

§ 385.13

be disapproved by the Department and may become effective immediately.

(k) With respect to essential air service proceedings:

(1) To establish procedural dates.

(2) To issue orders setting interim rates of compensation for carriers required to provide essential air service.

(3) To issue orders approving a carrier's alternate service pattern if:

(i) The resulting level of service at the eligible place would be equal to or greater than the level of service earlier determined to be essential for that place;

(ii) The community concerned does not object to the carrier's implementation of the alternate service pattern; and

(iii) The carrier is not receiving a subsidy for the service or implementation of the alternate service pattern would not increase the carrier's subsidy.

(4) To issue orders adjusting the operational and/or financial unit rates of the payout formula for a carrier receiving subsidy under section 41732 of the Statute where the adjustment will not increase the total amount of compensation that the carrier will receive.

(5) To renew, up to five times in succession, an order under section 41734 of the Statute to an air carrier to continue providing essential air service while the Department attempts to find a replacement carrier.

(6) To request service and subsidy proposals from carriers interested in providing essential air service to an eligible place that is not receiving essential air service and for which no appeal of its essential air service determination is pending.

(7) To request service and subsidy proposals from carriers interested in providing essential air service when no proposals were filed in response to a previous request for proposals.

(8) To issue final orders establishing interim or final subsidy rates under section 41732 or final adjustments of compensation for continued service under section 41732 in those cases where no objection has been filed to a show-cause order, and where the rates established are the same as or less than those proposed in the approved show-cause order.

14 CFR Ch. II (1-1-08 Edition)

(9) With respect to provisions for terminations, suspensions, or reductions of service under part 323 of this chapter:

(i) To require any person who files a notice, objection, or answer to supply additional information.

(ii) To require service of a notice, objection, or answer upon any person.

(iii) To accept late-filed objections or answers, upon motion, for good cause shown.

(iv) To extend the time for filing objections for answers, when the initial notice has been filed earlier than required under § 323.5.

[Doc. No. OST-96-1268, 61 FR 19167, May 1, 1996, as amended at 70 FR 25773, May 16, 2005]

§ 385.13 Authority of the Director, Office of International Aviation.

The Director, Office of International Aviation, has authority to:

(a) Approve or deny applications for exemptions, where the course of action is clear under current policy or precedent:

(1) For air carriers, from chapter 411 of the Statute and from certificates and orders issued under that chapter;

(2) For foreign air carriers, from section 41301 and from permits and related orders issued under chapter 413;

(3) For air carriers and foreign air carriers, from chapter 415 and from orders issued and tariffs filed under that chapter; and

(4) From orders and applicable regulations under this chapter.

(b) With respect to applications for certificates of public convenience and necessity under section 41102 and foreign air carrier permits under section 41302:

(1) Issue an order to show cause proposing to grant such application in those cases where no objections to the application have been filed, and the applicant has already been found fit, willing, and able by the Department to provide service of the same basic scope and character;

(2) Issue an order stating the Department's intention to process the application through show-cause procedures;

(3) Issue an order, subject to Presidential review under section 41307, to make final an order to show cause

issued under the circumstances of paragraph (b)(1) of this section, where no objections to the show-cause order have been filed; and

(4) Reissue certificates of public convenience and necessity and foreign air carrier permits when revisions are necessitated by a change in the name of the carrier or of points specified, provided that no issue of substance concerning the operating authority of a carrier is involved.

(c) With respect to an application under section 41102 for a certificate to engage in foreign scheduled air transportation, issue an order instituting an investigation of the applicant's fitness and other issues related to the application, where no person has already filed an objection to the application and the investigation will be conducted by oral hearing procedures.

(d) Issue an order to show cause why a foreign air carrier permit should not be revoked under section 41304 when:

(1) The government of the permit holder's home country represents that it does not object to revocation of the permit; and

(2) The permit holder—

(i) Has ceased operations; or

(ii) No longer holds valid authority from its own government to operate the services in its permit.

(e) Approve or disapprove requests by foreign air carriers for authorizations provided for, or waivers of restrictions contained, in any agreement or in any permit or order of the Department, when no person disclosing a substantial interest objects or where the course of action is clear under current policy or precedent.

(f) Waive the deadlines in §377.10(c) of this chapter for filing applications for renewal of unexpired temporary authorizations when, in the Director's judgment, the public interest would be served. The provisions of §377.10(d) of this chapter shall apply in the same manner as to a timely filed application.

(g) Extend the time allowed for action on a complaint of unfair or discriminatory practices, filed under section 41310, for an additional period or periods of 30 days each, not to exceed the 180th day after filing unless that

deadline has been waived by the complainant.

(h) Grant or deny applications for statements of authorization under parts 207, 208, and 212 of this chapter, and requests for waivers of the requirements of parts 207, 208, and 212 of this chapter, where grant or denial of the request is in accordance with current policy or precedent.

