

## SUBCHAPTER F—AIRCRAFT

### PART 855—CIVIL AIRCRAFT USE OF UNITED STATES AIR FORCE AIRFIELDS

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AUTHORITY: 49 U.S.C. 44502 and 47103.

SOURCE: 60 FR 37349, July 20, 1995, unless otherwise noted.

### Subpart A—General Provisions

#### § 855.1 Policy.

The Air Force establishes and uses its airfields to support the scope and level of operations necessary to carry out missions worldwide. The Congress funds airfields in response to Air Force requirements, but also specifies that civil aviation access is a national priority to be accommodated when it does not jeopardize an installation's military utility. The Air Force engages in dialogue with the civil aviation community and the Federal Aviation Administration to ensure mutual understanding of long-term needs for the national air transportation system and programmed military force structure requirements. To implement the national policy and to respond to requests for access, the Air Force must have policies that balance such requests with military needs. Civil aircraft access to Air Force airfields on foreign territory requires host nation approval.

(a) The Air Force will manage two programs that are generally used to grant civil aircraft access to its airfields: civil aircraft landing permits and joint-use agreements. Other arrangements for access will be negotiated as required for specific purposes.

(1) Normally, landing permits will be issued only for civil aircraft operating in support of official Government business. Other types of use may be authorized if justified by exceptional circumstances. Access will be granted on an equitable basis.

(2) The Air Force will consider only proposals for joint use that do not compromise operations, security, readiness, safety, environment, and quality of life. Further, only proposals submitted by authorized local Government representatives eligible to sponsor a public airport will be given the comprehensive evaluation required to conclude a joint-use agreement.

(3) Any aircraft operator with an inflight emergency may land at any Air Force airfield without prior authorization. An inflight emergency is

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defined as a situation that makes continued flight hazardous.

(b) Air Force requirements will take precedence on Air Force airfields over all civil aircraft operations, whether they were previously authorized or not.

(c) Civil aircraft use of Air Force airfields in the United States will be subject to Federal laws and regulations. Civil aircraft use of Air Force airfields in foreign countries will be subject to US Federal laws and regulations that have extraterritorial effect and to applicable international agreements with the country in which the Air Force installation is located.

### § 855.2 Responsibilities.

(a) As the program manager for joint use, the Civil Aviation Branch, Bases and Units Division, Directorate of Operations (HQ USAF/XOOBC), ensures that all impacts have been considered and addressed before forwarding a joint-use proposal or agreement to the Deputy Assistant Secretary for Installations (SAF/MII), who holds decision authority. All decisions are subject to the environmental impact analysis process as directed by the Environmental Planning Division, Directorate of Environment (HQ USAF/CEVP), and the Deputy Assistant Secretary for Environment, Safety, and Occupational Health (SAF/MIQ). The Air Force Real Estate Agency (AFREA/MI) handles the leases for Air Force-owned land or facilities that may be included in an agreement for joint use.

(b) HQ USAF/XOOBC determines the level of decision authority for landing permits. It delegates decision authority for certain types of use to major commands and installation commanders.

(c) HQ USAF/XOOBC makes the decisions on all requests for exceptions or waivers to this part and related Air Force instructions. The decision process includes consultation with other affected functional area managers when required. Potential impacts on current and future Air Force policies and operations strongly influence such decisions.

(d) Major commands, direct reporting units, and field operating agencies may issue supplements to establish com-

mand-unique procedures permitted by and consistent with this part.

### § 855.3 Applicability.

This part applies to all regular United States Air Force (USAF), Air National Guard (ANG), and United States Air Force Reserve (USAFR) installations with airfields. This part also applies to civil aircraft use of Air Force ramps at civil airports hosting USAF, ANG, and USAFR units.

## Subpart B—Civil Aircraft Landing Permits

### § 855.4 Scope.

Air Force airfields are available for use by civil aircraft so far as such use does not interfere with military operations or jeopardize the military utility of the installation. Access will be granted on an equitable basis. Air Force requirements take precedence over authorized civil aircraft use. This part carries the force of US law, and exceptions are not authorized without prior approval from the Civil Aviation Branch, Bases and Units Division, Directorate of Operations, (HQ USAF/XOOBC), 1480 Air Force Pentagon, Washington DC 20330-1480. Proposed exceptions or waivers are evaluated as to current and future impact on Air Force policy and operations.

### § 855.5 Responsibilities and authorities.

(a) The Air Force:

(1) Determines whether civil aircraft use of Air Force airfields is compatible with current and planned military activities.

(2) Normally authorizes civil aircraft use of Air Force airfields only in support of official Government business. If exceptional circumstances warrant, use for other purposes may be authorized.

(3) Acts as clearing authority for civil aircraft use of Air Force airfields, subject to the laws and regulations of the US, or to applicable international agreements (e.g., status of forces agreements) with the country in which the Air Force installation is located.

(4) Reserves the right to suspend any operation that is inconsistent with national defense interests or deemed not in the best interests of the Air Force.

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(5) Will terminate authority to use an Air Force airfield if the:

(i) User's liability insurance is canceled.

(ii) User lands for other than the approved purpose of use or is otherwise in violation of this part or clearances and directives hereunder.

(6) Will not authorize use of Air Force airfields:

(i) In competition with civil airports by providing services or facilities that are already available in the private sector.

NOTE: Use to conduct business with or for the US Government is not considered as competition with civil airports.

(ii) Solely for the convenience of passengers or aircraft operator.

(iii) Solely for transient aircraft servicing.

(iv) By civil aircraft that do not meet US Department of Transportation operating and airworthiness standards.

(v) That selectively promotes, benefits, or favors a specific commercial venture unless equitable consideration is available to all potential users in like circumstances.

(vi) For unsolicited proposals in procuring Government business or contracts.

(vii) Solely for customs-handling purposes.

(viii) When the air traffic control tower and base operations are closed or when a runway is restricted from use by all aircraft.

NOTE: Requests for waiver of this provision must address liability responsibility, emergency response, and security.

(7) Will not authorize civil aircraft use of Air Force ramps located on civil airfields.

NOTE: This section does not apply to use of aero club facilities located on Air Force land at civil airports, or civil aircraft chartered by US military departments and authorized use of terminal facilities and ground handling services on the Air Force ramp. Only the DD Form 2400, Civil Aircraft Certificate of Insurance, and DD Form 2402, Civil Aircraft Hold Harmless Agreement, are required for use of Air Force ramps on civil airfields.

(b) Civil aircraft operators must:

(1) Have an approved DD Form 2401, Civil Aircraft Landing Permit, before operating at Air Force airfields, except for emergency use and as indicated in paragraphs (d)(2) and (d)(2)(iii)(E) of this section, and , and § 855.13(b)(1)(ii).

(2) Ensure that pavement load-bearing capacity will support the aircraft to be operated at the Air Force airfield.

(3) Ensure that aircraft to be operated at Air Force airfields are equipped with an operating two-way radio capable of communicating with the air traffic control tower.

(4) Obtain final approval for landing from the installation commander or a designated representative (normally base operations) at least 24 hours prior to arrival.

(5) Not assume that the landing clearance granted by an air traffic control tower facility is a substitute for either the approved civil aircraft landing permit or approval from the installation commander or a designated representative (normally base operations).

(6) Obtain required diplomatic or overflight clearance before operating in foreign airspace.

(7) Pay applicable costs and fees.

(8) File a flight plan before departing the Air Force airfield.

(c) The installation commander or a designated representative:

(1) Exercises administrative and security control over both the aircraft and passengers while on the installation.

(2) May require civil users to delay, reschedule, or reroute aircraft arrivals or departures to preclude interference with military activities.

(3) Cooperates with customs, immigration, health, and other public authorities in connection with civil aircraft arrival and departure.

(d) Decision Authority: The authority to grant civil aircraft use of Air Force airfields is vested in:

(1) Directorate of Operations, Bases and Units Division, Civil Aviation Branch (HQ USAF/XOBC). HQ USAF/XOBC may act on any request for civil aircraft use of an Air Force airfield. Decision authority for the following will not be delegated below HQ USAF:

(i) Use of multiple Air Force airfields except as designated in paragraph (d)(2) of this section.

(ii) Those designated as 2 under Approval Authority in Table 1 to this part.

(iii) Any unusual or unique purpose of use not specifically addressed in this part.

(2) Major Command, Field Operating Agency, Direct Reporting Unit, or Installation Commander. With the exception of those uses specifically delegated to another decision authority, major commands (MAJCOMs), field operating agencies (FOAs), direct reporting units (DRUs) and installation commanders or designated representatives have the authority to approve or disapprove civil aircraft landing permit applications (DD Forms 2400, Civil Aircraft Certificate of Insurance; 2401; Civil Aircraft Landing Permit, and 2402, Civil Aircraft Hold Harmless Agreement) at airfields for which they hold oversight responsibilities. Additionally, for expeditious handling of short notice requests, they may grant requests for one-time, official Government business flights that are in the best interest of the US Government and do not violate other provisions of this part. As a minimum, for one-time flights authorized under this section, the aircraft owner or operator must provide the decision authority with insurance verification and a completed DD Form 2402 before the aircraft operates into the Air Force airfield. Air Force authority to approve civil aircraft use of Air Force airfields on foreign soil may be limited. Commanders outside the US must be familiar with base rights agreements or other international agreements that may render inapplicable, in part or in whole, provisions of this part. Decision authority is delegated for specific purposes of use and or locations as follows:

(i) Commander, 611th Air Operations Group (AOG). The Commander, 611th AOG or a designated representative may approve commercial charters, on a case-by-case basis, at all Air Force airfields in Alaska, except Eielson and Elmendorf AFBs, if the purpose of the charter is to transport goods and or materials, such as an electric generator or construction materials for a community center, for the benefit of remote communities that do not have adequate civil airports.

(ii) Commander, Air Mobility Command (AMC). The Commander, AMC or a designated representative may ap-

prove permits that grant landing rights at Air Force airfields worldwide in support of AMC contracts.

(iii) US Defense Attache Office (USDAO). The USDAO, acting on behalf of HQ USAF/XOOBC, may grant a request for one-time landing rights at an Air Force airfield provided:

(A) The request is for official Government business of either the US or the country to which the USDAO is accredited.

(B) The Air Force airfield is located within the country to which the USDAO is accredited.

(C) Approval will not violate any agreement with the host country.

(D) The installation commander concurs.

(E) The USDAO has a properly completed DD Form 2402 on file and has verified that the insurance coverage meets the requirements of Table 2 to this part, before the aircraft operates into the Air Force airfield.

**§ 855.6 Aircraft exempt from the requirement for a civil aircraft landing permit.**

(a) Any aircraft owned by:

(1) Any other US Government agency.

(2) US Air Force aero clubs established as prescribed in AFI 34-117, Air Force Aero Club Program, and AFMAN 3-132, Air Force Aero Club Operations<sup>1</sup>.

NOTE: This includes aircraft owned by individuals but leased by an Air Force aero club.

(3) Aero clubs of other US military services.

NOTE: This includes aircraft owned by individuals but leased by Army or Navy aero clubs.

(4) A US State, County, Municipality, or other political subdivision, when operating to support official business at any level of Government.

(b) Any civil aircraft under:

(1) Lease or contractual agreement for exclusive US Government use on a long-term basis and operated on official business by or for a US Government agency; for example, the Federal

<sup>1</sup>Copies of the publications are available, at cost, from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

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Aviation Administration (FAA), Department of the Interior, or Department of Energy.

NOTE: The Government must hold liability responsibility for all damages or injury associated with operation of the aircraft.

(2) Lease or contractual agreement to the Air Force for Air Force Civil Air Patrol (CAP) liaison purposes and operated by an Air Force CAP liaison officer on official Air Force business.

(3) CAP control for a specific mission directed by the Air Force.

(4) Coast Guard control for a specific mission directed by the Coast Guard.

NOTE: For identification purposes, the aircraft will be marked with a sticker near the port side door identifying it as a Coast Guard Auxiliary aircraft. The pilot will always be in uniform and normally have a copy of a Coast Guard Auxiliary Patrol Order. If the aircraft is operating under "verbal orders of the commander," the pilot can provide the telephone number of the cognizant Coast Guard commander.

(5) Contractual agreement to any US, State, or local Government agency in support of operations involving safety of life or property as a result of a disaster.

(6) Government furnished property or bailment contract for use by a contractor, provided the Federal, State, or local Government has retained liability responsibilities.

(7) Civil aircraft transporting critically ill or injured individuals or transplant organs to or from an Air Force installation.

(8) Historic aircraft being delivered for Air Force museum exhibits under the provisions of AFI 84-103, Museum System.<sup>2</sup>

### § 855.7 Conditions for use of Air Force airfields.

The Air Force authorizes use of its airfields for a specific purpose by a named individual or company. The authorization cannot be transferred to a second or third party and does not extend to use for other purposes. An approved landing permit does not obligate the Air Force to provide supplies, equipment, or facilities other than the landing, taxiing, and parking areas. The aircraft crew and passengers are only authorized activities at the instal-

<sup>2</sup>See footnote 1 to § 855.6.

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lation directly related to the purpose for which use is granted. All users are expected to submit their application (DD Forms 2400, 2401, and 2402) at least 30 days before intended use and, except for use as a weather alternate, CRAF alternate, or emergency landing site, must contact the appropriate installation commander or a designated representative for final landing approval at least 24 hours before arrival. Failure to comply with either time limit may result in denied landing rights.

### § 855.8 Application procedures.

To allow time for processing, the application (DD Forms 2400, 2401, and 2402) and a self-addressed, stamped envelope should be submitted at least 30 days before the date of the first intended landing. The verification required for each purpose of use must be included with the application. The name of the user must be the same on all forms. Original, hand scribed signatures, not facsimile elements, are required on all forms. Landing Permit Application Instructions are at attachment 3 to this part. The user is responsible for reviewing this part and accurately completing the forms before submitting them to the approving authority.

### § 855.9 Permit renewal.

When a landing permit expires, DD Forms 2401 and 2400 must be resubmitted for continued use of Air Force airfields.

