

provide annual MIS testing information, and communicating with entities subject to the program regulations. In addition, the information is used to ensure that appropriate action is taken in regard to crew members and other safety-sensitive employees who have tested positive for drugs or alcohol, or have refused to submit to testing.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, Strategy and Investment Analysis Division, AIO-20, 800 Independence Ave., SW., Washington, DC 20591.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 13, 2006.

**Carla Mauney,**

*FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO-20.*

[FR Doc. 06-9247 Filed 11-16-06; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Noise Exposure Map Notice; Burlington International Airport, South Burlington VT

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps for Burlington International Airport, as submitted by the City of Burlington under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150, are in compliance with applicable requirements.

**DATES:** *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is November 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Richard Doucette, Federal Aviation Administration, New England Region

Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for Burlington International Airport are in compliance with applicable requirements of Part 150, effective November 6, 2006.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps that meet applicable regulations and that depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted such noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval that sets forth the measures the operator has taken, or proposes, for the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure map and related descriptions submitted by the City of Burlington. The specific maps under consideration were "Figure 1. 2006 Existing Condition Noise Exposure Map" and "Figure 2. 2011 Forecast Condition Noise Exposure Map" in the submission. The FAA has determined that these maps for Burlington International Airport are in compliance with applicable requirements. This determination is effective on November 6, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act,

it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted the map or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps are available for examination at the following locations: Engineering Office, Room 295 Terminal Building, Burlington International Airport, 1200 Airport Drive, South Burlington VT, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

Questions may be directed to the individual named above under the heading: **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts on November 6, 2006.

**LaVerne Reid,**

*Manager, Airports Division.*

[FR Doc. 06-9249 Filed 11-16-06; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Acceptance of Transfer Statements Under UCC 9-616, for Recording in Aircraft Records

**ACTION:** Notice.

**SUMMARY:** This notice is issued by the Federal Aviation Administration (FAA) Chief Counsel to advise interested parties of the FAA's acceptance of transfer statements filed with the FAA Aircraft Registry that are executed under the Uniform Commercial Code, section 9-619, as adopted by the various states.

**FOR FURTHER INFORMATION CONTACT:**

Joseph R. Standell, Aeronautical Center Counsel, AMC-7, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125-4904, or call (405) 954-3296.

**SUPPLEMENTARY INFORMATION:**

By Memorandum dated September 7, 2006, Mr. Dean Gerber, Vedder, Price, Kaufman & Kammholz, P.C., wrote to the FAA about a default on a secured transaction which resulted in foreclosure of the owner/lessor's interest in several aircraft. In addition to the secured transaction, the aircraft are subject to leases from the defaulting owner, as lessor to a third party certificated air carrier. The foreclosing party wants the FAA aircraft records to reflect its interest in the leases so that transfer of lessor's rights to a new owner/lessor can be accomplished. The defaulting party is unwilling to deliver an assignment of the leases to the foreclosing party. Absent an assignment of lessor's rights in the leases, the foreclosing party has been unable to cause FAA aircraft records to reflect its rights in the leases.

The Administrator of the FAA is charged in 49 U.S.C. 44107 with establishing a system for recording conveyances that affect an interest in a U.S. civil aircraft. Part 49 of the Federal Aviation Regulations—Recording of Aircraft Titles and Security Documents provides that leases are conveyances (see 49 U.S.C. 40101(a)(19), 14 CFR 49.17(a)(1)). Section 39.17(d) of the Regulations provides for recording of consensual assignments of conveyances such as security documents and leases. However, in default situations, the Regulations only provide for recording of a Certificate of Repossession, FAA Form 8050-4, or its equivalent, addressing ownership of an aircraft (14 CFR 47.11(b)). When the repossessed aircraft remains subject to a lease, there is no apparent way for a repossessing party to record its interest in the lease. To address this problem, Mr. Gerber's memorandum included a proposed transfer statement under the Uniform Commercial Code (UCC) section 9-619 as a mechanism by which a foreclosing secured party can cause the record to reflect its rights in leases.

Section 9-619 of the UCC provides that a properly presented transfer statement "entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, \* \* \* system \* \* \*" Further, section 9-619 provides that upon proper presentation, the official responsible for maintaining the system

shall accept the transfer statement and promptly amend its records to reflect the transfer. That "official" in the context of Mr. Gerber's request would be the FAA Aircraft Registry.

The FAA has determined that in appropriate circumstances, transfer statements may be recordable instruments. However, users are reminded that the validity of transfer statements is determined under the applicable state law, i.e., State adoptions of Section 9-619 of the UCC.

