



APPLICATION PROCEDURES FOR FOREIGN AIR CARRIERS OF THE EUROPEAN UNION

By an exchange of letters completed January 12, 2009, the U.S.-EU Joint Committee adopted procedures for the reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship.

Under these procedures (a copy of which is attached), aeronautical authorities of the United States and of the Member States of the European Union (Member States) recognize fitness and/or citizenship determinations made by the other with respect to its air carriers. Under this arrangement, the U.S. Department of Transportation uses determinations made by aeronautical authorities of Member States on the fitness and citizenship of their air carriers, rather than basing these findings on detailed evidentiary submissions filed by applicant EU air carriers under 14 CFR Part 211 of the Department's rules.

EU air carriers licensed by their homelands to serve the United States may file abbreviated applications for foreign air carrier permit and/or exemption authority under 49 U.S.C. 41301 and/or 40109, as applicable. The applicant EU carriers are relieved from complying with those provisions of 14 CFR §211.20 (and of 14 CFR §302.202) of the Department's regulations that require the filing of information normally used in the Department's determination of fitness and citizenship.

Specifically, an EU air carrier filing an application under these procedures needs to provide only the following information required under 14 CFR §211.20:

1. The name and address of the applicant (§211.20(a));
2. A statement of the authority sought, including whether the service proposed is to be scheduled or charter, or both, and whether the service would be passenger or property and mail, or both (§211.20(c));
3. Evidence of the applicant's operating authority issued by its homeland that relates to the operations proposed, including the expiration date, if any, of this authority and the manner in which it is expected to be renewed (§211.20(i));
4. The name of the foreign air transport authority involved (§211.20(b));
5. A statement of whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR 205, and the name(s) of the insurance carrier(s) (§211.20(h)); and
6. Copies of the applicant's waiver of liability limits under the Warsaw Convention (§211.20(t)).

In addition to filing this information required by 14 CFR §211.20, the applicant EU air carrier must still comply with other applicable provisions of 14 CFR Parts 211 and 302, and with other Department regulations and statutes, including requirements relating to service of applications, evidence of compliance with the requirement to file a Family Support Plan under 49 U.S.C. §41313, and the energy information specified in 14 CFR §313.5(a). The applicant EU carrier should also include in its application a statement that the application is being filed under the provisions of the U.S.-EU Reciprocal Recognition Procedures.

Under these procedures, EU air carriers do not need to file the following information otherwise required by 14 CFR §211.20:

1. The nature of the applicant's organization (individual, partnership, etc.) (§211.20(a));
2. The U.S. points to be served, the frequency of service, the type of equipment to be used, information on seasonal variations of service, and a service schedule (§211.20(c));
3. Names, addresses, and citizenship of directors and officers (§211.20(d));
4. Information on the owners of the capital stock or capital of the applicant (212.20(e));
5. Interests in other aeronautical entities (§211.20(f));
6. Degree of government ownership, if any (§211.20(g));
7. Operating history of applicant, and fleet description (§211.20(j) and (k));
8. Information on applicant's aircraft maintenance (§211.20(1));
9. Information on intercarrier agreements (§211.20(m));
10. Financial data summaries and financial assistance received (§211.20(n) and (o));
11. Traffic estimates (§211.20(p));
12. A statement of whether the applicant has been formally designated by its homeland government for the proposed services, including a citation of the diplomatic note involved (§211.20(q)); and
13. Information on safety and tariff violations (§211.20(s)).

Attachment

02/19/2009

Procedures for the Reciprocal Recognition of Regulatory Determinations with Regard to Airline Fitness and Citizenship

1. Scope

These procedures are for use in implementing the obligations of each Party under the EU-US Agreement to grant certain operating authorisations to air carriers from the other Party, and do not effect any change in the nature of those obligations. These procedures apply to the licensing of air carriers operating under the EU-US Agreement.

2. Definitions

Unless otherwise stated, the term:

- a) **“Aeronautical Authorities”** means, with respect to the United States, the U.S. Department of Transportation, and, with respect to the European Community and its Member States, an authority of a Member State entitled to grant, refuse, revoke or suspend an operating licence in accordance with European Community legislation;
- b) **“Party”** means either the United States or the European Community and its Member States;
- c) **“EU-US Agreement”** means the Air Transport Agreement, signed on 25 and 30 April 2007, by the European Community and its Member States, and the United States of America, and any amendments thereto;
- d) **“Fitness”** means whether an air carrier is fit to operate international air services, that is to say, whether it has satisfactory financial capability and adequate managerial expertise and is disposed to comply with the laws, regulations, and requirements which govern the operation of such services;
- e) **“Citizenship”** means whether an air carrier satisfies requirements regarding such issues as its ownership, effective control, and principal place of business.

3. Reciprocal Recognition

Upon receipt of an application for operating authorisation from an air carrier of one Party, the aeronautical authorities of the other Party should recognise any fitness and/or citizenship determination made by the aeronautical authorities of the first Party with respect to that air carrier as if such determination had been made by its own aeronautical authorities, and not inquire further into the such matters, except as provided for at Section 3(a) below.

- a) If, after receipt of an application for operating authorisation from an air carrier, or after the grant of such authorisation, the aeronautical authorities of the receiving Party have a specific reason for concern that, despite the determination made by the aeronautical authorities of the other Party, the conditions prescribed in Article 4 of the EU-US Agreement for the grant of appropriate authorisations or permissions have not been met, then they are to promptly advise those authorities, giving substantive reasons for their concern. In that event, either Party may seek consultations, which may include

representatives of the relevant aeronautical authorities, and/or additional information relevant to this concern, and such requests are to be met as soon as practicable. If the matter remains unresolved, either Party may bring the matter to the Joint Committee set up under Article 18 of the EU-U.S. Agreement.

b) These procedures do not cover recognition of determinations in relation to:

- Safety certificates or licences;
- Security arrangements; or
- Insurance coverage.

4. Further Provisions

- a) The Parties intend to encourage co-operation and assistance between their respective aeronautical authorities to develop a common understanding of the criteria used in making determinations concerning air carrier control.
- b) Each Party intends to inform the other in advance where practicable, and otherwise as soon as possible afterward, through the Joint Committee set up under Article 18 of the EU-US Agreement, of any substantial change in the criteria it applies in making the determinations referred to in Section 3 above. If the other Party requests consultations on any such change they are expected to be held within 30 days of such request. If, following such consultations, the Party requesting them considers that the revised criteria would not be satisfactory for the purposes of these procedures, it may notify the other Party accordingly that it regards these procedures as no longer applicable as of the date those changes come or came into effect.

01/12/2009