

**BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

Petition of)
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)
ARMY AVIATION HERITAGE FOUNDATION)
)
)
For Extension Of Exemption No. 7736)
_____)

Regulatory Docket
No. FAA-2001-11090

**ANSWER OF THE
ARMY AVIATION HERITAGE FOUNDATION
TO MOTION TO DISMISS**

On June 4, 2004, Roger Buis moved to dismiss, as untimely, the Petition for Reconsideration filed by the Army Aviation Heritage Foundation (“AAHF”). As we shall demonstrate herein, the arguments set forth in the Buis motion are without merit, the filing of the AAHF petition was accomplished in full compliance with the applicable Federal Aviation Regulations and the Buis motion must, therefore, be denied.

As the Federal Aviation Administration is well aware, the rules governing petitions for exemption are set forth in Part 11 of the Federal Aviation Regulations, and those rules supersede anything which may be found in an FAA Handbook.¹ 14 C.F.R. Part 11. Section 11.101 of those regulations states that:

¹ Indeed, Section 9.C. of the Air Transportation Operations Inspector’s Handbook, Order 8400.10, specifically states that “should the guidance in this order conflict with an FAR, the FAR takes precedence.” By way of explanation, the “guidance” contained in the Handbook was prepared on December 20, 1994, but the FAA

§ 11.101 May I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied?

Yes, you may petition FAA to reconsider your petition denial. You must submit your request to the address to which you sent your original petition, and FAA must receive it within 60 days after we issued the denial. For us to accept your petition, show the following:

- (a) That you have a significant additional fact and why you did not present it in your original petition;
- (b) That we made an important factual error in our denial of your original petition; or
- (c) That we did not correctly interpret a law, regulation, or precedent.

The Buis motion concedes that the AAHF Petition for Reconsideration was filed within 60 days of the date of the FAA's decision as provided in Section 11.101 (i.e., "59 days had elapsed from the entry of the March 15, 2004 ruling and order and the filing of the Foundation's petition are May 13, 2004"). Since it is beyond dispute the AAHF petition was filed in accordance with Section 11.101 of the regulations, the BUIS motion is without merit and must be denied.

substantially revised these regulations, including Section 11.101 (referenced above), in August 2000. See 65 Fed. Reg. 50850 (Aug. 21, 2000).

WHEREFORE, for the foregoing reasons, the Federal Aviation Administration should deny the Motion to Dismiss filed on behalf of Roger Buis.

Respectfully submitted,



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Counsel for the
ARMY AVIATION HERITAGE FOUNDATION

June 10, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was this day served upon counsel for Roger Buis by U.S. mail postage prepaid.



John E. Gillick

Washington, D.C.
June 10, 2004