NOTE: Corporations must resubmit the DD Form 2402 every five years.

### § 855.10 Purpose of use.

The purposes of use normally associated with civil aircraft operations at Air Force airfields are listed in Table 1. Requests for use for purposes other than those listed will be considered and may be approved if warranted by unique circumstances. A separate DD Form 2401 is required for each purpose of use. (Users can have multiple DD Forms 2401 that are covered by a single DD Form 2400 and DD Form 2402.)

### § 855.11 Insurance requirements.

Applicants must provide proof of third-party liability insurance on a DD Form 2400, with the amounts stated in

US dollars. The policy number, effective date, and expiration date are required. The statement "until canceled" may be used in lieu of a specific expiration date. The geographic coverage must include the area where the Air Force airfield of proposed use is located. If several aircraft or aircraft types are included under the same policy, a statement such as "all aircraft owned," "all aircraft owned and or operated," "all non-owned aircraft," or "all aircraft operated," may be used in lieu of aircraft registration numbers. To meet the insurance requirements, either split limit coverage for bodily injury (individuals outside the aircraft), property damage, and passengers, or a single limit coverage is required. The coverage will be at the expense of the user with an insurance company acceptable to the Air Force. Coverage must be current during the period the Air Force airfield will be used. The liability required is computed on the basis of aircraft maximum gross takeoff weight (MGTOW) and passenger or cargo configuration. Minimum coverage will not be less than the amount indicated in Table 2 to this part.

(a) Any insurance presented as a single limit of liability or a combination of primary and excess coverage will be an amount equal to or greater than the each accident minimums indicated in Table 2 to this part for bodily injury (individuals outside the aircraft), property damage, and passengers.

(b) The policy will specifically provide that:

(1) The insurer waives any right of subrogation it may have against the US by reason of any payment made under the policy for injury, death, or property damage that might arise, out of or in connection with the insured's use of any Air Force airfield.

(2) The insurance afforded by the policy applies to the liability assumed by the insured under DD Form 2402.

(3) If the insurer or the insured cancels or reduces the amount of insurance afforded under the listed policy before the expiration date indicated on DD Form 2400, the insurer will send written notice of policy cancellation or coverage reduction to the Air Force approving authority at least 30 days be-

fore the effective date of the cancellation or reduction. The policy must state that any cancellation or reduction will not be effective until at least 30 days after such notice is sent.

#### § 855.12 Processing a permit application.

Upon receipt of an application (DD Forms 2400, 2401, and 2402) for use of an Air Force airfield, the decision authority:

(a) Determines the availability of the airfield and its capability to accommodate the purpose of use requested.

(b) Determines the validity of the request and ensures all entries on DD Forms 2400, 2401, and 2402 are in conformance with this part.

(c) Approves DD Form 2401 (with conditions or limitations noted) by completing all items in Section II—For Use by Approving Authority as follows:

(1) Period of Use (Block 7): The "From" date will be either the first day of approved use or the first day of insurance coverage. The "From" date cannot precede the first day of insurance coverage shown on the DD Form 2400. The "Thru" date is determined by the insurance expiration date and the purpose of use. For example, the period of use for participants in an Air Force open house will be determined by both insurance coverage and open house dates. The permit would be issued only for the duration of the open house but must not precede or exceed the dates of insurance coverage. Many insurance policies terminate at noon on the expiration date. Therefore, if the insurance expiration is used to determine the permit expiration date, the landing permit will expire one day before the insurance expiration date shown on the DD Form 2400. If the insurance expiration date either exceeds 2 years or is indefinite (for example, "until canceled"), the landing permit will expire 2 years from the issue date or first day of coverage.

(2) Frequency of Use (Block 8) is normally "as required" but may be more specific, such as "one time."

(3) Identification Number (Block 9): Installation commanders or a designated representative assign a permit number comprised of the last three letters of the installation's International

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Civil Aviation Organization identifier code, the last two digits of the calendar year, a number sequentially assigned, and the letter suffix that indicates the purpose of use (Table 1); for example, ADW 95-01C. MAJCOMs, FOAs, DRUs, and USDAOs use a three position organization abbreviation; such as AMC 95-02K.

(4) DD Form 2400 (Dated and Filed) (Block 11a): This block should contain the date from block 1 (Date Issued) on the DD Form 2400 and the identification of the unit or base where the form was approved; i.e., 30 March 1995, HQ USAF/XOBC.

(5) DD Form 2402 (Dated and Filed) (Block 11b): This block should contain the date from block 4 (Date Signed) on the DD Form 2402 and the identification of the unit or base where the form was approved; i.e., 30 March 1995, HQ USAF/XOBC.

(6) SA-ALC/SFR, 1014 Andrews Road, Building 1621, Kelly AFB TX 78241-5603 publishes the list of companies authorized to purchase Air Force fuel on credit. Block 12 should be marked "yes" only if the permit holder's name appears on the SA-ALC list.

(7) Landing Fees, Block 13, should be marked as indicated in Table 1 to this part.

(8) Permit Amendments: New entries or revisions to an approved DD Form 2401 may be made only by or with the consent of the approving authority.

(d) Provides the applicant with written disapproval if:

(1) Use will interfere with operations, security, or safety.

(2) Adequate civil facilities are collocated.

(3) Purpose of use is not official Government business and adequate civil facilities are available in the proximity of the requested Air Force airfield.

(4) Use will constitute competition with civil airports or air carriers.

(5) Applicant has not fully complied with this part.

(e) Distributes the approved DD Form 2401 before the first intended landing, when possible, as follows:

(1) Retains original.

(2) Returns two copies to the user.

(3) Provides a copy to HQ USAF/XOBC.

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NOTE: HQ USAF/XOBC will provide a computer report of current landing permits to the MAJCOMs, FOAs, DRUs, and installations.

### § 855.13 Civil fly-ins.

(a) Civil aircraft operators may be invited to a specified Air Force airfield for:

(1) A base open house to perform or provide a static display.

(2) A flying safety seminar.

(b) Civil fly-in procedures:

(1) The installation commander or a designated representative:

(i) Requests approval from the MAJCOM, FOA, or DRU with an information copy to HQ USAF/XOBC/XOOO and SAF/PAC.

(ii) Ensures that DD Form 2402 is completed by each user.

NOTE: DD Forms 2400 and 2401 are not required for fly-in participants if flying activity consists of a single landing and takeoff with no spectators other than flightline or other personnel required to support the aircraft operations.

(2) The MAJCOM, FOA, or DRU ensures HQ USAF/XOBC/XOOO and SAF/PAC are advised of the approval or disapproval for the fly-in.

(3) Aerial performance by civil aircraft at an Air Force open house requires MAJCOM or FOA approval and an approved landing permit as specified in AFI 35-201, Community Relations<sup>3</sup>. Regardless of the aircraft's historic military significance, DD Forms 2400, 2401, and 2402 must be submitted and approved before the performance. The permit can be approved at MAJCOM, FOA, DRU, or installation level. Use will be authorized only for the period of the event. Fly-in procedures do not apply to aircraft transporting passengers (revenue or non-revenue) for the purpose of attending the open house or demonstration flights associated with marketing a product.

### § 855.14 Unauthorized landings.

(a) *Unauthorized landing procedures.* The installation commander or a designated representative will identify an unauthorized landing as either an emergency landing, an inadvertent landing, or an intentional landing. An

<sup>3</sup>See footnote 1 to § 855.6.

unauthorized landing may be designated as inadvertent or intentional whether or not the operator has knowledge of the provisions of this part, and whether or not the operator filed a flight plan identifying the installation as a destination. Aircraft must depart the installation as soon as practical. On all unauthorized landings, the installation commander or a designated representative:

(1) Informs the operator of subpart B procedures and the requirement for notifying the Federal Aviation Administration (FAA) as specified in section 6 of the FAA Airman's Information Manual.

(2) Notifies the Federal Aviation Flight Standards District Office (FSDO) by telephone or telefax, followed by written notification using FAA Form 8020-9, 8020-11, or 8020-17, as appropriate. A copy of the written notification must be provided to HQ USAF/XOBC.

(3) Ensures the operator completes a DD Form 2402, and collects applicable charges. (In some instances, it may be necessary to arrange to bill the user for the appropriate charges.) DD Form 2402 need not be completed for commercial carriers if it is known that the form is already on file at HQ USAF/XOBC.

(4) In a foreign country, notifies the local US Defense Attache Office (USDAO) by telephone or telefax and, where applicable, the appropriate USDAO in the country of aircraft registry, followed by written notification with an information copy to HQ USAF/XOBC and the civil aviation authority of the country or countries concerned.

(b) *Emergency landings.* Any aircraft operator who experiences an inflight emergency may land at any Air Force airfield without prior authorization (approved DD Form 2401 and 24 hours prior notice). An inflight emergency is defined as a situation that makes continued flight hazardous.

(1) The Air Force will use any method or means to clear an aircraft or wreckage from the runway to preclude interference with essential military operations after coordinating with the FSDO and National Transportation Safety Board. Removal efforts will

minimize damage to the aircraft or wreckage; however, military or other operational factors may be overriding.

(2) An operator making an emergency landing:

(i) Is not charged a landing fee.

(ii) Pays all costs for labor, material, parts, use of equipment and tools, and so forth, to include, but not limited to:

(A) Spreading foam on the runway.

(B) Damage to runway, lighting, and navigation aids.

(C) Rescue, crash, and fire control services.

(D) Movement and storage of aircraft.

(E) Performance of minor maintenance.

(F) Fuel or oil (AFM 67-1, vol 1, part three, chapter 1, Air Force Stock Fund and DPSC Assigned Item Procedures<sup>4</sup>).

(c) *Inadvertent unauthorized landings.*

(1) The installation commander or a designated representative may determine a landing to be inadvertent if the aircraft operator:

(i) Landed due to flight disorientation.

(ii) Mistook the Air Force airfield for a civil airport.

(2) Normal landing fees must be charged and an unauthorized landing fee may be assessed to compensate the Government for the added time, effort, and risk involved in the inadvertent landing. Only the unauthorized landing fee may be waived by the installation commander or a designated representative if, after interviewing the pilot-in-command and appropriate Government personnel, it is determined that flying safety was not significantly impaired. The pilot-in-command may appeal the imposition of an unauthorized landing fee for an inadvertent landing to the MAJCOM, FOA, or DRU whose decision will be final. A subsequent inadvertent landing will be processed as an intentional unauthorized landing.

(d) *Intentional unauthorized landings.*

(1) The installation commander may categorize an unauthorized landing as intentional when there is unequivocal evidence that the pilot deliberately:

(i) Landed without an approved DD Form 2401 on board the aircraft.

<sup>4</sup>See footnote 1 to § 855.6.

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(ii) Landed for a purpose not approved on the DD Form 2401.

(iii) Operated an aircraft not of a model or registration number on the approved DD Form 2401.

(iv) Did not request or obtain the required final approval from the installation commander or a designated representative at least 24 hours before aircraft arrival.

(v) Did not obtain landing clearance from the air traffic control tower.

(vi) Landed with an expired DD Form 2401.

(vii) Obtained landing authorization through fraudulent methods, or

(viii) Landed after having been denied a request to land from any Air Force authority, including the control tower.

(2) Normal landing fees and an unauthorized landing fee must be charged. Intentional unauthorized landings increase reporting, processing, and staffing costs; therefore, the unauthorized landing fee for paragraph (d)(1)(i) through (d)(1)(vi) of this section will be increased by 100 percent. The unauthorized landing fee will be increased 200 percent for paragraph (d)(1)(vii) and (d)(1)(viii) of this section.

(3) Intentional unauthorized landings may be prosecuted as a criminal trespass, especially if a debarment letter has been issued. Repeated intentional unauthorized landings prejudice the user's FAA operating authority and jeopardize future use of Air Force airfields.

### § 855.15 Detaining an aircraft.

(a) An installation commander in the United States, its territories, or its possessions may choose to detain an aircraft for an intentional unauthorized landing until:

(1) The unauthorized landing has been reported to the FAA, HQ USAF/XOBC, and the appropriate US Attorney.

(2) All applicable charges have been paid.

(b) If the installation commander wishes to release the aircraft before the investigation is completed, he or she must obtain bond, promissory note, or other security for payment of the highest charge that may be assessed.

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(c) The pilot and passengers will not be detained longer than is necessary for identification, although they may be permitted to remain in a lounge or other waiting area on the base at their request for such period as the installation commander may determine (normally not to exceed close of business hours at the home office of the entity owning the aircraft, if the operator does not own the aircraft). No person, solely due to an intentional unauthorized landing, will be detained involuntarily after identification is complete without coordination from the appropriate US Attorney, the MAJCOM, FOA, or DRU, and HQ USAF/XOBC.

### § 855.16 Parking and storage.

The time that an aircraft spends on an installation is at the discretion of the installation commander or a designated representative but should be linked to the purpose of use authorized. Parking and storage may be permitted on a nonexclusive, temporary, or intermittent basis, when compatible with military requirements. At those locations where there are Air Force aero clubs, parking and storage privileges may be permitted in the area designated for aero club use without regard for the purpose of use authorized, if consistent with aero club policies. Any such permission may be revoked upon notice, based on military needs and the installation commander's discretion.

### § 855.17 Fees for landing, parking, and storage.

(a) Landing, parking, and storage fees (Tables 3 and 4 to this part) are determined by aircraft maximum gross takeoff weight (MGTOW). All fees are normally due and collectible at the time of use of the Air Force airfield. DD Form 1131, Cash Collection Voucher, is used to deposit the fees with the base accounting and finance officer. In some instances, it may be necessary to bill the user for charges incurred.

(b) Landing fees are not charged when the aircraft is operating in support of official Government business or for any purpose, the cost of which is subject to reimbursement by the US Government. Parking and Storage Fees (Table 4 to this part) are charged if an

aircraft must remain beyond the period necessary to conduct official Government business and for all non-official Government business operations.

