other countries govern the rights of foreign air carriers in this regard.

GAMA, AOPA, and NBAA all argue that we should further expand the applicability of this subpart to cover complaints by general aviation operators. In their view, the arguments for including foreign air carriers apply with equal force to general aviation users. While we recognize that there may be cases in which an airport imposes essentially similar fees on both general aviation and air carrier operations, we cannot grant the request to expand the expedited procedures to general aviation operators. The FAA Authorization Act requires the Secretary to determine the reasonableness of a challenged fee within 120 days after a complaint is filed and indicates a preference for oral evidentiary procedures, to the extent that such procedures are consistent with the 120day timeframe. Our procedures must carry out the Congressional intent. If general aviation operators are permitted to make use of this subpart, however, the scope of the hearing would be dramatically expanded. It is possible that there would be dozens, conceivably even hundreds, of additional parties, possibly with divergent interests. If this happened, it would so overwhelm the Department's resources that it could become impossible for the Department to meet the statutory deadline.

The Metropolitan Washington Airports Authority argues that there is an integral relationship between the fees paid by "signatory" and "non-signatory" carriers. (Signatory carriers are airlines that have entered into a use or operating agreement with the airport operator.) Therefore, "it is important for the procedures to specify that the airport can join as indispensable parties the signatory airlines when the airports rates and charges are challenged by a non signatory airline." The final rule does not incorporate this suggestion. If a carrier (signatory or otherwise) would be affected by the outcome of a complaint filed by another carrier at the same airport, it may well choose to participate in the proceeding, such as by filing an answer to the complaint. The NPRM's proposal to require service of any complaint on other carriers (discussed more fully below) was made partly to facilitate such participation. But there is no reason to require the participation of carriers with no complaint of their own and no interest in the fee being challenged.

Evidence To Be Submitted With Complaints, Requests and Answers

A number of commenters addressed the proposal in the NPRM that carrier complaints should contain all supporting evidence and testimony, and that answers should similarly be complete with all evidence and testimony on which the party intends to rely.

IATA commented that a carrier might not have access to much of the information necessary to its complaint unless the airport had agreed to furnish it. IATA requested that the final rule make clear that information within the custody of the airport could be used by the carrier if it was able to obtain the information only after the complaint was filed. ATA raised the same issue, but suggested that we provide for a formal discovery process within the 30day period following the complaint.

The Department's Policy Regarding Airport Rates and Charges, published in today's **Federal Register**, states that airports should consult with carriers in advance of changing fees, and should provide adequate information to permit carriers to evaluate the justification for the change and the reasonableness of the new or increased fee. We expect that airports will comply with this policy.

The Department finds the IATA and ATA concerns valid. However, we believe that the conduct of discovery in the 30-day period following the complaint would be a burden to the airport owner or operator and to the government. Moreover, any discovery conducted would be unnecessary, and therefore excessive, if the complaint is subsequently dismissed because the Secretary determines that there is no significant dispute. Accordingly, the Department will provide, where necessary, special procedures for the exchange or disclosure of information by the parties.

Airport parties had equivalent objections with respect to the proposed requirements for the timing and completeness of answers. ACI–NA, AAAE, the Los Angeles Department of Airports, and Massport all argued that airports should not have to submit their entire response with the answer. They believe that answering parties should only have to submit a brief in response to a complaint, and should be able to supplement their submission with exhibits and testimony at a later point in the proceeding.

In addition, they claim that it is unfair that complainants will have up to 60 days to gather evidence and prepare exhibits and testimony, while, under the proposal, respondents would be required to submit their complete response seven calendar days after the complaint is filed. AAAE and ACI–NA suggested that we allow answers to be filed 21 days after the initial complaint.

The Los Angeles Department of Airports agreed, and also suggested the recommended 21-day period should not start until the last day that complaints could be filed (i.e., on the 60th day after notice of the fee or the seventh day after the first complaint is filed). This would give parties a total of up to 28 days to file answers. Massport asked for a 14 calendar-day answer period, and the Metropolitan Washington Airports Authority recommended 14 days for the initial complaint and seven days for any additional complaints. The Maryland Aviation Administration requested seven business days instead of seven calendar days.

We will retain the requirement that answers contain all testimony and exhibits on which the answering party intends to rely. The carriers pointed out that airport owners and operators possess much of the information that they might need to introduce in challenging a fee. However, there is no fee information in the hands of the carriers that an airport would need to support the reasonableness of the fee. In view of the extremely short decisional deadlines imposed by the FAA Authorization Act, it is important that we have the most information possible at the beginning of a proceeding. While it is true, as commenters noted, that complaining carriers have up to 60 days to file complaints, we do not agree that this gives complainants an unfair advantage. We expect airports to have all the economic evidence they need in support of a new or increased fee before the fee is increased rather than after a complaint is filed. While an answer must, of course, respond to the specific matters raised in a complaint, an airport should not have to generate significant new data.

On the other hand, we believe that it is reasonable to allow some additional time to prepare and submit answers. In the case of complaints, it will be easier for both the answering party and the Department if answers are consolidated to address both the initial complaint and any follow-on complaints. Accordingly, the final rule provides that answers will be due 14 calendar days after the initial complaint is filed. Thus, if there are follow-on complaints, the answering parties will still have a minimum of seven days to address them. We will also allow 14 days for answers to requests for determination.

Determination of "Significant Dispute"

Within 30 days after a carrier files a complaint, the FAA Authorization Act requires the Department to determine whether there is a "significant dispute;" if not, the statute requires the Secretary