Accordingly, the FAA publishes, as an attachment, its response to Mr. Gerber.

Issued in Washington, DC, on November 13, 2006.

**Rebecca MacPherson,**

*Assistant Chief Counsel for Regulations.*

**Attachment**

October 6, 2006.

Dean A. Gerber, Esq.

Vedder, Price, Kaufman & Kammholz, P.C., 222 North LaSalle Street, Chicago, IL 60601.

Dear Mr. Gerber:

**Legal Opinion—Lease Assignments Through the Use of Transfer Statements**

This responds to your request for an opinion whether the Federal Aviation Administration (FAA) will consider utilization of a transfer statement for purposes of assigning (on the record) the rights of the aircraft owner in existing leases to the Indenture Trustee; and whether a transfer statement under Uniform Commercial Code section 9-619 is eligible for recording as a stand-alone document.

As an attachment to your request, you provided a draft proposed Transfer Statement and its Attachment A. The proposed Transfer Statement appears to contain all of the provisions required by Uniform Commercial Code Section 9-619 including the statement "By reason of such past-default remedies, the Indenture Trustee has acquired the rights of the Owner Trustee as lessor under the Existing Lease and is now considered the 'Lessor' under the Existing Lease \* \* \*."

Briefly, the facts underlying your request are as follows: The registered owner of the aircraft has defaulted under a recorded security agreement. The collateral under that security agreement is the aircraft and various leases of the aircraft to a certificated air carrier, as lessee. You acknowledge that ownership of the aircraft can be affected by repossession and foreclosure evidenced by the filing of a Certificate of Repossession under 14 CFR § 47.11. However, your client seeks a way to

evidence of record its accession to the rights of the registered owner (the Lessor) in the leases and subsequently be able to record an assignment of that interest from the Indenture Trustee to the new aircraft owner.

By way of background, the Administrator of the Federal Aviation Administration is charged with establishing a system for recording conveyances, including leases that affect an interest in a U.S. civil aircraft. (See 49 U.S.C. 40102(a)(19), 44107; 14 CFR 49.17(a)(1).)

Part 49 of the Federal Aviation Regulations contains provisions for recording assignments of those conveyances. However, where such assignment is not feasible as sometimes occurs in a default situation, there are no regulatory provisions to provide notice to system users of the transfer when the collateral involved is a lease. Although a transfer statement has definite structure and effect it is not the type of assignment contemplated by 14 CFR 49.17(d)(3).<sup>1</sup>

Recognizing that dilemma, the drafters of the Uniform Commercial Code (UCC) introduced a mechanism by which a repossessing party can evidence its rights in collateral such as leases. UCC section 9-619 *Transfer of Record or Legal Title*,<sup>2</sup> introduces the transfer statement as follows:

(a) ["Transfer statement." ] In this section, "transfer statement" means a record authenticated by a secured party stating:

(1) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) That the secured party has exercised its post-default remedies with respect to the collateral;

(3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; (emphasis added) and

(4) The name and mailing address of the secured party, debtor, and transferee.

(b) [Effect of transfer statement.] A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to

<sup>1</sup> 14 CFR 49.17(d)(3)—The following rules apply to conveyances executed for security purposes and assignments thereof: An assignment of an interest in a security agreement must be signed by the assignor and, unless it is attached to and is a part of the original agreement, must describe the agreement in sufficient detail to identify it, including its date, the names of the parties, the date of FAA recording, and the recorded conveyance number.

<sup>2</sup> The 2000 revisions to Article 9 have been adopted by all 50 states, the District of Columbia and the Virgin Islands (ULA UCC Refs & Annos, Westlaw).

the official or office responsible for maintaining the system, the official or office shall:

- (1) Accept the transfer statement;
- (2) Promptly amend its records to reflect the transfer; (emphasis added) and
- (3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) [Transfer not a disposition; no relief of secured party's duties.] A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

I have also considered the Official Comments of the UCC drafters wherein they explain the intent of UCC 9-916:

Transfer of Record or Legal Title. Potential buyers of collateral that is covered by a certificate of title (e.g., an automobile) or is subject to a registration system (e.g., a copyright) typically require as a condition of their purchase that the certificate or registry reflect their ownership. In many cases, this condition can be met only with the consent of the record owner. If the record owner is the debtor and, as may be the case after the default, the debtor refuses to cooperate, the secured party may have great difficulty disposing of the collateral. (emphasis added)

Subsection (b) provides a simple mechanism for obtaining record or legal title, for use primarily when other law does not provide one. (emphasis added) Of course, use of this mechanism will not be effective to clear title to the extent that subsection (b) is preempted by federal law. Subsection (b) contemplates a transfer of record or legal title to a third party, following a secured party's exercise of its disposition or acceptance remedies under this Part, as well as a transfer by a debtor to a secured party prior to the secured party's exercise of those remedies. Under subsection (c), a transfer of record or legal title (under subsection (b) or under other law) to a secured party prior to the exercise of those remedies merely puts the secured party in a position to pass legal or record title to a transferee at foreclosure. A secured party who has obtained record or legal title retains its duties with respect to enforcement of its security interest, and the debtor retains its rights as well.