**§ 855.18 Aviation fuel and oil purchases.**

When a user qualifies under the provisions of AFM 67-1, vol. 1, part three, chapter 1, Air Force Stock Fund and DPSC Assigned Item Procedures,<sup>5</sup> purchase of Air Force fuel and oil may be made on a cash or credit basis. An application for credit authority can be filed by submitting an Authorized Credit Letter to SA-ALC/SFRL, 1014 Andrews Road, Building 1621, Kelly AFB TX 78241-5603.

**§ 855.19 Supply and service charges.**

Supplies and services furnished to a user will be charged for as prescribed in AFM 67-1, volume 1, part one, chapter 10, section N, Basic Air Force Supply Procedures, and AFR 177-102, paragraph 28.24, Commercial Transactions at Base Level.<sup>6</sup> A personal check with appropriate identification, cashier's check, money order, or cash are acceptable means of payment. Charges for handling foreign military sales cargo are prescribed in AFR 170-3, Financial Management and Accounting for Security Assistance and International Programs.<sup>7</sup>

**Subpart C—Agreements for Civil Aircraft Use of Air Force Airfields**

**§ 855.20 Joint-use agreements.**

An agreement between the Air Force and a local Government agency is required before a community can establish a public airport on an Air Force airfield.

(a) Joint use of an Air Force airfield will be considered only if there will be no cost to the Air Force and no compromise of mission capability, security, readiness, safety, or quality of life. Further, only proposals submitted by authorized representatives of local Government agencies eligible to sponsor a public airport will be given the comprehensive evaluation required to

conclude a joint use agreement. All reviewing levels will consider and evaluate such requests on an individual basis.

(b) Generally, the Air Force is willing to consider joint use at an airfield if it does not have pilot training, nuclear storage, or a primary mission that requires a high level of security. Civil operations must begin within 5 years of the effective date of an agreement. Operational considerations will be based on the premise that military aircraft will receive priority handling (except in emergencies), if traffic must be adjusted or resequenced. The Air Force normally will not consider personnel increases solely to support civil operations but, if accommodated, all costs must be fully reimbursed by the joint-use sponsor. The Air Force will not provide personnel to install, operate, maintain, alter, or relocate navigation equipment or aircraft arresting systems for the sole use of civil aviation. Changes in equipment or systems to support the civil operations must be funded by the joint-use sponsor. The Air Force must approve siting, design, and construction of the civil facilities.

**§ 855.21 Procedures for sponsor.**

To initiate consideration for joint use of an Air Force airfield, a formal proposal must be submitted to the installation commander by a local Government agency eligible to sponsor a public airport. The proposal must include:

- (a) Type of operation.
- (b) Type and number of aircraft to be located on or operating at the airfield.
- (c) An estimate of the number of annual operations for the first 5 years.

**§ 855.22 Air Force procedures.**

(a) Upon receipt of a joint-use proposal, the installation commander, without precommitment or comment, will send the documents to the Air Force Representative (AFREP) at the Federal Aviation Administration (FAA) Regional Office within the geographical area where the installation is located. AFI 13-201, Air Force Airspace Management,<sup>8</sup> lists the AFREPs and

<sup>5</sup> See footnote 1 to § 855.6.

<sup>6</sup> See footnote 1 to § 855.6.

<sup>7</sup> See footnote 1 to § 855.6.

<sup>8</sup> See footnote 1 to § 855.6.

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their addresses. The installation commander must provide an information copy of the proposal to HQ USAF/XOOBC, 1480 Air Force Pentagon, Washington DC 20330-1480.

(b) The AFREP provides comments to the installation commander on airspace, air traffic control, and other related areas, and informs local FAA personnel of the proposal for joint use.

(c) The installation, the numbered Air Force, and the major command (MAJCOM) will then evaluate the proposal. The MAJCOM will send the comments and recommendations from all reviewing officials to HQ USAF/XOOBC.

(d) Factors considered in evaluating joint use include, but are not limited to:

(1) Impact on current and programmed military activities at the installation.

(2) Compatibility of proposed civil aviation operations with present and planned military operations.

(3) Compatibility of communications systems.

(4) Instrument capability of crew and aircraft.

(5) Runway and taxiway configuration. (Installations with single runways normally will not be considered for joint use.)

(6) Security. The possibility for sabotage, terrorism, and vandalism increases with joint use; therefore, joint use will not be considered:

(i) If military and civil aircraft would be collocated in hangars or on ramps.

(ii) If access to the civil aviation facilities would require routine transit through the base.

(7) Fire, crash, and rescue requirements.

(8) Availability of public airports to accommodate the current and future air transportation needs of the community through construction or expansion.

(9) Availability of land for civil airport complex.

NOTE: The majority of land required for a terminal and other support facilities must be located outside the installation perimeter or at a site that will allow maximum separation of military and civil activities. If the community does not already own the needed land, it must be acquired at no expense to the Air Force. The Air Force may make real

property that is not presently needed, but not excess, available by lease under 10 U.S.C 2667. An application for lease of Air Force real property must be processed through the chain of command to the Air Force Real Estate Agency, 172 Luke Avenue, Suite 104, Building 5683, Bolling AFB DC 20332-5113, as prescribed in AFI 32-9003, Granting Temporary Use of Air Force Real Property<sup>9</sup>. All real property outleases require payment of fair market consideration and normally are processed through the Corps of Engineers. The General Services Administration must be contacted regarding availability of excess or surplus Federal real property and an application submitted through FAA for an airport use public benefit transfer under 49 U.S.C. §47151-47153.

(10) Sponsor's resources to pay a proportionate share of costs for runway operation and maintenance and other jointly used facilities or otherwise provide compensation that is of direct benefit to the Government.

(e) When the Air Force determines that joint use may be compatible with its defense mission, the environmental impact analysis process must be completed before a final decision can be made. The Air Force will act as lead agency for the preparation of the environmental analysis (32 CFR part 989, Environmental Impact Analysis Process). The local Government agency representatives, working in coordination with Air Force personnel at the installation and other concerned local or Federal officials, must identify the proposed action, develop conceptual alternatives, and provide planning, socioeconomic, and environmental information as specified by the appropriate MAJCOM and HQ USAF/CEVP. The information must be complete and accurate in order to serve as a basis for the preparation of the Air Force environmental documents. All costs associated with the environmental studies required to complete the environmental impact analysis process must be paid by the joint use sponsor. Information on environmental analysis requirements is available from HQ USAF/CEVP, 1260 Air Force Pentagon, Washington DC 20330-1260.

(f) HQ USAF/XOOBC can begin negotiating a joint-use agreement after the environmental impact analysis process is completed. The agreement must be

<sup>9</sup>See footnote 1 to §855.6.

concluded on behalf of the Air Force by SAF/MII as the approval authority for use of Air Force real property for periods exceeding 5 years. The joint-use agreement will state the extent to which the provisions of subpart B of this part, Civil Aircraft Landing Permits, apply to civil aircraft operations.

(1) Joint-use agreements are tailored to accommodate the needs of the community and minimize the impact on the defense mission. Although each agreement is unique, attachment 4 to this part provides basic terms that are frequently included in such agreements.

(2) Agreements for joint use at Air Force airfields on foreign soil are subject to the requirements of AFI 51-701, Negotiating, Concluding, Reporting, and Maintaining International Agreements<sup>10</sup>.

(g) HQ USAF/XOOBC and SAF/MII approval is required to amend existing joint use agreements. The evaluation and decision processes followed in concluding an initial joint-use proposal

must be used to amend existing joint-use agreements.

**§ 855.23 Other agreements.**

(a) Temporary use of Air Force runways occasionally is needed for extended periods when a local civil airport is unavailable or to accommodate special events or projects. Such use requires agreement between the Air Force and the local airport authority or other equivalent responsible entity.

(b) The local proponent and Air Force personnel should draft and submit an agreement to the MAJCOM Director for Operations, or equivalent level, for review and comment. The agreement must address all responsibilities for handling aircraft, cargo, and passengers, and hold the Air Force harmless of all liabilities. The agreement will not exceed 3 years. Although each agreement will be unique, attachment 5 of this part provides one example. The draft agreement, with all comments and recommendations, must be sent to HQ USAF/XOOBC for final approval.

TABLE 1 TO PART 855—PURPOSE OF USE/VERIFICATION/APPROVAL AUTHORITY/FEEES

Purpose of use	Verification	Approval* authority	Fees
Contractor or subcontractor (A). A US or foreign contractor or subcontractor, operating corporate, personal, or leased aircraft in conjunction with fulfilling the terms of a government contract.  Note: Potential contractors may not land at Air Force airfields to pursue or present an unsolicited proposal for procurement of government business. One time authorization can be provided when an authorized US Government representative verifies that the potential contractor has been specifically invited for a sales presentation or to discuss their product.	Current Government contract numbers; the Air Force airfields required for each contract; a brief description of the work to be performed; and the name, telephone number, and address of the government contracting officer must be provided on the DD Form 2401 or a continuation sheet.	1	No.
Demonstration (B). Aircraft, aircraft with components installed, or aircraft transporting components or equipment operating to demonstrate or display a product to US Government representatives who have procurement authority or certification responsibilities. (Authority granted under this paragraph does not include aerobatic demonstrations.)	Demonstration or display must be a contractual requirement or presented at the request of an authorized US Government representative. The name, address, and telephone number of the requesting government representative or contracting officer and contract number must be included on the DD Form 2401.	1	No.
Aerial performance (BB). Aircraft performing aerobatics and or fly-bys at Air Force airfields.	Approval of MAJCOM, FOA, or DRU and FAA as specified in AFI 35-201, <i>Community Relations</i> .	1	No.

<sup>10</sup> See footnote 1 to § 855.6.

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Purpose of use	Verification	Approval* authority	Fees
Active duty US military and other US uniformed service members with military identification cards (includes members of the US Public Health Service, Coast Guard, and National Oceanic and Atmospheric Administration) (C). Service members, operating their own aircraft, leased aircraft, or other available aircraft for official duty travel (temporary duty, permanent change of station, etc.) or for private, non revenue flights.	Social security number in block 1 on DD Form 2401.	1	No.
Reserve Forces (D). Members of the US Reserve Forces (including Reserve Officer Training Corps and National Guard) operating their own aircraft, leased aircraft, or other available aircraft to fulfill their official duty commitment at the installation where their unit is assigned and other installations for temporary duty assignments.	Endorsement from member's commander that validates military status and requirement for use of Air Force airfields listed on the DD Form 2401. The endorsement may be included on the DD Form 2401 or provided separately by letter. When appropriate, travel orders must be on board the aircraft.	1	No.
Dependents of active duty US military personnel, other US uniformed service personnel, (CC), or US Reserve Forces personnel (DD). Dependents operating their own aircraft, leased aircraft, or other available aircraft in conjunction with activities related to entitlements as a dependent of a uniformed service member.	Identification card (DD Form 1173) number or social security number, identification card expiration date, and a letter of endorsement from sponsor.	1	No.
US Government civil service employees (E). Civilian employees of the US Government operating their own aircraft, leased aircraft, or other available aircraft for official Government business travel.	Supervisor's endorsement in block 4 of the DD Form 2401. Individual must have a copy of current travel orders or other official travel certification available for verification if requested by an airfield manager or a designated representative.	1	No.
Retired US military members and other retired US uniformed service members with a military identification card authorizing use of the commissary, base exchange, and or military medical facilities (G). Retired Service members, operating their own aircraft, leased aircraft, or other available aircraft in conjunction with activities related to retirement entitlements authorized by law or regulation.	Copy of retirement orders on file with the approving authority.	1	No.
Dependents of retired US military personnel and other retired US uniformed service personnel (GG). Dependents of retired Service members operating their own aircraft, leased aircraft, or other available aircraft in conjunction with activities related to entitlements authorized by law or regulation as a dependent of a retired Service member.	Identification card (DD Form 1173) number or social security number, identification card expiration date, sponsor's retirement orders, and letter of endorsement from sponsor.	1	No.
Civil Air Patrol (CAP) (H). CAP members operating personal or CAP aircraft for official CAP activities.	Endorsement of the application by HQ CAP-USAF/XOO, 105 South Hansell Street, Maxwell AFB AL 36112-6332.	1	No.
Aero club members (I). Individuals operating their own aircraft at the Air Force airfield where they hold active aero club membership.	Membership validation by the aero club manager on the DD Form 2401.	6	No.
Weather alternate (J). An Air Force airfield identified on a scheduled air carrier's flight plan as an alternate airport as prescribed by Federal Aviation Regulations (FARs) or equivalent foreign Government regulations. The airfield can only be used if weather conditions develop while the aircraft is in flight that preclude landing at the original destination. Aircraft may not be dispatched from the point of departure to an Air Force airfield designated as an approved weather alternate.	List of the destination civil airports for which the alternate will be used and certification of scheduled air carrier status, such as the US Department of Transportation Fitness Certificate.	1	Yes

