



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**In the Matter of
Streamlining Regulatory Procedures
For Licensing U.S. and Foreign Air Carriers**

Docket OST-2005-22228

Served: August 26, 2005

NOTICE

Summary

By this Notice we announce several steps designed to streamline our regulatory procedures for licensing U.S. and foreign air carriers.

Discussion

The Department, through its own exploration of how to better serve the public interest, as well as through its desire to be responsive to comments voiced in various fora by affected parties,¹ has been seeking ways to improve the means by which we carry out procedures related to our international aviation licensing responsibilities. We recognize that the need for such streamlining is especially important in the present highly competitive and largely liberalized international aviation environment, where carriers face pressing demands to maximize efficiency and to minimize costs and the impact of administrative delay.

With this in mind, we have undertaken an effort to arrive at ways of better implementing existing policies and regulations so as to produce greater administrative efficiencies and greater responsiveness to our stakeholders. At the same time we look to reduce the paperwork, cost, and other burdens on those who come before us.

We have identified several measures suitable for such regulatory streamlining, one of which will involve some additional but very limited process and others that we can introduce immediately – indeed, are introducing concurrently with the issuance of this Notice. Specifically, we are launching an expedited and simplified proceeding to award broad route integration authority on a long-term basis to all U.S. carriers who desire it. This will eliminate the need for these carriers to repeatedly file – and for us to repeatedly process – renewal requests for authority that rarely, if ever, has proven controversial. We will discuss this proceeding in greater detail below.

¹ This includes comments received as part of our Regulatory Review proceeding in Docket OST-2005-20112.

We are also making significant changes to the way that we process U.S. and foreign carrier requests for international route authority. Typically, when carriers have filed for both long-term (certificate or permit) authority, as well as short-term (exemption) authority, we have concentrated our attention on processing the exemption requests because that has been the fastest way to enable carriers to introduce new service into the marketplace. Indeed, in light of the already highly-streamlined procedures in place for dealing with exemption applications, we could, in most non-controversial cases, award authority within days or even hours. However, the consequence of this approach has been that while applicants quickly received authority, they did so in the form of limited-duration awards that had to be periodically and sometimes frequently renewed while their certificate/permit application remained pending.

U.S. air carrier certificates and foreign air carrier permits represent a much longer-term type of authority than exemptions. Certificate and permit holders are thus spared the need to make unnecessarily frequent renewal filings. The new procedures we are announcing here should greatly enhance the speed and ease with which we award long-term certificate and permit authority. The result will be a greatly reduced need for carriers, other interested parties, and the Department, to face the burden and expense of repeated exemption renewal proceedings.

What we contemplate is that U.S. and foreign air carriers seeking new route authority would file, respectively, concurrent exemption and certificate applications, or concurrent exemption and permit applications. Assuming, based on the record and on the public interest/public convenience and necessity elements germane to our licensing decisions, that we were in a position to act favorably, we would proceed to issue a single order (1) granting the exemption request for whatever duration we would normally have imposed, or until certificate/permit authority becomes effective, whichever is shorter, and (2) tentatively deciding (*i.e.*, show-cause) to award a corresponding certificate (or permit), again for the standard duration we would normally have imposed (such as, in the case of certificates, five years for limited-entry markets, indefinite for open-entry markets, and in the case of permits, five years for comity and reciprocity regimes, indefinite for agreement regimes).²

In the interest of streamlining and expediting the process, these orders will be issued under authority assigned to the Director, Office of International Aviation. This will

² Where carriers have already filed for both exemption and certificate or exemption and permit authority, and where the record regarding those applications remains current, we will immediately begin processing those applications pursuant to the approach announced here. *See* Order 2005-8-17, issued concurrently with this Notice. Carriers that have filed still-pending exemption applications but no corresponding certificate or permit applications and that would want to take advantage of our new approach should proceed to file the necessary certificate or permit application, as the case may be. Carriers that already hold all the exemption authority they currently require but that do not have pending certificate or permit applications, should, if they want to take advantage of our new approach, file an appropriate certificate or permit application. We may determine, in a given case, that pursuant to our regulations, such as 14 CFR §302.210(a)(2), we can proceed directly to a final decision without the need for an intermediate show-cause order. All final decisions to award a certificate or permit would, of course, still need to undergo Presidential review under 49 USC §41307.

eliminate several layers of Departmental review traditionally involved in processing certificate and permit applications and will unquestionably speed the decisional process. We will also include with the exemption/show-cause order a self-executing final order so that, in the event no objections to the show-cause portion of the order are filed, a confirming Departmental final order will be adopted immediately, and the statutorily required Presidential review process under 49 USC §41307 will commence.

This expedited approach on certificates and permits will of course not be available in all cases, just as we are not now always able to follow our existing streamlined procedures on exemptions. Cases that are heavily controverted, pose complex or novel legal or policy issues, or arise in restrictive or contentious bilateral environments, will clearly require a level of scrutiny not conducive to the expedited approach we describe above. However, we think that with so many open-skies relationships and so many requests that have generated no controversy in the past and would be unlikely to do so in the future, a substantial number of applications should be amenable to our new procedures. Thus, the benefits in terms of increased efficiency to our stakeholders should be considerable.

Route Integration

Route integration authority permits U.S. carriers to combine newly-awarded route authority with all of their existing route authority (subject to applicable bilateral agreement provisions and certain standard conditions). It thus enables those carriers to enjoy greatly enhanced routing flexibility without the need to seek numerous individual permissions from the Department. Many carriers routinely ask for route integration authority as part of any request for new route authority and, generally, we routinely grant such requests. We also routinely grant route integration requests when submitted in free-standing applications for such authority. Whichever the case, all of the grants have typically taken the form of exemption authority, meaning an award of limited duration and the need for repeated and relatively frequent renewals.

In our desire to improve administrative efficiency and ease carrier burdens in the public interest, we want to vastly reduce the need for such requests. We intend to issue a single, broad, five-year route integration certificate to all U.S. carriers interested in holding such authority. The certificate would be subject to our standard certificate conditions, as well as the standard conditions we impose on awards of route integration authority.

Before issuing a show-cause order to formally launch this process, we want to know the full range of carriers that would wish to be included and the full scope of the authorities that they would want to be covered by a route integration award. We thus call upon all U.S. carriers holding international route authority and desiring to be awarded authority under our contemplated blanket route integration certificate to so advise us in a submission to this Docket, no later than fifteen days from issuance of this notice.

We will thereupon draft an appropriate show-cause order, coupled with a self-executing final order designed to issue the blanket route integration certificate, assuming no

objections are received, and upon completion of the 49 USC §41307 Presidential review process.

We will serve this Notice on all U.S. and foreign air carriers.

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

Dated: August 23, 2005

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<http://dms.dot.gov/reports/aviation.asp>