Paperwork Reduction Act

OTS has determined that this extension does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Unfunded Mandates Act of 1995

For the reasons stated in the interim final rule,[4] OTS has determined that this extension will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of more than $100 million of any one year.

Executive Order 12866

OTS has determined that this extension is not a significant regulatory action under Executive Order 12866.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4308) requires the Agencies to use ''plain language'' in all final rules published after January 1, 2000. OTS believes that the final rule containing the extension is presented in a clear and straightforward manner.

List of Subjects in 12 CFR Part 585

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

■ For the reasons in the preamble, OTS is amending part 585 of chapter V of title 12 of the Code of Federal Regulations as set forth below:

PART 585—PROHIBITED SERVICE AT SAVINGS AND LOAN HOLDING COMPANIES

■ 1. The authority citation for 12 CFR part 585 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, and 1829(e).

■ 2. Amend § 585.100(b)(2) introductory text to read as follows:

§ 585.100 Who is exempt from the prohibition under this part?

* * * * *

(b) *Temporary exemption.* * * *

(2) This exemption expires on June 1, 2008, unless the savings and loan holding company or the person files an application seeking a case-by-case exemption for the person under § 585.110 by that date. If the savings and loan holding company or the person files such an application, the temporary exemption expires on:

* * * * *

Dated: February 25, 2008.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. 08–887 Filed 2–28–08; 8:45 am]

BILLING CODE 6720–01–M

[4] 72 FR 25954.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

Office of the Secretary

14 CFR Chapter II

[Docket DOT–OST–2008–0063]

Provision of Entire Aircraft With Crew to a U.S. Certificated Air Carrier by a Foreign Air Carrier

AGENCY: Department of Transportation, Office of the Secretary; Department of Transportation, Federal Aviation Administration.

ACTION: Regulatory guidance.

SUMMARY: This Notice sets forth the conditions under which a foreign air carrier may make an arrangement with a U.S. air carrier for a flight or series of flights, to be conducted with the foreign air carrier's aircraft and crew, for that U.S. certificated air carrier's-authorized services in foreign air transportation. This Notice also describes the regulatory steps involved for seeking Department approval for such an operation.

FOR FURTHER INFORMATION CONTACT: Richard Clarke, Federal Aviation Administration, Air Carrier Operations Branch, AFS–220, (202) 493–5581, or George Wellington, Department of Transportation, Office of International Aviation, X–40, (202) 366–2391.

SUPPLEMENTARY INFORMATION:

Discussion: The Office of the Secretary of Transportation (OST) and the Department's Federal Aviation Administration (FAA) have identified the circumstances under which a foreign air carrier may provide a U.S. certificated air carrier with an entire aircraft with crew without contravening the FAA's regulations that generally prohibit a foreign air carrier from wet leasing aircraft (*i.e.*, providing legal possession of a specific aircraft (in its entirety) and at least one crewmember) to a U.S. certificated air carrier. Such transactions may occur, consistent with FAA and OST regulations,[1] where it is clear that (i) operational control of the flight or flights involved would rest solely with the foreign air carrier and not with the U.S. certificated air carrier; (ii) legal and actual possession of the aircraft at all times would remain with the foreign air carrier; and (iii) OST determines, in conjunction with FAA, that such operations would otherwise be in the public interest, as more fully described below. Under those circumstances, the FAA has determined[2] that such transactions are not leases subject to the foreign wet lease prohibition in § 119.53(b), regardless of whether the parties to the transaction characterize the arrangement as a wet lease.

To conduct an operation in this manner, the foreign air carrier involved would need to apply to the Department for a statement of authorization under 14 CFR part 212 of the Department's regulations. Section 212.9 requires prior Department approval for operations involving the provision of aircraft and crew by a foreign air carrier to another air carrier where the operations involved are in a fifth freedom market for the foreign air carrier, and for any such operations of 60 days or longer duration. Section 212.9(d) also provides that the Department may, at its discretion and upon at least 30 days' notice, require a statement of authorization for these kinds of operations in other cases (*e.g.*, where they are for less than 60 days' duration). Given our need to make the operational control and public interest determinations described above, we will, in accordance with the provisions of § 212.9(d), and effective 30 days from the date of this Notice, require that foreign air carriers desiring to conduct the operations described in this Notice obtain a statement of authorization before conducting any such services.[3]

[1] See 14 CFR 121.153(c), § 135.25(d), § 119.53(b), and § 212.4(b)(1) and § 212.9(b)(2). The cited sections of the FAA's regulations (parts 121, 135 and 119) generally prohibit a foreign air carrier from wet leasing aircraft to a U.S. certificated air carrier. Part 212 of the Department's Economic Regulations provides for the wet leasing of aircraft without regard to the identity of the wet lessor, and do not explicitly prohibit wet lease operations by a foreign air carrier on behalf of a U.S. carrier.

[2] On May 18, 2004, the Chief Counsel of the FAA issued an opinion that certain arrangements characterized as wet leases by the parties to the transaction were not true leases, because legal and actual possession of the subject aircraft never transferred from one party to the other. In addition, the FAA concluded that, where a foreign air carrier (identified as the lessor under such arrangements) retained operational control of the aircraft, the transaction was not subject to the wet lease prohibition of § 119.53(b). We have placed a copy of the FAA opinion in the Docket referenced above, and have also attached a copy to the service copy of this Notice.