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Purpose of use	Verification	Approval* authority	Fees
<p><i>Note: Scheduled air carriers are defined at Attachment 1. Only those airfields identified on the list at Attachment 2 are available for use as weather alternates. Airfields cannot be used as alternates for non-scheduled operations. Passengers and cargo may not be offloaded, except with the approval of the installation commander when there is no other reasonable alternative. Boarding new passengers and or loading new cargo is not authorized.</i></p>			
<p>Air Mobility Command (AMC) contractor charter (K). An air carrier transporting passengers or cargo under the terms of an AMC contract. (Landing permits for this purpose are processed by HQ AMC/DOKA, 402 Scott Drive, Unit 3A1, Scott AFB IL 62225-5302.).</p>	<p>International flights must have an AMC Form 8, Civil Aircraft Certificate, on board the aircraft. Domestic flights must have either a <i>Certificate of QUICK-TRANS</i> (Navy), a <i>Certificate of Courier Service Operations</i> (AMC), or a <i>Certificate of Intra-Alaska Operations</i> (AMC) on board the aircraft.</p>	3	No.
<p>CRAF alternate (KK). An Air Force airfield used as an alternate airport by air carriers that have contracted to provide aircraft for the Civil Reserve Air Fleet (CRAF).</p>	<p>Participant in the CRAF program and authorized by contract.</p>	2	Yes.
<p>US Government contract or charter operator (L). An air carrier transporting passengers or cargo for a US Government department or agency other than US military departments.</p>	<p>The chartering agency and name, address, and telephone number of the Government official procuring the transportation must be listed in block 4 of the DD Form 2401. An official government document, such as an SF 1169, <i>US government Transportation Request</i>, must be on board the aircraft to substantiate that the flight is operating for a US Government department or agency.</p>	1	No.
<p>Contractor or subcontractor charter (M). Aircraft chartered by a US or foreign contractor or subcontractor to transport personnel or cargo in support of a current government contract.</p>	<p>The contractor or subcontractor must provide written validation to the decision authority that the charter operator will be operating on their behalf in fulfilling the terms of a government contract, to include current government contract numbers and contract titles or brief description of the work to be performed; the Air Force airfields required for use, and the name, telephone number, and address of the government contracting officer.</p>	1	No.
<p>DOD charter (N). Aircraft transporting passengers or cargo within the United States for the military departments to accommodate transportation requirements that do not exceed 90 days.</p>	<p>Military Air Transportation Agreement (MATA) approved by the Military Transportation Management Command (MTMC) (this includes survey and approval by HQ AMC/DOB, 402 Scott Drive, Suite 132, Scott AFB IL 62225-5363). An SF 1169 or SF 1103, <i>US Government Bill of Lading</i>, must be on board the aircraft to validate the operation is for the military departments as specified in AFJI 24-211, <i>Defense Traffic Management Regulation</i>. (Passenger charters arranged by the MTMC are assigned a commercial air movement (CAM) or civil air freight movement number each time a trip is awarded. Installations will normally be notified by message at least 24 hours before a pending CAM.)</p>	1	No.
<p>Media (F). Aircraft transporting representatives of the media for the purpose of gathering information about a US Government operation or event. (Except for the White House Press Corps, use will be considered on a case-by-case basis. For example, authorization is warranted if other forms of transportation preclude meeting a production deadline or such use is in the best interest of the US Government. DD Forms 2400 and 2402 should be on file with HQ USAF/XOOBC to ensure prompt telephone approval for validated requests.)</p>	<p>Except for White House Press Corps charters, concurrence of the installation commander, base operations officer, and public affairs officer.</p>	2	Note 1.
<p>Commercial aircraft certification testing required by the FARs that only involves use of normal flight facilities (P).</p>	<p>Application must cite the applicable FAR, describe the test, and include the name and telephone number of the FAA certification officer.</p>	2	Yes.

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Purpose of use	Verification	Approval* authority	Fees
Commercial development testing at Air Force flight test facilities (Q) as described in AFI 99-101, <i>Development Test &amp; Evaluation</i> .	Statement of Capability Number or Cooperative Research and Development Agreement Number, and name and telephone number of the Air Force official who approved support of the test project.	1	Yes.
Commercial charter operations (R). Aircraft transporting passengers or cargo for hire for other than US military departments.  <i>Note: Federal Aviation Administration (FAA) certification is required for airfields used by carriers certified under FAR, part 121 (passenger aircraft that exceed 30 passenger seats). HQ USAF/XOOBC will request that FAA issue an airport operating certificate under FAR, part 139, as necessary. Exceptions to the requirement for certification are Air Force airfields used for:</i> <i>a. Emergencies.</i> <i>b. Weather alternates.</i> <i>c. Air taxi operations under FAR, part 135. Note: This is currently under review. Anticipate a change that will eliminate the air taxi exemption.</i> <i>d. Air carrier operations in support of contract flights exclusively for the US military departments.</i>	Unavailability of: a. a suitable civil airport, b. aircraft that could operate into the local civil airport, or c. other modes of transportation that would reasonably satisfy the transportation requirement.	5	Yes.
Commercial air crew training flights (S). Aircraft operated by commercial air carrier crews for the purpose of maintaining required proficiency.	Memorandum of Understanding approved by HQ USAF/XOOBC that establishes conditions and responsibilities in conducting the training flights.	2	Yes.
Private, non revenue producing flights (T). Aircraft operating for a variety of reasons, such as transporting individuals to meet with Government representatives or participate in Government sponsored ceremonies and similar events. At specified locations, the purpose of use may be to gain access to collocated private sector facilities as authorized by lease, agreement, or contract.	The verification will vary with the purpose for use. For example, when use is requested in conjunction with events such as meetings or ceremonies, the applicant must provide the name and telephone number of the Government project officer.	4	Note 2.
Provisional airfield (U). An Air Force airfield used by civil aircraft when the local civil airport is temporarily unavailable, or by a commercial air carrier operating at a specific remote location to provide commercial air transportation for local military members under the provisions of a lease or other legal instrument.	Memorandum of Understanding, Letter of Agreement, or lease that establishes responsibilities and conditions for use.	2	Yes.
Foreign government charter (V). Aircraft chartered by a foreign government to transport passengers or cargo.	Application must include name and telephone number of the foreign government representative responsible for handling the charter arrangements.	2	Note 3.
Flights transporting foreign military sales (FMS) material (W). (Hazardous, oversized, or classified cargo only.)	FMS case number, requisition numbers, delivery term code and information as specified below:  a. Description of cargo (nomenclature and or proper shipping name). The description of hazardous cargo must include the Department of Transportation exemption number, hazard class, number of pieces, and net explosive weight.  b. Name, address, and telephone number of individual at Air Force base that is coordinating cargo handling and or other required terminal services.	2	Note 3.

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Purpose of use	Verification	Approval* authority	Fees
Certified flight record attempts (X). Aircraft operating to establish a new aviation record.	c. Cargo to be loaded or off loaded must be equipped with sufficient cargo pallets and or tiedown materials to facilitate handling. Compatible 463L pallets and nets will be exchanged on a one-for-one basis for serviceable units. Nonstandard pallets and nets cannot be exchanged; however, they will be used to buildup cargo loads after arrival of the aircraft. Aircraft arriving without sufficient cargo loading and tiedown devices must be floor loaded and the aircraft crew will be responsible for purchasing the necessary ropes, chains, and so forth. d. US Government FMS case management agency to which costs for services rendered are chargeable. e. Name, address, and telephone number of freight forwarder. f. Name, address, and telephone number of shipper.		
Political candidates (Y). (For security reasons only) Aircraft either owned or chartered explicitly for a Presidential or Vice Presidential candidate, including not more than one accompanying overflow aircraft for the candidate's staff and press corps. Candidate must be a Presidential or Vice Presidential candidate who is being furnished protection by the US Secret Service. Aircraft clearance is predicated on the Presidential or Vice Presidential candidate being aboard one of the aircraft (either on arrival or departure). Normal landing fees will be charged. To avoid conflict with US statutes and Air Force operational requirements, and to accommodate expeditious handling of aircraft and passengers, the installation commander will: a. Provide minimum official welcoming party. b. Not provide special facilities. c. Not permit political rallies or speeches on the installation. d. Not provide official transportation to unauthorized personnel, such as the press or local populace.	Documentation that will validate National Aeronautic Association or Federation Aeronautique Internationale sanction of the record attempt. The Secret Service must confirm that use has been requested in support of its security responsibilities.	2	Yes.
Aircraft either owned or personally chartered for transportation of the President, Vice President, a past President of the United States, the head of any US Federal department or agency, or a member of the Congress (Z).	Use by other than the President or Vice President must be for official government business. All requests will be coordinated with the Office of Legislative Liaison (SAF/LL) as prescribed in AFI 90-401, <i>Air Force Relations with Congress</i> .	2	No.

\* Approving Authority:  
 1=Can be approved at all levels.  
 2=HQ USAF/XOBC.  
 3=HQ AMC/DOKA.  
 4=Except as specifically delegated in paragraphs 2.4.2 and 2.4.2.3, must be approved by HQ USAF/XOBC.  
 5=Except as specifically delegated in paragraph 2.4.2.1, must be approved by HQ USAF/XOBC.  
 6=Policy concerning private aircraft use of aero club facilities varies from base to base, primarily due to space limitations and military mission requirements. Therefore, applications for use of aero club facilities must be processed at base level.  
 Note 1: Landing fees are charged for White House Press Corps flights. Landing fees are not charged if the Air Force has invited media coverage of specific events.  
 Note 2: Landing fees are charged if flight is not operating in support of official Government business.  
 Note 3: Landing fees are charged unless US Government charters have reciprocal privileges in the foreign country.

TABLE 2 TO PART 855—AIRCRAFT LIABILITY COVERAGE REQUIREMENTS

Aircraft maximum gross takeoff weight (MGTOW)	Coverage for	Bodily injury	Property damage	Passenger
12,500 Pounds and Under .....	Each Person ..... Each Accident .....	\$100,000 300,000	..... 100,000	\$100,000. 100,000 multiplied by the number of passenger seats.
More than 12,500 Pounds .....	Each Person .....	100,000	.....	100,000.

Aircraft maximum gross takeoff weight (MGTOW)	Coverage for	Bodily injury	Property damage	Passenger
	Each Accident .....	1,000,000	1,000,000	100,000 multiplied by 75% multiplied by the number of passenger seats.

TABLE 3 TO PART 855—LANDING FEES

Aircraft Maximum Gross Takeoff Weight (MGTOW)	Normal fee	Unauthorized fee	Intentional fee	Minimum fee	United States, Territories, and Possessions	Overseas
Up to and including 12,500 lbs. 12,501 to 40,000 lbs ..... Over 40,000 lbs .....	\$1.50 per 1,000 lbs MGTOW or fraction thereof.	.....	.....	\$20.00	X	
	\$1.70 per 1,000 lbs MGTOW or fraction thereof.	.....	.....	25.00		X
	.....	\$100.00	.....	.....	X	X
	.....	300.00	.....	.....	X	X
	.....	600.00	.....	.....	X	X
	.....	.....	Increase unauthorized fee by 100% or 200%.	.....	X	X

TABLE 4 TO PART 855—PARKING AND STORAGE FEES

Fee per aircraft for each 24-hour period or less	Minimum fee	Charge begins	Ramp	Hangar
\$1.00 per 100,000 lbs MGTOW or fraction thereof .....	\$20.00	6 hours after landing .....	X	
\$2.00 per 100,000 lbs MGTOW or fraction thereof .....	20.00	Immediately .....		X

ATTACHMENT 1 TO PART 855—GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

Section A—References

- AFPD 10-10, Civil Aircraft Use of United States Air Force Airfields
- AFI 10-1001, Civil Aircraft Landing Permits
- AFI 13-201, Air Force Airspace Management
- AFI 32-7061(32 CFR part 989), Environmental Impact Analysis Process
- AFI 32-9003, Granting Temporary Use of Air Force Real Property
- AFI 34-117, Air Force Aero Club Program
- AFI 35-201, Community Relations
- AFI 51-701, Negotiating, Concluding, Reporting, and Maintaining International Agreements
- AFI 84-103, Museum System
- AFI 90-401, Air Force Relations with Congress
- AFI 99-101, Development Test and Evaluation
- AFJI 24-211, Defense Traffic Management Regulation
- AFM
- 67-1, vol 1, part 1, Basic Air Force Supply Procedures
- AFM 67-1, vol 1, part 3, Air Force Stock Fund and DPSC Assigned Item Procedures

- AFMAN 3-132, Air Force Aero Club Operations
- AFR 170-3, Financial Management and Accounting for Security Assistance and International Programs
- AFR 177-102, Commercial Transactions at Base Level
- FAR, part 121, Certification and Operation: Domestic, Flag, and Supplemental Air Carriers and Commercial Operations of Large Aircraft
- FAR, part 135, Air Taxi Operators and Commercial Operators of Small Aircraft
- FAR, part 139, Certification and Operations: Land Airports Serving Certain Air Carriers

Section B—Abbreviations and Acronyms

Abbreviations and acronyms	Definitions
AFI	Air Force Instruction.
AFJI	Air Force Joint Instruction.
AFM	Air Force Manual.
AFMAN	Air Force Manual.
AFPD	Air Force Policy Directive.
AFR	Air Force Regulation.
AFREP	Air Force Representative.
AMC	Air Mobility Command.
AOG	Air Operations Group.
CAM	Commercial Air Movement.
CAP	Civil Air Patrol.
CRAF	Civil Reserve Air Fleet.
DPSC	Defense Personnel Support Center.

Abbreviations and acronyms	Definitions
DRU	Direct Reporting Unit.
FAA	Federal Aviation Administration.
FAR	Federal Aviation Regulation.
FMS	Foreign Military Sales.
FOA	Field Operating Agency.
FSDO	Flight Standards District Office.
HQ AMC/DOKA	Headquarters Air Mobility Command, Contract Airlift, Directorate of Operations and Transportation.
HQ USAF/CEVP	Headquarters United States Air Force, Environmental Planning Division, Directorate of Environment.
HQ USAF/XOOBC	Headquarters United States Air Force, Civil Aviation, Bases and Units Division, Directorate of Operations.
HQ USAF/XOOO	Headquarters United States Air Force, Operations Group, Directorate of Operations.
MAJCOM	Major Command.
MATA	Military Air Transportation Agreement.
MGTOW	Maximum Gross Takeoff Weight.
MTMC	Military Traffic Management Command.
SAF/LL	Secretary of the Air Force, Office of Legislative Liaison.
SAF/MI	Secretary of the Air Force, Deputy Assistant Secretary of the Air Force (Installations).
SAF/PAC	Secretary of the Air Force, Office of Public Affairs, Directorate for Community Relations.
US	United States.
USDAO	United States Defense Attache Office.

Section C—Terms

**Aircraft.** Any contrivance now known or hereafter invented, used, or designated for navigation of or flight in navigable airspace as defined in the Federal Aviation Act.

**Airfield.** An area prepared for the accommodation (including any buildings, installations, and equipment), landing, and take-off of aircraft.

**Authorized Credit Letter.** A letter of agreement that qualified operators must file with the Air Force to purchase Air Force aviation fuel and oil on a credit basis under the provisions of AFM 67-1, vol 1, part three, chapter 1, Air Force Stock Fund and DPSC Assigned Item Procedures.

