAA received one comment, from the Airline Pilots Association, supporting the