(i) Approve or disapprove charter trips by foreign air carriers, and those by air carriers that are predominantly in foreign air transportation, when prior authorization is required by:

(1) Any provision of this chapter; or

(2) An order of the Department.

(j) Approve or disapprove requests by foreign air carriers for waivers of the 30-day advance filing requirement for proposed schedules whose filing the Department has ordered under part 213 of this chapter.

(k) Approve, when no person disclosing a substantial interest objects, or disapprove requests by foreign air carriers for special authorizations provided for in part 216 of this chapter.

(l) With respect to applications for statements of authorization to conduct intermodal cargo services under part 222 of this chapter:

(1) Approve applications under part 222 of this chapter where no person with a substantial interest raises objections citing specific facts of nonreciprocity or of restraints on competition by U.S. air carriers;

(2) Reject applications under part 222 of this chapter where there is no agreement by the United States permitting the proposed services; or

(3) Require that an applicant under part 222 of this chapter submit additional information.

(m) Approve or disapprove issuance of foreign aircraft permits provided for in part 375, subparts E and H, of this chapter.

(n) Grant or deny applications of foreign air carriers for renewal of emergency exemptions granted under 49 U.S.C. 40109(g).

(o) Grant or deny applications by air carriers and foreign air carriers under part 389 of this chapter for waivers of the Department's filing fee requirements, in accordance with current policy or precedent.

§ 385.14

14 CFR Ch. II (1-1-08 Edition)

(p) Determine matters in proceedings under section 40109 and chapters 411, 413 and 415, that have not been set for oral evidentiary hearing, in addition to those authorized under §385.3, such matters to include, *inter alia*, filing times, service of documents, submissions of additional information, filing of otherwise unauthorized documents, access to information for which confidential treatment has been requested, rejection of incomplete or otherwise defective applications, and solicitation of applications for authority.

(q) Approve or disapprove applications under part 223 of this chapter for permission to furnish free or reduced-rate foreign air transportation.

(r) With respect to International Air Transport Association (IATA) agreements filed with the Department pursuant to sections 41309 and 41308 of the Statute, or pursuant to Civil Aeronautics Board Order E-9305 of June 15, 1955:

(1) Issue orders approving or disapproving IATA agreements relating to fare and rate matters under section 41309, and granting or denying anti-trust immunity under section 41308, where the course of action is clear under current policy and precedent.

(2) Issue orders describing filed agreements, establishing procedural dates for submission of justification, comments and replies, which support or oppose agreements, and prescribing the particular types of data to be included in such submission.

(s) Reject any tariff, supplement, or revised page that is filed by any U.S. air carrier or foreign air carrier, and that is subject to rejection because it is not consistent with chapter 415 of the Statute or with part 221 or 222 of this chapter. Where a tariff, supplement or loose-leaf page is filed on more than 60 days' notice and is not rejected within the first 30 days (including the filing date), it shall not be rejected after such 30-day period under this authority unless the issuing carrier is given an opportunity to remove the cause for rejection by the effective date, by special tariff permission if necessary, and fails to take such corrective action.

(t) Approve or disapprove any application for special tariff permission

under part 221, subpart P, of this chapter to make tariff changes upon less than statutory notice.

(u) Approve or disapprove applications for waiver of part 221 of this chapter.

(v) Institute an investigation of, or institute an investigation and suspend the effectiveness of, a tariff or change in a tariff which:

(1) Is substantially similar to a prior tariff under investigation or suspension; and

(2) Is filed by or on behalf of one or more of the parties to the prior tariff; and

(3) Is filed within 90 days after the expiration, modification, or cancellation of the prior tariff, or within 90 days after the effective date of an order requiring its cancellation or modification.

(w) In instances when an investigation of a tariff is pending, or the tariff is under suspension, or when a complaint requesting investigation or suspension of a tariff has been filed:

(1) Permit cancellation of the tariff; or

(2) If the grounds for the investigation or complaint have been removed through cancellation, expiration or modification of the tariff, either dismiss the investigation or complaint, or terminate the suspension.

(x) Extend the period of suspension of a tariff when the proceedings concerning the lawfulness of such tariff cannot be concluded before the expiration of the existing suspension period, provided that the aggregate of such extensions may not be for a longer period than permitted under section 41509.

(y) Cancel the suspension of and/or dismiss an investigation of a tariff relating to service predominantly in foreign air transportation where the course of action is clear under current policy and precedent.

[Doc. No. OST-96-1268, 61 FR 19169, May 1, 1996]

§ 385.14 Authority of the General Counsel.

(a) The General Counsel has authority to:

(1) Issue proposed or final regulations for the purpose of making editorial