**Civil Aircraft.** Any United States or foreign-registered aircraft owned by non-Governmental entities, and foreign Government-owned aircraft that are operated for commercial purposes.

**Civil Aviation.** All civil aircraft of any national registry, including:

**Commercial Aviation.** Civil aircraft that transport passengers or cargo for hire.

**General Aviation.** Civil aircraft that do not transport passengers or cargo for hire.

**Civil Reserve Air Fleet (CRAF).** US registered aircraft, certificated under FAR part 121, obligated by contract to provide aircraft and crews to the Department of Defense during contingencies or war.

**DD Form 2400, Civil Aircraft Certificate of Insurance.** A certificate that shows the amount

of third-party liability insurance carried by the user and assures the United States Government of advance notice if changes in coverage occur.

**DD Form 2401, Civil Aircraft Landing Permit.** A license which, when validated by an Air Force approving authority, authorizes the civil aircraft owner or operator to use Air Force airfields.

**DD Form 2402, Civil Aircraft Hold Harmless Agreement.** An agreement, completed by the user, which releases the United States Government from all liabilities incurred in connection with civil aircraft use of Air Force airfields.

**Government Aircraft.** Aircraft owned, operated, or controlled for exclusive, long-term use by any department or agency of either the United States or a foreign Government; and aircraft owned by any United States State, County, Municipality or other political subdivision; or any aircraft for which a Government has the liability responsibility. In the context of this instruction, it includes foreign registered aircraft, which are normally commercially operated, that have been wholly chartered for use by foreign Government heads of State for official State visits.

**Government Furnished or Bailed Aircraft.** US Government-owned aircraft provided to a Government contractor for use in conjunction with a specific contractual requirement.

**Installation Commander.** The individual with ultimate responsibility for operating the airfield and for base operations (normally a wing or group commander), as determined by the MAJCOM.

**Joint-Use Agreement.** An agreement between the Air Force and a local Government agency that establishes a public airport on an Air Force airfield.

**Loaned Aircraft.** US Government-owned aircraft made available for use by another US Government agency. This does not include aircraft leased or loaned to non-Governmental entities. Such aircraft will be considered as civil aircraft for purposes of this instruction.

**Military Aircraft.** Aircraft used exclusively in the military services of the US or a foreign Government and bearing appropriate military and national markings or carrying appropriate identification.

**Official Government Business.** Activities that support or serve the needs of US Federal agencies located at or in the immediate vicinity of an Air Force installation, including nonappropriated fund entities. For elected or appointed Federal, State, and local officeholders, official business is activity performed in fulfilling duties as a public official.

**Other Agreement.** An agreement between the Air Force and a local Government agency for temporary use of an Air Force runway

when a local civil airport is unavailable, or to accommodate a special event or project.

*Scheduled Air Carrier.* An air carrier that holds a scheduled air carrier certificate and provides scheduled service year round between two or more points.

*Unauthorized Landing.* A landing at an Air Force airfield by a civil aircraft without prior authority (approved DD Form 2401 and 24 hours prior notice).

*User.* The person, corporation, or other responsible entity operating civil aircraft at Air Force airfields.

#### ATTACHMENT 2 TO PART 855—WEATHER ALTERNATE LIST

ALTUS AFB OK  
ANDERSEN AFB GUAM  
CANNON AFB NM  
DOBBINS AFB GA  
DYESS AFB TX  
EARECKSON AFS AK \*  
EGLIN AFB FL  
EIELSON AFB AK  
ELLSWORTH AFB SD  
ELMENDORF AFB AK  
FAIRCHILD AFB WA  
GRAND FORKS AFB ND  
HILL AFB UT  
HOWARD AFB PA  
KADENA AB OKINAWA  
KELLY AFB TX  
KUNSAN AB KOREA  
LANGLEY AFB VA  
LAUGHLIN AFB TX  
MALMSTROM AFB MT  
McCHORD AFB WA  
McCONNELL AFB KS  
MINOT AFB ND  
MT HOME AFB ID  
NELLIS AFB NV  
OFFUTT AFB NE  
OSAN AB KOREA  
PLANT 42, PALMDALE CA  
TRAVIS AFB CA  
TYNDALL AFB FL  
YOKOTA AB JAPAN

#### ATTACHMENT 3 TO PART 855—LANDING PERMIT APPLICATION INSTRUCTIONS

A3.1. DD Form 2400, Civil Aircraft Certificate of Insurance: The insurance company or its authorized agent must complete and sign the DD Form 2400. Corrections to the form made using a different typewriter, pen, or whiteout must be initialed by the signatory. **THE FORM CANNOT BE COMPLETED BY THE AIRCRAFT OWNER OR OPERATOR.** Upon expiration, the DD Form 2400 must be resubmitted along with DD Form 2401 for continued use of Air Force airfields. The DD Form 2400 may be submitted to the decision authority by either the user or insurer. (Ap-

\* Formerly Shemya AFB.

proved by the Office of Management and Budget under control number 0701-0050)

A3.1.1. Block 1, Date Issued. The date the DD Form 2400 is completed by the signatory.

A3.1.2. Block 2a and 2b, Insurer Name, Address. The name and address of the insurance company.

A3.1.3. Block 3a and 3b. Insured Name, Address. The name and address of the aircraft owner and or operator. (The name of the user must be the same on all the forms.)

A3.1.4. Block 4a, Policy Number(s). The policy number must be provided. Binder numbers or other assigned numbers will not be accepted in lieu of the policy number.

A3.1.5. Block 4b, Effective Date. The first day of current insurance coverage.

A3.1.6. Block 4c, Expiration Date. The last day of current insurance coverage. The DD Form 2400 is valid until one day before the insurance expiration date. A DD Form 2400 with the statement "until canceled," in lieu of a specific expiration date, is valid for two years from the issue date.

A3.1.7. Block 5, Aircraft Liability Coverage. The amount of split limit coverage. All boxes in block 5 must be completed to specify the coverage for: each person (top line, left to right) outside the aircraft (bodily injury) and each passenger; and the total coverage per accident (second line, left to right) for: persons outside the aircraft (bodily injury), property damage, and passengers. **IF BLOCK 5 IS USED, BLOCK 6 SHOULD NOT BE USED.** All coverages must be stated in US dollars. **ALL SEATS THAT CAN BE USED FOR PASSENGERS MUST BE INSURED.** See Table 2 for required minimum coverage.

A3.1.8. Block 6, Single Limit. The maximum amount of coverage per accident. **IF BLOCK 6 IS USED, BLOCK 5 SHOULD NOT BE USED.** The minimum coverage required for a combined single limit is determined by adding the minimums specified in the "each accident" line of Table 2. All coverages must be stated in US dollars. **ALL SEATS THAT CAN BE USED FOR PASSENGERS MUST BE INSURED.**

A3.1.9. Block 7, Excess Liability. The amount of coverage which exceeds primary coverage. All coverages must be stated in US dollars.

A3.1.10. Block 8, Provisions of Amendments or Endorsements of Listed Policy(ies). Any modification of this block by the insurer or insured invalidates the DD Form 2400.

A3.1.11. Block 9a, Typed Name of Insurer's Authorized Representative. Individual must be an employee of the insurance company, an agent of the insurance company, or an employee of an insurance broker.

A3.1.12. Block 9b, Signature. The form must be signed in blue ink so that hand scribed, original signatures are easy to identify. Signature stamps or any type of facsimile signature cannot be accepted.

A3.1.13. Block 9c, Title. Self-explanatory.

A3.1.14. Block 9d, Telephone Number. Self-explanatory.

A3.1.15. THE REVERSE OF THE FORM MAY BE USED IF ADDITIONAL SPACE IS REQUIRED.

A3.2. DD Form 2401, Civil Aircraft Landing Permit. A separate DD Form 2401 must be submitted for each purpose of use (Table 1). (Approved by the Office of Management and Budget under control number 0701-0050)

A3.2.1. Block 1a. The name of the owner or operator. (The name of the user must be the same on all the forms.)

A3.2.2. Block 1b. This block should only be completed if the applicant is a subsidiary, division, etc, of another company.

A3.2.3. Block 1c. Business or home address, whichever is applicable, of applicant.

A3.2.4. Block 2. List the airfields where the aircraft will be operating. The statement "Any US Air Force Installation Worldwide" is acceptable for users performing AMC and White House Press Corps charters. "All Air Force airfields in the CONUS" is acceptable, if warranted by official Government business, for all users.

A3.2.5. Block 3. Self-explanatory. (Users will not necessarily be denied landing rights if pilots are not instrument rated and current.)

A3.2.6. Block 4. Provide a brief explanation of purpose for use. The purposes normally associated with use of Air Force airfields are listed in Table 1. If use for other purposes is requested, it may be approved if warranted by unique circumstances. (The verification specified for each purpose of use must be included with the application.)

A3.2.7. Block 5. EXCEPT AS NOTED FOR BLOCK 5C, ALL ITEMS MUST BE COMPLETED.

A3.2.8. Block 5a and Block 5b. Self-explanatory.

A3.2.9. Block 5c. If the DD Form 2400, Certificate of Insurance, indicates coverage for "any aircraft of the listed model owned and or operated," the same statement can be used in block 5c in lieu of specific registration numbers.

A3.2.10. Block 5d. The capacity provided must reflect only the number of crew required to operate the aircraft. The remaining seats are considered passenger seats.

A3.2.11. Block 5e. Self-explanatory.

A3.2.12. Block 5d. A two-way radio is required. Landing rights will not necessarily be denied for lack of strobe lights, a transponder, or IFR capabilities.

A3.2.13. Block 6a. Self-explanatory.

A3.2.14. Block 6b. If the applicant is an individual, this block should not be completed.

A3.2.15. Block 6c. This block should contain a daytime telephone number.

A3.2.16. Block 6d. The form must be signed in blue ink so that hand scribed, original signatures are easy to identify. Signature

stamps or any type of facsimile signature cannot be accepted.

A3.2.17. Block 6e. Self-explanatory.

A3.2.18. THE REVERSE OF THE FORM MAY BE USED IF ADDITIONAL SPACE IS REQUIRED.

BLOCKS 7A THROUGH 14C ARE NOT COMPLETED BY THE APPLICANT.

A3.2.19. Blocks 7a and 7b. The expiration date of a permit is determined by the insurance expiration date or the purpose of use. For example, the dates of an air show will determine the expiration date of a permit approved for participation in the air show. If the insurance expiration is used to determine the permit expiration date, the landing permit will expire one day before the insurance expiration date shown on the DD Form 2400, or 2 years from the date the permit is issued when the insurance expiration date either exceeds 2 years or is indefinite (for example, "until canceled").

A3.2.20. APPROVED PERMITS CANNOT BE CHANGED WITHOUT THE CONSENT OF THE APPROVING AUTHORITY.

A3.2.21. DD FORMS 2400 AND 2401 MUST BE RESUBMITTED TO RENEW A LANDING PERMIT. (Corporations must resubmit the DD Form 2402 every five years.)

A3.3. DD Form 2402, Civil Aircraft Hold Harmless Agreement. A form submitted and accepted by an approving authority for an individual remains valid and need not be resubmitted to the same approving authority, unless canceled for cause. Forms submitted by companies, organizations, associations, etc, must be resubmitted at least every five years. (Approved by the Office of Management and Budget under control number 0701-0050)

A3.3.1. Block 2a(1). This block should contain the user's name if the applicant is a company. If the hold harmless agreement is intended to cover other entities of a parent company, their names must also be included in this block.

A3.3.2. Block 2a(2). This block should contain the user's address if the applicant is a company.

A3.3.3. Block 2b(1). This block should contain the name of the individual applying for a landing permit or the name of a corporate officer that is authorized to legally bind the corporation from litigation against the Air Force.

A3.3.4. Block 2b(2). This block should contain the address of the individual applying for a landing permit. A company address is only required if it is different from the address in block 2a(2).

A3.3.5. Block 2b(3). The form must be signed in blue ink so that hand scribed, original signatures are easy to identify. Signature stamps or any type of facsimile signature cannot be accepted.

A3.3.6. Block 2b(4). This block should only be completed when the applicant is a company, organization, association, etc.

A3.3.7. Block 3a(1). If the applicant is a company, organization, association, etc, the form must be completed and signed by the corporate secretary or a second corporate officer (other than the officer executing DD Form 2402) to certify the signature of the first officer. As necessary, the US Air Force also may require that the form be authenticated by an appropriately designated third official.

A3.3.8. Block 3a(2). The form must be signed in blue ink so that hand scribed, original signatures are easy to identify. Signature stamps or any type of facsimile signature cannot be accepted.

A3.3.9. Block 3a(3). Self-explanatory.

A3.3.10. Block 4. Self-explanatory.

ATTACHMENT 4 TO PART 855—SAMPLE  
JOINT-USE AGREEMENT

*Joint-Use Agreement Between an Airport  
Sponsor and the United States Air Force*

This Joint Use Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, by and between the Secretary of the Air Force, for and on behalf of the United States of America ("Air Force") and an airport sponsor ("Sponsor") a public body eligible to sponsor a public airport.

