

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****RTCA Government/Industry Air Traffic Management Advisory Committee; Correction**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction; Notice of RTCA Government/Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is correcting a notice of a meeting that was published on March 20, 2009 (72 FR 11987; FR Doc. E9-6176). In that notice the FAA advised the public of a meeting of the RTCA Government/Industry Air Traffic Management Advisory Committee. Inadvertently the notice was published with an incorrect meeting date of March 16, 2009. The correct date of the RTCA Government/Industry Air Traffic Management Advisory Committee meeting is May 27, 2009.

DATES: The meeting will be held May 27, 2009, from 1 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (2nd Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>. **METRO:** L'Enfant Plaza Station (Use 7th & Maryland Exit).

SUPPLEMENTARY INFORMATION:

Correction: In the **Federal Register** of March 20, 2009 (FR Doc. E9-6176) in the third column in the **DATES** section change the date of the meeting from "March 16, 2009" to "May 27, 2009". Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions);
- Report from RTCA Task Force on NextGen Mid-Term Implementation (NextGen TF);
- ATMAC Member Discussion and Recommendations;
- Closing Plenary (Other Business, Member Discussion, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person

listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 20, 2009.

Meredith Gibbs,

RTCA Advisory Committee.

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BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****Supplemental Policy on Assessing Maximum Fines under the Motor Carrier Safety Improvement Act of 1999 (MCSIA) Section 222**

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of policy change.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) provides notice to the motor carrier industry of policy changes regarding the assessment of maximum fines under section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Section 222 requires the Agency to assess maximum statutory penalties if a person is found to have committed a pattern of violations of critical or acute regulations, or previously committed the same or a related violation of critical or acute regulations.

DATES: *Effective Date:* This change in policy is effective April 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. David Mancl, Acting Chief, Enforcement and Compliance Division, MC-ECE, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-6830. Office hours are from 7:45-4:45 p.m., e.t., Monday through Friday, except Federal holidays. Web site address: <http://www.fmcsa.dot.gov>.

SUPPLEMENTARY INFORMATION**Background**

Section 222 of MCSIA directs the Secretary of Transportation to "assess the maximum civil penalty for each violation by any person who is found to have committed a pattern of violations of critical or acute regulations, or to have previously committed the same or a related violation of critical or acute regulations." [Pub. L. 106-159, 113 Stat. 1748, 1769, Dec. 9, 1999; codified in 49 U.S.C. 521 note.]

On September 8, 2000, FMCSA issued a policy memorandum that changed its

fine assessment policy to meet the requirements of section 222 of MCSIA. On December 28, 2004, FMCSA published a clarification of its September 8, 2000, policy statement implementing section 222 of MCSIA (69 FR 77828). The memorandum and subsequent **Federal Register** notice defined both a "pattern of violations" and "previously committed the same or related violation" as three cases closed with findings of violation occurring within the last six years. The three cases—also known as "three strikes"—consist of two cases that have been closed with findings of violations, followed by a third case, in which the discovery of violations during an on-site compliance review, shipper review or terminal review involved the same part of the Federal Motor Carrier Safety Regulations (FMCSR) and/or Federal Hazardous Materials Regulations (HMR) in Title 49 of the Code of Federal Regulations.

In an August 2007 report,¹ the Government Accountability Office (GAO) concluded that FMCSA's "three-strikes" policy failed to assess maximum penalties against all serious violators and achieve MCSIA's statutory intent that maximum penalties be imposed in two distinct situations for a pattern of violations, and for repeat violations of the same or related regulations. The GAO recommended that FMCSA revise its policy to include (1) a definition for a pattern of violations that is distinct from a repeated violation of the same or related regulations and (2) a two-strike, rather than a three-strike, policy. In an earlier 2006 report,² the Department of Transportation's Office of Inspector General (OIG) similarly recommended that FMCSA develop procedures to implement the section 222 "pattern of violations" provision and additionally to count for section 222 purposes all acute and critical violations discovered during a compliance review. Based on these recommendations, FMCSA re-examined its policy and adopts the revisions contained in this notice.

Policy

This policy supplements FMCSA's existing policy and continues its implementation of section 222 of MCSIA consistent with the statutory language and in response to the GAO

¹ "Federal Safety Agency Identifies Many High-Risk Carriers but Does Not Assess Maximum Fines as Often as Required by Law" (GAO-07-584, August 2007).

² "Significant Improvements for Motor Carrier Safety Program since 1999 Act but Loopholes for Repeat Violators Need Closing" (OIG Report No. MH-2006-046, April 21, 2006).