[3] We have in other instances required foreign air carriers to seek statements of authorization under § 212.9(d) for various operations under that rule. See, for example, Orders 98–4–2 and 91–5–25.

In acting on a request by a foreign air carrier for a statement of authorization under part 212, OST must find that the operation meets the requirements of that rule and is in the public interest.[4] The applicant foreign air carrier must demonstrate that its proposed arrangement with the U.S. air carrier for the foreign carrier to conduct a flight or series of flights with the foreign air carrier's aircraft and crew in foreign air transportation for an authorized U.S. carrier meets these standards. In particular, one way in which the public interest standard of part 212 could be met would be for the foreign air carrier to show that (1) operational control of the flight or flights rests with it and not with the U.S. certificated air carrier; (2) legal and actual possession of the aircraft at all times will remain with the foreign air carrier; (3) the country that issued its air operator certificate (AOC) has been rated as Category 1 under the FAA's International Aviation Safety Assessment program; [5] and (4) the U.S. certificated air carrier involved has assessed the level of safety of the service to be provided by the foreign air carrier involved and has found it to be satisfactory.

The foreign air carrier may provide information on operational control by submitting, with its application for a statement of authorization, a copy of the agreement for the aircraft with crew that it has entered into with the U.S. certificated air carrier. In making a determination on operational control, the FAA will consider the terms of that agreement and all other relevant factors to ensure that the foreign air carrier will exercise authority over initiating, conducting or terminating a flight conducted under the agreement. Likewise, in determining whether the foreign air carrier retains actual and legal possession of the aircraft, the FAA will consider all relevant factors, including the foreign air carrier's right to substitute other aircraft for the aircraft identified in the agreement, or its right to use the aircraft identified in the agreement for its own purposes when the aircraft is not needed by the U.S. air carrier.

The U.S. certificated air carrier involved in the arrangement may demonstrate its assessment of the safety of the service by conducting a safety audit of the foreign air carrier under an FAA-approved safety audit program, comparable to the audits that U.S. carriers now perform under the OST/FAA Code-Share Safety Program. The FAA would review the safety audit along with the agreement for the aircraft with crew and provide the Department with the results of that review.[6]

Because these applications are handled on a case-by-case basis, applicants may, of course, endeavor to show that the foreign air carrier is in operational control and that the operation is in the public interest by providing information and evidence other than that outlined above, but the burden of making that showing is on the applicants.

To summarize applicable regulations, one way that a foreign air carrier may demonstrate a public interest basis under which it could make an arrangement (which may be characterized by the parties as a wet lease) to conduct a flight or series of flights with the foreign carrier's aircraft and crew for a U.S. carrier authorized to perform the relevant foreign air transportation is to show that:

—The foreign air carrier involved holds a foreign air carrier permit or exemption authority from OST to conduct charter operations;

—The country that issued the foreign air carrier's AOC is rated as Category 1 under the FAA's International Aviation Safety Assessment program;

—The operations to be conducted represent foreign air transportation and not prohibited cabotage, in accordance with 49 U.S.C. 41703;

—The foreign air carrier files an application for a statement of authorization for any such operation proposed;

—The foreign air carrier demonstrates that it will be in operational control of the proposed operation, for example, by providing with its application, for review by the FAA, copies of the agreement for the aircraft with crew, that it has entered into with the U.S. certificated air carrier;

—The foreign air carrier demonstrates that it will retain legal and actual possession of the aircraft;

—The foreign air carrier provides evidence that the U.S. certificated air carrier involved has conducted a safety audit of the foreign carrier, consistent with an FAA-approved safety audit program, and has submitted a report of that audit to the FAA for review;

—The FAA notifies OST that it has determined that operational control of the proposed flights rest with the foreign air carrier applicant, that the oversight of the operation will remain with the country that issued the foreign air carrier's AOC, and that the safety audit meets the standards of the U.S. certificated air carrier's safety audit program; and

—OST determines that the proposed operations meet the requirements of 14 CFR part 212 and are in the public interest, and grants the statement of authorization requested by the foreign air carrier.

We will publish this Notice in the **Federal Register**, and will serve this Notice on all U.S. certificated air carriers and all foreign air carriers holding OST authority.

Dated: February 15, 2008.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs, Department of Transportation.

Nicholas A. Sabatini,

Associate Administrator for Aviation Safety, Federal Aviation Administration.

[FR Doc. E8–3470 Filed 2–28–08; 8:45 am]

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[4] See 14 CFR § 212.11(a).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No.: FAA–2006–25414; Amendment Nos. 27–44 and 29–51]

RIN 2120–AH87

Performance and Handling Qualities Requirements for Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule provides new and revised airworthiness standards for normal and transport category rotorcraft due to technological advances in design and operational trends in normal and transport rotorcraft performance and handling qualities. The changes enhance the safety standards for performance and handling qualities to reflect the evolution of rotorcraft capabilities. This rule harmonizes U.S. and European airworthiness standards for rotorcraft performance and handling qualities.

DATES: These amendments become effective on March 31, 2008. Affected parties, however, do not have to comply with the information collection requirements of this rule until the OMB approves the FAA's request for this information collection requirement. The FAA will publish a separate document notifying you of the OMB Control Number and the compliance date(s) for the information collection requirements of this rule.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final