WHEREAS, the Air Force owns and operates the runways and associated flight facilities (collectively "flying facilities") located at Warbucks Air Force Base, USA ("WAFB"); and

WHEREAS, Sponsor desires to use the flying facilities at WAFB to permit operations by general aviation aircraft and commercial air carriers (scheduled and nonscheduled) jointly with military aircraft; and

WHEREAS, the Air Force considers that this Agreement will be in the public interest, and is agreeable to joint use of the flying facilities at WAFB; and

WHEREAS, this Agreement neither addresses nor commits any Air Force real property or other facilities that may be required for exclusive use by Sponsor to support either present or future civil aviation operations and activities in connection with joint use; and

WHEREAS, the real property and other facilities needed to support civil aviation operations are either already available to or will be diligently pursued by Sponsor;

NOW, THEREFORE, it is agreed:

1. Joint Use

a. The Air Force hereby authorizes Sponsor to permit aircraft equipped with two-way radios capable of communicating with the WAFB Control Tower to use the flying facilities at WAFB, subject to the terms and con-

ditions set forth in this Agreement and those Federal Aviation Regulations (FAR) applicable to civil aircraft operations. Civil aircraft operations are limited to 20,000 per calendar year. An operation is a landing or a takeoff. Civil aircraft using the flying facilities of WAFB on official Government business as provided in Air Force Instruction (AFI) 10-1001, Civil Aircraft Landing Permits, are not subject to this Agreement.

b. Aircraft using the flying facilities of WAFB under the authority granted to Sponsor by this Agreement shall be entitled to use those for landings, takeoffs, and movement of aircraft and will normally park only in the area made available to Sponsor and designated by them for that purpose.

c. Government aircraft taking off and landing at WAFB will have priority over all civil aircraft at all times.

d. All ground and air movements of civil aircraft using the flying facilities of WAFB under this Agreement, and movements of all other vehicles across Air Force taxiways, will be controlled by the WAFB Control Tower. Civil aircraft activity will coincide with the WAFB Control Tower hours of operation. Any additional hours of the WAFB Control Tower or other essential airfield management, or operational requirements beyond those needed by the Air Force, shall be arranged and funded (or reimbursed) by Sponsor. These charges, if any, shall be in addition to the annual charge in paragraph 2 and payable not less frequently than quarterly.

e. No civil aircraft may use the flying facilities for training.

f. Air Force-owned airfield pavements made available for use under this Agreement shall be for use on an "as is, where is" basis. The Air Force will be responsible for snow removal only as required for Government mission accomplishment.

g. Dust or any other erosion or nuisance that is created by, or arises out of, activities or operations by civil aircraft authorized use of the flying facilities under this Agreement will be corrected by Sponsor at no expense to the Air Force, using standard engineering methods and procedures.

h. All phases of planning and construction of new runways and primary taxiways on Sponsor property must be coordinated with the WAFB Base Civil Engineer. Those intended to be jointly used by Air Force aircraft will be designed to support the type of military aircraft assigned to or commonly transient through WAFB.

i. Coordination with the WAFB Base Civil Engineer is required for planning and construction of new structures or exterior alteration of existing structures that are owned or leased by Sponsor.

j. Sponsor shall comply with the procedural and substantive requirements established by the Air Force, and Federal, State,

interstate, and local laws, for the flying facilities of WAFB and any runway and flight facilities on Sponsor property with respect to the control of air and water pollution; noise; hazardous and solid waste management and disposal; and hazardous materials management.

k. Sponsor shall implement civil aircraft noise mitigation plans and controls at no expense to and as directed by the Air Force, pursuant to the requirements of the WAFB Air Installation Compatible Use Zone (AICUZ) study; the FAA part 150 study; and environmental impact statements and environmental assessments, including supplements, applicable to aircraft operations at WAFB.

l. Sponsor shall comply, at no expense to the Air Force, with all applicable FAA security measures and procedures as described in the Airport Security Program for WAFB.

m. Sponsor shall not post any notices or erect any billboards or signs, nor authorize the posting of any notices or the erection of any billboards or signs at the airfield of any nature whatsoever, other than identification signs attached to buildings, without prior written approval from the WAFB Base Civil Engineer.

n. Sponsor shall neither transfer nor assign this Agreement without the prior written consent of the Air Force.

#### 2. Payment

a. For the purpose of reimbursing the Air Force for Sponsor's share of the cost of maintaining and operating the flying facilities of WAFB as provided in this Agreement, Sponsor shall pay, with respect to civil aircraft authorized to use those facilities under this Agreement, the sum of (specify sum) annually. Payment shall be made quarterly, in equal installments.

b. All payments due pursuant to this Agreement shall be payable to the order of the Treasurer of the United States of America, and shall be made to the Accounting and Finance Officer, WAFB, within thirty (30) days after each quarter. Quarters are deemed to end on December 31, March 31, June 30, and September 30. Payment shall be made promptly when due, without any deduction or setoff. Interest at the rate prescribed by the Secretary of the Treasury of the United States shall be due and payable on any payment required to be made under this Agreement that is not paid within ten (10) days after the date on which such payment is due and end on the day payment is received by the Air Force.

#### 3. Services

Sponsor shall be responsible for providing services, maintenance, and emergency repairs for civil aircraft authorized to use the flying facilities of WAFB under this Agree-

ment at no cost to the Air Force. If Air Force assistance is required to repair an aircraft, Sponsor shall reimburse the Air Force for all expenses of such services. Any required reimbursement shall be paid not less frequently than quarterly. These charges are in addition to the annual charge specified in paragraph 2.

#### 4. Fire Protection and Crash Rescue

a. The Air Force maintains the level of fire fighting, crash, and rescue capability required to support the military mission at WAFB. The Air Force agrees to respond to fire, crash, and rescue emergencies involving civil aircraft outside the hangars or other structures within the limits of its existing capabilities, equipment, and available personnel, only at the request of Sponsor, and subject to subparagraphs b, c, and d below. Air Force fire fighting, crash, and rescue equipment and personnel shall not be routinely located in the airfield movement area during nonemergency landings by civil aircraft.

b. Sponsor shall be responsible for installing, operating, and maintaining, at no cost to the Air Force, the equipment and safety devices required for all aspects of handling and support for aircraft on the ground as specified in the FARs and National Fire Protection Association procedures and standards.

c. Sponsor agrees to release, acquit, and forever discharge the Air Force, its officers, agents, and employees from all liability arising out of or connected with the use of or failure to supply in individual cases, Air Force fire fighting and or crash and rescue equipment or personnel for fire control and crash and rescue activities pursuant to this Agreement. Sponsor further agrees to indemnify, defend, and hold harmless the Air Force, its officers, agents, and employees against any and all claims, of whatever description, arising out of or connected with such use of, or failure to supply Air Force fire fighting and or crash and rescue equipment or personnel.

d. Sponsor will reimburse the Air Force for expenses incurred by the Air Force for fire fighting and or crash and rescue materials expended in connection with providing such service to civil aircraft. The Air Force may, at its option, with concurrence of the National Transportation Safety Board, remove crashed civil aircraft from Air Force-owned pavements or property and shall follow existing Air Force directives and or instructions in recovering the cost of such removal.

e. Failure to comply with the above conditions upon reasonable notice to cure or termination of this Agreement under the provisions of paragraph 7 may result in termination of fire protection and crash and rescue response by the Air Force.

f. The Air Force commitment to assist Sponsor with fire protection shall continue only so long as a fire fighting and crash and rescue organization is authorized for military operations at WAFB. The Air Force shall have no obligation to maintain or provide a fire fighting, and crash and rescue organization or fire fighting and crash and rescue equipment; or to provide any increase in fire fighting and crash and rescue equipment or personnel; or to conduct training or inspections for purposes of assisting Sponsor with fire protection.

#### 5. Liability and Insurance

a. Sponsor will assume all risk of loss and or damage to property or injury to or death of persons by reason of civil aviation use of the flying facilities of WAFB under this Agreement, including, but not limited to, risks connected with the provision of services or goods by the Air Force to Sponsor or to any user under this Agreement. Sponsor further agrees to indemnify and hold harmless the Air Force against, and to defend at Sponsor expense, all claims for loss, damage, injury, or death sustained by any individual or corporation or other entity and arising out of the use of the flying facilities of WAFB and or the provision of services or goods by the Air Force to Sponsor or to any user, whether the claims be based in whole, or in part, on the negligence or fault of the Air Force or its contractors or any of their officers, agents, and employees, or based on any concept of strict or absolute liability, or otherwise.

b. Sponsor will carry a policy of liability and indemnity insurance satisfactory to the Air Force, naming the United States of America as an additional insured party, to protect the Government against any of the aforesaid losses and or liability, in the sum of not less than (specify sum) bodily injury and property damage combined for any one accident. Sponsor shall provide the Air Force with a certificate of insurance evidencing such coverage. A new certificate must be provided on the occasion of policy renewal or change in coverage. All policies shall provide that: (1) No cancellation, reduction in amount, or material change in coverage thereof shall be effective until at least thirty (30) days after receipt of notice of such cancellation, reduction, or change by the installation commander at WAFB, (2) any losses shall be payable notwithstanding any act or failure to act or negligence of Sponsor or the Air Force or any other person, and (3) the insurer shall have no right of subrogation against the United States.

#### 6. Term of Agreement

This Agreement shall become effective immediately and shall remain in force and effect for a term of 25 years, unless otherwise

renegotiated or terminated under the provisions of paragraph 7, but in no event shall the Agreement survive the termination or expiration of Sponsor's right to use, by license, lease, or transfer of ownership, of the land areas used in connection with joint use of the flying facilities of WAFB.

#### 7. Renegotiation and Termination

a. If significant change in circumstances or conditions relevant to this Agreement should occur, the Air Force and Sponsor may enter into negotiations to revise the provisions of this Agreement, including financial and insurance provisions, upon sixty (60) days written notice to the other party. Any such revision or modification of this Agreement shall require the written mutual agreement and signatures of both parties. Unless such agreement is reached, the existing agreement shall continue in full force and effect, subject to termination or suspension under this section.

b. Notwithstanding any other provision of this Agreement, the Air Force may terminate this Agreement: (1) At any time by the Secretary of the Air Force, giving ninety (90) days written notice to Sponsor, provided that the Secretary of the Air Force determines, in writing, that paramount military necessity requires that joint use be terminated, or (2) at any time during any national emergency, present or future, declared by the President or the Congress of the United States, or (3) in the event that Sponsor ceases operation of the civil activities at WAFB for a period of one (1) year, or (4) in the event Sponsor violates any of the terms and conditions of this Agreement and continues and persists therein for thirty (30) days after written notification to cure such violation. In addition to the above rights, the Air Force may at any time suspend this agreement if violations of its terms and conditions by Sponsor create a significant danger to safety, public health, or the environment at WAFB.

c. The failure of either the Air Force or Sponsor to insist, in any one or more instances, upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment of the right to the future performance of any such terms, conditions, or provisions. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by such party.

#### 8. Notices

a. No notice, order, direction, determination, requirement, consent, or approval under this Agreement shall be of any effect unless it is in writing and addressed as provided herein.

b. Written communication to Sponsor shall be delivered or mailed to Sponsor addressed: The Sponsor, 9000 Airport Blvd, USA.

c. Written communication to the Air Force shall be delivered or mailed to the Air Force addressed: Commander, WAFB, USA.

9. Other Agreements not Affected

This Agreement does not affect the WAFB-Sponsor Fire Mutual Aid Agreement.

IN WITNESS WHEREOF, the respective duly authorized representatives of the parties hereto have executed this Agreement on the date set forth below opposite their respective signatures.

UNITED STATES AIR FORCE

Date: \_\_\_\_\_

By: \_\_\_\_\_

Deputy Assistant Secretary of the Air Force (Installations)

Date: \_\_\_\_\_

By: \_\_\_\_\_

Sponsor Representative

ATTACHMENT 5 TO PART 855—SAMPLE TEMPORARY AGREEMENT

Letter of Agreement for Temporary Civil Aircraft Operations at Warbucks AFB, USA

This letter of agreement establishes policies, responsibilities, and procedures for commercial air carrier operations at Warbucks AFB, USA, (WAFB) for the period (date) through (date) Military requirements will take precedence over civil aircraft operations. Should a conflict arise between air carrier and Air Force operational procedures, Air Force procedures will apply.

Authorized Users

The following air carriers are authorized use, provided they have a civil aircraft landing permit approved at HQ USAF/XOBC for such use:

- Flyaway Airlines
Recreation Airlines
Economy Airlines
PacAir Transport

Schedules

The Bunker International Airport (BIA) manager or air carrier station managers will ensure that the WAFB Airfield Manager is provided current airline schedules during the approved period of use. Every effort will be made to avoid disruption of the air carriers' schedules; however, it is understood that the installation commander will suspend or change flight plans when required to preclude interference with military activities or operations.

Passenger and Luggage Handling

The BIA terminal will be used for passenger loading and unloading. Security checks will be performed at the terminal before loading passengers on buses. Luggage on arriving aircraft will be directly offloaded onto vehicles and delivered to the BIA terminal. Each arriving and departing bus or vehicle caravan will be accompanied by a credentialed representative of the airline or BIA to ensure its integrity enroute. Buses or vehicles transporting passengers to board an aircraft will not depart WAFB until the passengers are airborne. Unless an emergency exists, arriving passengers will not deplane until the buses are available for transportation to the BIA terminal. All checked luggage will be picked up at BIA and delivered directly to the departing aircraft. Buses will proceed directly to the aircraft at WAFB alert ramp. Luggage on arriving aircraft will be directly offloaded onto a vehicle parked on the WAFB alert ramp. WAFB will be notified, in advance, if a local funeral home requires access for pickup or delivery of deceased persons.

AIRCRAFT HANDLING AND GROUND SUPPORT EQUIPMENT

Air Force-owned fuel will not be provided. The air carriers will provide their own ground support equipment. Refueling equipment from BIA will be prepositioned at WAFB on the alert ramp. The Air Force shall not be responsible for any damage or loss to such equipment, and BIA expressly assumes all risks of any such loss or damage and agrees to indemnify and hold the United States harmless against any such damage or loss. No routine aircraft maintenance will be accomplished at WAFB. Emergency repairs and or maintenance are only authorized to avoid extended parking and storage of civil aircraft at WAFB.

CUSTOMS AND SECURITY

The installation commander will exercise administrative and security control over both the aircraft and passengers on WAFB. Customs officials will be transported to and from the base by air carrier representatives. The installation commander will cooperate with customer, health, and other public officials to expedite arrival and departure of the aircraft. Air carrier representatives will notify the WAFB Airfield Manager, in advance, of armed security or law enforcement officers arriving or departing on a flight. BIA officials and air carrier representatives must provide the WAFB Airfield Manager a list of employees, contractors, and vehicles requiring flightline access. Temporary passes will be issued to authorized individuals and vehicles.

