

§ 301-10.137

§ 301-10.137 What exceptions to the Fly America Act requirements apply when I travel solely outside the United States, and a U.S. flag air carrier provides service between my origin and my destination?

You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would:

- (a) Increase the number of aircraft changes you must make en route by 2 or more; or
- (b) Extend your travel time by 6 hours or more; or
- (c) Require a connecting time of 4 hours or more at an overseas interchange point.

§ 301-10.138 In what circumstances is foreign air carrier service deemed a matter of necessity?

(a) Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but

- (1) Cannot provide the air transportation needed; or
- (2) Will not accomplish the agency's mission.

(b) Necessity includes, but is not limited to, the following circumstances:

(1) When the agency determines that use of a foreign air carrier is necessary for medical reasons, including use of foreign air carrier service to reduce the number of connections and possible delays in the transportation of persons in need of medical treatment; or

(2) When use of a foreign air carrier is required to avoid an unreasonable risk to your safety and is approved by your agency (e.g., terrorist threats). Written approval of the use of foreign air carrier service based on an unreasonable risk to your safety must be approved by your agency on a case by case basis. An agency determination and approval of use of a foreign air carrier based on a threat against a U.S. flag air carrier must be supported by a travel advisory notice issued by the Federal Aviation Administration and the Department of State. An agency determination and approval of use of a foreign air carrier based on a threat against Government employees or other travelers must be supported by evidence of the threat(s) that form the basis of the determination and approval; or

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(3) When you cannot purchase a ticket in your authorized class of service on a U.S. flag air carrier, and a seat is available in your authorized class of service on a foreign air carrier.

[FTR Amdt. 74, 63 FR 63419, Nov. 13, 1998, as amended by FTR Amdt. 2007-05, 72 FR 61537, Oct. 31, 2007]

§ 301-10.139 May I travel by a foreign air carrier if the cost of my ticket is less than traveling by a U.S. flag air carrier?

No. Foreign air carrier service may not be used solely based on the cost of your ticket.

§ 301-10.140 May I use a foreign air carrier if the service is preferred by or more convenient for my agency or me?

No. You must use U.S. flag air carrier service, unless you meet one of the exceptions in § 301-10.135, § 301-10.136, or § 301-10.137 or unless foreign air carrier service is deemed a matter of necessity under § 301-10.138.

§ 301-10.141 Must I provide any special certification or documents if I use a foreign air carrier?

Yes, you must provide a certification, as required in § 301-10.142 and any other documents required by your agency. Your agency cannot pay your foreign air carrier fare if you do not provide the required certification.

[FTR Amdt. 74, 63 FR 63419, Nov. 13, 1998, as amended by FTR Amdt. 108, 67 FR 57964, Sept. 13, 2002]

§ 301-10.142 What must the certification include?

The certification must include:

- (a) Your name;
- (b) The dates that you traveled;
- (c) The origin and the destination of your travel;
- (d) A detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip; and
- (e) A statement explaining why you met one of the exceptions in § 301-10.135, § 301-10.136, or § 301-10.137 or a copy of your agency's written approval that foreign air carrier service was deemed a matter of necessity in accordance with § 301-10.138.