3. Title-Clearing Systems Under Other Law. Applicable non-UCC law (e.g., \* \* \*, federal registry rules, or the like) (emphasis added) may provide a means by which the secured party may obtain or transfer record or legal title for the purpose of a disposition of the property under this Article. The mechanism provided by this section is in addition to any title-clearing provision under law other than this Article.

After due consideration of these facts, provisions and comments, it is my opinion that the FAA will consider utilization of a transfer statement as contemplated by Section 9-619 of the Uniform Commercial Code for purposes of transferring the rights of the aircraft owner, as Lessor, to the Indenture Trustee in existing leases.

Further, your proposed transfer statement is eligible for recording as a stand-alone document because it is a conveyance affecting an interest in a civil aircraft of the United States in that it affects an interest in a recorded lease between Wells Fargo Bank and Northwest Airlines concerning operational control of aircraft.

Be advised that for purposes of transferring ownership of an aircraft FAA will not consider a transfer statement a substitute for a Certificate of Repossession or its equivalent under 14 CFR 47.11

Sincerely,

Joseph R. Standell  
Aeronautical Center Counsel

[FR Doc. 06-9250 Filed 11-16-06; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-25886]

#### State Enforcement of Household Goods Consumer Protection

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) gives State household goods regulatory authorities and State attorneys general the right to enforce certain consumer protection provisions that apply to individual shippers and are related to interstate movement of the goods. This notice specifies the Federal statutory and regulatory provisions that States may enforce.

**DATES:** The policy in this notice is effective as of the enactment of SAFETEA-LU, August 10, 2005. State household goods regulatory authorities and State attorneys general may enforce the statutory provisions and FMCSA regulations identified in this notice for actions on or after that date.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothea Grymes, Household Goods Team, Office of Enforcement and Program Delivery, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh St., SW., Room 8310, Washington, DC 20590-0001. (202) 385-2400. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On August 10, 2005, the President signed the Safe, Accountable, Flexible, and Efficient

Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59). Section 4206 of SAFETEA-LU amends Title 49 of the United States Code (U.S.C.) by adding two new sections, 14710 and 14711, to address the enforcement of the consumer protection provisions of Title 49 and related regulations applicable to the delivery and transportation of household goods in interstate or foreign commerce. Before the passage of SAFETEA-LU, the Federal government was responsible for enforcing these statutes and regulations. Section 14710 extends to State agencies that regulate the movement of intrastate household goods the authority to "enforce the consumer protection provisions of this title [Title 49] that apply to individual shippers, as determined by the Secretary [of the U.S. Department of Transportation], and are related to the delivery and transportation of household goods in interstate commerce." Section 14711 gives State attorneys general the authority to bring a civil action or impose civil penalties in the U.S. district courts to enforce the consumer protection provisions that apply to individual shippers and are related to the delivery and transportation of household goods in interstate or foreign commerce.

Section 4202 of SAFETEA-LU amended 49 U.S.C. 13102 to define "individual shipper" as follows:

The term "individual shipper" means any person who—

- (A) Is the shipper, consignor, or consignee of a household goods shipment;
- (B) Is identified as the shipper, consignor, or consignee on the face of the bill of lading;
- (C) Owns the goods being transported; and
- (D) Pays his or her own tariff transportation charges.

FMCSA has determined that the States, under sections 14710 and 14711, may enforce the following statutory provisions and FMCSA regulations<sup>1</sup> immediately:

#### Statutes

1. Tariff requirement for certain transportation, 49 U.S.C. 13702.

Household goods (HHG) carriers must have tariffs covering transportation and related services and must charge in accordance with their tariff. (Tariffs are the rates charged for services and the service terms.) The carrier must give notice of availability of the tariff to individual shippers and must make it available for inspection to shippers upon reasonable request.

<sup>1</sup> The brief description accompanying each item listed below is for informational purposes only and is not intended to be a definitive interpretation of legal requirements.