FIRE, CRASH, AND RESCUE SERVICES

BIA will provide technical information and training for WAFB Fire Department personnel prior to (date) . Fire, Crash, and Rescue Services will be provided in an emergency, but fire trucks will not routinely park on the flightline for aircraft arrivals and departures. BIA will reimburse WAFB for all such services.

LIABILITY AND INDEMNIFICATION

The Air Force shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use of WAFB by BIA under this Agreement, or for damages to the property of BIA or injuries to the person of BIA's officers, agents, servants, employees, or invitees. BIA agrees to assume all risks of loss or damage to property and injury or death to persons by reason of or incident to the use of WAFB under this Agreement and expressly waives any and all claims against the United States for any such loss, damage, personal injury, or death caused by or occurring as a consequence of such use. BIA further agrees to indemnify, save, and hold the United States, its officers, agents, and employees harmless from and against all claims, demands, or actions, liabilities, judgments, costs, and attorneys fees, arising out of, claimed on account of, or in any manner predicated upon personal injury, death or property damage resulting from, related to, caused by, or arising out of the use of WAFB under this Agreement.

FEEES

Landing and parking fees will be charged in accordance with to AFI 10-1001, Civil Aircraft Landing Permits. Charges will be made in accordance with the appropriate Air Force Instructions for any services or supplies required from WAFB. The WAFB Airfield Manager will be responsible for consolidating all charges which will be billed to BIA not later than (date) by the Accounting and Finance Office.

IN WITNESS WHEREOF, the respective duly authorized representatives of the parties hereto have executed this Agreement on the date set forth below opposite their respective signatures.

\_\_\_\_\_  
BIA Representative (Name and Title)  
DATE \_\_\_\_\_

\_\_\_\_\_  
WAFB Representative (Name and Title)  
DATE \_\_\_\_\_

PART 861—DEPARTMENT OF DEFENSE COMMERCIAL AIR TRANSPORTATION QUALITY AND SAFETY REVIEW PROGRAM

- Sec.
- 861.1 References.
- 861.2 Purpose.
- 861.3 Definitions.
- 861.4 DOD air transportation quality and safety requirements.
- 861.5 DOD Commercial Airlift Review Board procedures.
- 861.6 DOD review of foreign air carriers.
- 861.7 Disclosure of voluntarily provided safety-related information.

AUTHORITY: 10 U.S.C. 2640, 8013.

SOURCE: 67 FR 65698, Oct. 28, 2002, unless otherwise noted.

§ 861.1 References.

The following references apply to this part:

- (a) 10 U.S.C. 2640, Charter Air Transportation of Members of the Armed Forces.
- (b) Department of Defense Directive 4500.53, *Department of Defense Commercial Air Transportation Quality and Safety Review Program*.

§ 861.2 Purpose.

Department of Defense Directive 4500.53, *Department of Defense Commercial Air Transportation Quality and Safety Review Program*, charges the Commander-in-Chief (CINC), United States Transportation Command (USTRANSCOM), with ensuring the establishment of safety requirements and criteria for evaluating civil air carriers and operators (hereinafter collectively referred to as "air carriers") providing air transportation and operational support services to the Department of Defense (DOD). It also charges the CINC with ensuring the establishment of a Commercial Airlift Review Board (CARB) and providing policy guidance and direction for its operation. This part establishes DOD quality and safety criteria for air carriers providing or seeking to provide air transportation and, at the discretion of the CARB or higher authority, operational support services to the DOD. This part also includes the operating procedures of the CARB. The CARB has the authority to suspend air carriers from DOD use or

take other actions when issues of air carrier quality and air safety arise.

### §861.3 Definitions.

(a) *Air carrier*. Individuals or entities that operate commercial fixed and rotary wing aircraft in accordance with the Federal Aviation Regulations (14 CFR Chapter I) or equivalent regulations issued by a country's Civil Aviation Authority (CAA) and which provide air transportation or operational support services. Commercial air carriers under contract with, or operating on behalf of the DOD shall have a FAA or CAA certificate.

(b) *Air transportation services*. The transport of DOD personnel or cargo by fixed or rotary wing commercial aircraft, where such services are acquired primarily for the transportation of DOD personnel and cargo, through donation or any form of contract, tender, blanket ordering agreement, Government charge card, Government or commercial transportation request (TR), bill of lading, or similar instruments. Air transportation services also include medical evacuation services, paratrooper drops, and charter airlift and group travel arranged by the Military Service Academies, foreign military sales, nonappropriated fund instrumentalities by other DOD and non-DOD activities for DOD personnel. All air carriers providing air transportation services to DOD must have a FAA or CAA certificate. The policy contained in this Directive shall not apply to individually procured, discretionary air travel, such as that associated with military leave or pass.

(c) *Civil Aviation Authority (CAA)*. The CAA refers to the organization within a country that has the authority and responsibility to regulate civil aviation. The term CAA is used throughout this part since these requirements are applicable to both U.S. and foreign carriers doing business with DOD. The term CAA thus includes the U.S. Federal Aviation Administration (FAA).

(d) *Code sharing*. Code sharing is a marketing arrangement in which an air carrier places its designator code on a flight operated by another air carrier and sells tickets for that flight.

(e) *DOD approval*. DOD approval in the context of this part refers to the

process by which air carriers seeking to provide passenger or cargo airlift services (hereinafter referred to as air transportation services) to the DOD must be screened and evaluated by the DOD Air Carrier Survey and Analysis Office or other entity authorized by the CARB, and approved for DOD use by the CARB. Once initial approval is obtained, a DOD approved air carrier must remain in an approved status to be eligible for DOD business. Although not generally required, the CARB or higher authority may, on a case-by-case basis, require DOD approval of air carriers providing operational support services to DOD.

(f) *DOD air carrier safety and quality review process*. Includes four possible levels of review with increasing authority. The responsibilities of each are described in more detail in the reference in §861.1 (b). These levels consist of the:

(1) DOD Air Carrier Survey and Analysis Office;

(2) DOD Commercial Airlift Review Board (CARB);

(3) Commander-in-Chief, U.S. Transportation Command, or USCINCTRANS; and

(4) Secretary of Defense. (NOTE: A DOD-level body, the Commercial Airlift Review Authority, or CARA, provides advice and recommendations to the Secretary of Defense.)

(g) *Federal Aviation Administration (FAA) International Safety Assessment (IASA) program and categories*. The FAA IASA program assesses the ability of a foreign country's CAA to adhere to international standards established by the United Nation's technical agency for aviation, the International Civil Aviation Organization (ICAO). The FAA has established ratings for the status of countries as follows:

(1) *Category 1—Does comply with ICAO standards*. A country's CAA has been found to license and oversee air carriers in accordance with ICAO aviation safety standards.

(2) *Category 2—Does not comply with ICAO standards*. A country's CAA does not meet ICAO standards for aviation oversight. Operations to the U.S. by a carrier from a Category 2 country are limited to those in effect at the time a country is classified as Category 2 and

are subjected to heightened FAA surveillance. Expansion or changes in services to the U.S. are not permitted while a country is in Category 2 status unless the carrier arranges to have new services conducted by an air carrier from a Category 1 country. Category 2 countries that do not have operations to the U.S. at the time of the FAA assessment are not permitted to commence such operations unless it arranges to have its flights conducted by an air carrier from a Category 1 country.

(3) *Non-rated.* A country's CAA is labeled "non-rated" if it has not been assessed by the FAA.

(h) *GSA City Pair Program.* A program managed by the General Services Administration in which U.S. air carriers compete for annual contracts awarding U.S. Government business for specific domestic and international scheduled service city pair routes.

(i) *Group travel.* Twenty-one or more passengers on orders from the same organization traveling on the same date to the same destination to attend the same function.

(j) *Letter of Warning.* A notice to a DOD approved air carrier of a failure to satisfy safety or airworthiness requirements which, if not remedied, may result in temporary nonuse or suspension of the air carrier by the DOD. Issuance of a *Letter of Warning* is not a prerequisite to a suspension or other action by the CARB or higher DOD authority.

(k) *On-site Capability Survey.* The most comprehensive evaluation performed by DOD's Air Carrier Survey and Analysis Office. Successful completion of this evaluation is required of most air carriers before they may be approved to provide air transportation services to DOD. Once approved, air carriers are subject to periodic On-site Capability Surveys, as specified at Enclosure 3 in the reference in §861.1(b).

(l) *Operational support services.* Missions performed by air carriers that use fixed or rotary-winged aircraft to provide services other than air transportation services as defined in paragraph (b) of this section. Examples include, but are not limited to, range instrumentation and services, target-towing, sling loads, and electronic counter-

measures target flights. Air carriers providing only operational support services do not require advance DOD approval and are not subject to the initial or periodic on-site survey requirements under this part, unless directed by the CARB or higher authority. All air carriers providing operational support services to DOD must have a FAA or CAA certificate and are required to maintain applicable FAA or CAA standards absent deviation authority obtained pursuant to 14 CFR 119.55 or similar CAA rules.

(m) *Performance assessments.* Reviews conducted by U.S. air carriers when evaluating foreign air carriers with which they have code share arrangements, using performance-based factors. Such assessments include reviewing a variety of air carrier data including history, safety, scope/size, financial condition, equipment, flight operations and airworthiness issues.

(n) *Performance evaluations.* Reviews conducted by DOD as directed in the references in §861.1(a) and (b). These evaluations include a review of air carrier flight operations, maintenance departments, safety programs and other air carrier areas as necessary. Performance evaluations are not conducted on-site, but rely on information collected primarily from the FAA and the National Transportation Safety Board (NTSB).

(o) *Preflight safety inspection.* A visual safety inspection of the interior and exterior of an air carrier's aircraft performed by DOD personnel in accordance with the references in §861.1(a) and (b).

(p) *Suspension.* The exclusion of an air carrier from providing services to the DOD. The period of suspension will normally:

(1) Remain in effect until the air carrier furnishes satisfactory evidence that the conditions causing the suspension have been remedied and has been reinstated by the CARB, or;

(2) Be for a fixed period of time as determined at the discretion of the CARB.

(q) *Temporary nonuse.* The immediate exclusion of a DOD approved air carrier from providing services to the DOD pending a decision on suspension. Normally, temporary nonuse will be for a

period of 30 days or less. However, by mutual agreement of the CARB and the air carrier involved, a suspension hearing or decision may be delayed and the air carrier continued in a temporary nonuse status for an extended period of time.

(r) *Voluntarily provided safety-related information.* Information which consists of nonfactual safety-related data, reports, statements, and other information provided to DOD by an air carrier at any point in the evaluation process described in this Part. It does not include factual safety-related information, such as statistics, maintenance reports, training records, flight planning information, and the like.

**§ 861.4 DOD air transportation quality and safety requirements.**

(a) *General.* The DOD, as a customer of air transportation and operational support services, expects air carriers used by DOD to employ programs and business practices that not only ensure good service but also enhance the safety, operational, and maintenance standards established by applicable Civil Aviation Authority (CAA) regulations. Accordingly, and as required by the references in § 861.1 (a) and (b), the DOD has established a set of quality and safety criteria and requirements that reflect the type programs and practices DOD seeks from air carriers providing services to DOD. Air carriers must meet and maintain these requirements in order to be eligible for DOD business. Air carriers providing air transportation services to DOD either directly by contract or agreement, or indirectly through the General Services Administration (GSA) City Pair Program or some other arrangement, must be approved by DOD prior to providing such services and remain in an approved status throughout the contract, agreement, or arrangement performance period. This approval entails successful completion of initial and recurring on-site surveys as well as periodic performance evaluations in accordance with the reference in § 861.1(b). The quality and safety criteria and requirements set forth in this part complement rather than replace the CAA criteria applicable to air carriers. Air carriers normally remain

fully subject to applicable CAA regulations (CARs) while performing business for the DOD, even when the aircraft involved is used exclusively for DOD missions. The inspection and oversight criteria set forth in this part do not, as a general rule, apply to air carriers providing only operational support services to DOD. However, in the event concerns relating to the safety of such a carrier arise, the CARB or higher authority may, on a case-by-case basis, direct an appropriate level of oversight under the authority of this part.

(b) *Applicability.* (1) The evaluation, quality and safety criteria and requirements set forth in this part apply to air carriers providing or seeking to provide air transportation services to DOD.

(2) Foreign air carriers performing portions of GSA City Pair routes awarded to U.S. air carriers under a code-sharing arrangement, as well as foreign air carriers providing individually-ticketed passenger service to DOD personnel traveling on official business, may be subject to limited oversight and review pursuant to § 861.6.

(3) The inspection and oversight requirements, as well as the quality and safety criteria of this part may, on a case-by-case basis and at the discretion of the CARB or higher authority, be applied to air carriers seeking to provide or providing operational support services as defined in § 861.3(1).

(4) The inspection and oversight requirements of this part do not apply to aircraft engaged in medical transport services if procured under emergency conditions to save life, limb or eyesight. Likewise, the inspection and oversight requirements of this part are not applicable when DOD is not involved in the procurement of the medical transportation services. For example, when specific medical treatment is obtained on an individual basis by or for DOD personnel with medical transportation provided, as needed, at the direction of the non-DOD medical care giver. This includes situations where DOD, through TRICARE or otherwise, pays for such transportation as part of the costs of medical services provided.

(c) *Scope and nature of the evaluation program—*(1) *Evaluation requirement.*

The provision of air transportation services under a contract or agreement with or on behalf of DOD, requires the successful completion of an initial on-site survey and approval by the CARB under this part in order to be eligible for DOD business. In addition, U.S. air carriers awarded contracts under the GSA City Pair Program, including those that perform part of the contract under a code-sharing arrangement with the U.S. air carrier awarded the contract, must successfully complete an initial on-site survey and be approved by the CARB for DOD use under this part prior to beginning performance of the GSA contract. Once approved by DOD, air carriers providing air transportation services are subject to recurring on-site surveys and performance evaluations and assessments throughout the duration of the relevant contract or agreement. The frequency and scope of these surveys and performance reviews will be in accordance with Enclosure 3 of the reference in § 861.1(b).

(2) *Office of primary responsibility.* Evaluations are performed by the DOD Air Carrier Survey and Analysis Office located at Scott Air Force Base, Illinois. The mailing address of this office is HQ AMC/DOB, 402 Scott Drive Unit 3A1, Scott AFB IL 62225-5302. The website address is <https://public.scott.af.mil/hqamc/dob/index.htm>.

(3) *Items considered in the evaluation process.* The specifics of the applicable DOD contract or agreement (if any), the applicable CAA regulations, and the experienced judgment of DOD personnel will be used to evaluate an air carrier's capability to perform services for DOD. The survey may also include, with the air carrier's coordination, observation of cockpit crew performance, as well as ramp inspections of selected company aircraft. In the case of air carriers seeking to provide air transportation services, after satisfactory completion of the initial survey and approval by the CARB as a DOD air carrier, follow-up surveys will be conducted on a recurring basis and when otherwise required to validate adherence to DOD quality and safety requirements. DOD personnel will also assess these quality and safety requirements when conducting periodic air carrier performance evaluations. The

size of an air carrier, along with the type and scope of operations will be considered during the on-site survey. For example, while an air taxi operator may not have a formal flight control function, such as a 24-hour dispatch organization, that same air taxi operator is expected to demonstrate some type of effective flight following capability. On the other hand, a major air carrier is expected to have a formal flight control or dispatch function. Both, however, will be evaluated based on the effectiveness and quality of whatever flight following function they do maintain. In the case of air carriers seeking to provide operational support services, the type, scope and frequency of evaluation, if any, performed by DOD or other entity will be as directed by the CARB or higher authority.

(d) *Status of aircraft performing services for DOD.* All air carriers providing air transportation or operational support services to the DOD shall have FAA or CAA air carrier or commercial operator certificates and shall remain under FAA and/or CAA regulatory and safety oversight during performance of the DOD mission. Aircraft performing services for or on behalf of DOD shall be on the air carrier's operating certificate, and remain on that certificate while performing the DOD mission. The installation of any special equipment needed to perform services for DOD shall be FAA or CAA approved or an appropriate FAA or CAA waiver obtained.

(e) *Evaluation requirements.* The air carrier requirements stated in this part provide the criteria against which would-be DOD and GSA City Pair Program air carrier contractors, as well as air carriers providing services on behalf of DOD, may be subjectively evaluated by DOD. These requirements are neither all-inclusive nor inflexible in nature. They are not replacements for the certification criteria and other regulations established by the CAA. Rather, these requirements complement CAA certification criteria and regulations and describe the enhanced level of service required by DOD. The relative weight accorded these requirements in a given case, as well as the determination of whether an air carrier meets or exceeds them, is a matter

within the sole discretion of the DOD Air Carrier Survey and Analysis Office and the CARB, subject to the statutory minimums provided in the reference in §861.1(a).

(1) *Quality and safety requirements—prior experience.* U.S. and foreign air carriers applying for DOD approval in order to conduct air transportation services for or on behalf of DOD under a contract or agreement with DOD, the GSA City Pair Program, or by some other arrangement are required to possess 12 months of continuous service equivalent to the service sought by DOD. In applying this requirement, the following guidance will be used by DOD authorities:

(i) “12 months” refers to the 12 calendar months immediately preceding the request for DOD approval.

(ii) “Continuous” service means the carrier must have performed revenue-generating services of the nature for which DOD approval is sought, as an FAA part 121, 125, 127, or 135 (14 CFR 121, 125, 127, or 135) air carrier (or foreign CAA equivalent if appropriate) on a recurring, substantially uninterrupted basis. The services must have occurred with such frequency and regularity as to clearly demonstrate the carrier’s ability to perform and support sustained, safe, reliable, and regular services of the type DOD is seeking. Weekly flight activity is normally considered continuous, while sporadic or seasonal operations (if such operations are the only operations conducted by the carrier) may not suffice to establish a carrier’s ability to perform and support services in the sustained, safe, reliable, and regular manner required by DOD. The ability of a carrier to perform services of the type sought by DOD may be called into question if there have been lengthy periods of time during the qualifying period in which the carrier has not operated such services. Consequently, any cessation, or nonperformance of the type of service for which approval is sought may, if it exceeds 30 days in length during the qualifying period and depending on the underlying factual circumstances, necessitate “restarting” the 12-month continuous service period needed to obtain DOD approval.

(iii) “Equivalent to the services sought by DOD” means service offered to qualify for DOD approval must be substantially equivalent to the type of service sought by DOD. The prior experience must be equivalent in difficulty and complexity with regard to the distances flown, weather systems encountered, international and national procedures, the same or similar aircraft, schedule demands, aircrew experience, number of passengers handled, frequency of operations, and management required. There is not a set formula for determining whether a particular type of service qualifies. The performance of cargo services is not considered to be “substantially equivalent” to the performance of passenger services, and may not be used to meet the 12 continuous months requirement for passenger services. However, when a carrier already providing cargo services to DOD applies to carry passengers, the CARB may consider the carrier’s cargo performance and experience in assessing whether a carrier is qualified to carry passengers on a specific type or category of aircraft, over certain routes or stage lengths, or under differing air traffic control, weather, or other conditions. The following examples are illustrative and not intended to reflect or predict CARB action in any given case:

*Example 1:* Coyote Air has operated commercial passenger commuter operations in the U.S. for a number of years flying a variety of twin-engine turboprop aircraft. They have also been a DOD-approved cargo carrier, providing international cargo services using DC-10 freighter aircraft. Coyote Air purchases a passenger version DC-10, and seeks DOD approval to provide international passenger service for DOD. The CARB may decide that although Coyote Air has provided passenger services for 12 continuous months, those services are not substantially equivalent to those being sought by DOD. While the carrier may have considerable operational experience with the DC-10, its commuter passenger operations are not substantially equivalent to the service now proposed—international passenger services on large jet aircraft.

*Example 2:* Acme Air has been a DOD-approved cargo carrier for several years, operating domestic and international missions with MD-11 freighter aircraft. At the same time, Acme has been performing commercial international passenger services with B-757

aircraft. Acme Air purchases a MD-11 passenger aircraft and applies to perform passenger services for DOD using the MD-11. Assuming Acme has performed B-757 passenger service for 12 continuous months immediately preceding its application, the CARB may consider these passenger services substantially equivalent to those proposed since both involve the operation of large multi-engine aircraft in an international environment. The CARB may also consider Acme's operational history with its MD-11 freighter aircraft in determining whether the carrier is competent to provide MD-11 passenger service in the same environment.

(iv) Once approved by DOD, an air carrier's failure to maintain continuous operations of the type for which approval has been granted may, at the discretion of the CARB, be grounds for nonuse or suspension under this part, rendering the carrier ineligible for DOD business during the nonuse or suspension period. Any cessation or non-performance of the type of service for which approval has been obtained may, if it exceeds 30 days in length and depending on the circumstances, provide the basis for the CARB to take appropriate action.

(2) *Quality and safety requirements—air carrier management.* Management has clearly defined safety as the number one company priority, and safety is never sacrificed to satisfy passenger concern, convenience, or cost. Policies, procedures, and goals that enhance the CAA's minimum operations and maintenance standards have been established and implemented. A cooperative response to CAA inspections, critiques, or comments is demonstrated. Proper support infrastructure, including facilities, equipment, parts, and qualified personnel, is provided at the certificate holder's primary facility and en route stations. Personnel with aviation credentials and experience fill key management positions. An internal quality audit program or other method capable of identifying in-house deficiencies and measuring the company's compliance with their stated policies and standards has been implemented. Audit results are analyzed in order to determine the cause, not just the symptom, of any deficiency. The result of sound fiscal policy is evident throughout the company. Foreign code-sharing air carrier partners are audited at least every

two years using DOD-approved criteria and any findings resolved. Comprehensive disaster response plans and, where applicable, family support plans, must be in place and exercised on a regular basis.

(3) *Quality and safety requirements—operations—(i) Flight safety.* Established policies that promote flight safety. These policies are infused among all aircrew and operational personnel who translate the policies into practice. New or revised safety-related data are promptly disseminated to affected personnel who understand that deviation from any established safety policy is unacceptable. An audit system that detects unsafe practices is in place and a feedback structure informs management of safety policy results including possible safety problems. Management ensures that corrective actions resolve every unsafe condition.

(ii) *Flight operations.* Established flight operations policies and procedures are up-to-date, reflect the current scope of operations, and are clearly defined to aviation department employees. These adhered-to procedures are further supported by a flow of current, management-generated safety and operational communications. Managers are in touch with mission requirements, supervise crew selection, and ensure the risk associated with all flight operations is reduced to the lowest acceptable level. Flight crews are free from undue management pressure and are comfortable with exercising their professional judgment during flight activities, even if such actions do not support the flight schedule. Effective lines of communication permit feedback from line crews to operations managers. Personnel records are maintained and reflect such data as experience, qualifications, and medical status.

(iii) *Flight crew hiring.* Established procedures ensure that applicants are carefully screened, including a review of the individual's health and suitability to perform flight crew duties. Consideration is given to the applicant's total aviation background, appropriate experience, and the individual's potential to perform safely. Freedom from alcohol abuse and illegal drugs is required. If new-hire cockpit

crewmembers do not meet industry standards for experience and qualification, then increased training and management attention to properly qualify these personnel are required.

(iv) *Aircrew training.* Training, including recurrent training, which develops and refines skills designed to eliminate mishaps and improve safety, is essential to a quality operation. Crew coordination training that facilitates full cockpit crews training and full crew interaction using standardized procedures and including the principles of Crew Resource Management (CRM) is required. Programs involving the use of simulators or other devices that can provide realistic training scenarios are desired. Captain and First Officer training objectives cultivate similar levels of proficiency. Appropriate emergency procedures training (e.g., evacuation procedures) is provided to flight deck and flight attendant personnel as a total crew whenever possible; such training focuses on cockpit and cabin crews functioning as a coordinated team during emergencies. Crew training—be it pilot, engineer, or flight attendant—is appropriate to the level of risk and circumstances anticipated for the trainee. Training programs have the flexibility to incorporate and resolve recurring problem areas associated with day-to-day flight operations. Aeromedical crews must also be trained in handling the specific needs of the categories of patients normally accepted for transportation on the equipment to be used. Trainers are highly skilled in both subject matter and training techniques. Training received is documented, and that documentation is maintained in a current status.

(v) *Captain upgrade training.* A selection and training process that considers proven experience, decision making, crew resource management, and response to unusual situations, including stress and pressure, is required. Also important is emphasis on captain responsibility and authority.

(vi) *Aircrew scheduling.* A closely monitored system that evaluates operational risks, experience levels of crewmembers, and ensures the proper pairing of aircrews on all flights is required. New captains are scheduled

with highly experienced first officers, and new or low-time first officers are scheduled with experienced captains. Except for aircraft new to the company, captains and first officers assigned to DOD charter passenger missions possess at least 250 hours combined experience in the type aircraft being operated. The scheduling system involves an established flight duty time program for aircrews, including flight attendants, carefully managed so as to ensure proper crew rest and considers quality-of-life factors. Attention is given to the stress on aircrews during strikes, mergers, or periods of labor-management difficulties.

(vii) *In-flight performance.* Aircrews, including flight attendants and flight medical personnel, are fit for flight duties and trained to handle normal, abnormal, and emergency situations. They demonstrate crew discipline and a knowledge of aviation rules; use company-developed standardized procedures; adhere to checklists; and emphasize safety, including security considerations, throughout all preflight, in-flight, and postflight operations. Qualified company personnel evaluate aircrews and analyze results; known performance deficiencies are eliminated. Evaluations ensure aircrews demonstrate aircraft proficiency in accordance with company established standards. Flight crews are able to determine an aircraft's maintenance condition prior to flight and use standardized methods to accurately report aircraft deficiencies to the maintenance activity.

(viii) *Operational control/support.* Effective mission control includes communications with aircrews and the capability to respond to irregularities or difficulties. Clear written procedures for mission preparation and flight following aircraft and aircrews are provided. There is access to weather, flight planning, and aircraft maintenance data. There are personnel available who are knowledgeable in aircraft performance and mission requirements and that can correctly respond to emergency situations. There is close interface between operations and maintenance, ensuring a mutual awareness of aircraft operational and maintenance status. Procedures to notify

DOD in case of an accident or serious incident have been established. Flight crews involved in such accidents or incidents report the situation to company personnel who, in turn, have procedures to evaluate the flight crew's capability to continue the mission. Aircraft involved in accidents or incidents are inspected in accordance with Civil Aviation Regulations and a determination made as to whether or not the aircraft is safe for continued operations.

(ix) *DOD charter procedures.* Detailed procedures addressing military charter requirements are expected. The level of risk associated with DOD charter missions does not exceed the risks inherent in the carrier's non-DOD daily flight operations. Complete route planning and airport analyses are accomplished, and actual passenger and cargo weights are used in computing aircraft weight and balance.

(4) *Quality and safety requirements—maintenance.* Maintenance supervisors ensure all personnel understand that in spite of scheduling pressure, peer pressure, supervisory pressure, or other factors, the airplane must be airworthy prior to flight. Passenger and employee safety is a paramount management concern. Quality, completeness, and integrity of work are trademarks of the maintenance manager and maintenance department. Nonconformance to established maintenance practices is not tolerated. Management ensures that contracted maintenance, including repair and overhaul facilities, is performed by maintenance organizations acceptable to the CAA.

(i) *Maintenance personnel.* Air carriers are expected to hire and train the number of employees required to safely maintain the company aircraft and support the scope of the maintenance operations both at home station (the company's primary facility) and at en route locations. These personnel ensure that all maintenance tasks, including required inspections and airworthiness directives, are performed; that maintenance actions are properly documented; and that the discrepancies identified between inspections are corrected. Mechanics are fit for duty, properly certificated, the company verifies certification, and these per-

sonnel possess the knowledge and the necessary aircraft-specific experience to accomplish the maintenance tasks. Noncertified and inexperienced personnel received proper supervision. Freedom from alcohol abuse and illegal drugs is required.

(ii) *Quality assurance.* A system that continuously analyzes the performance and effectiveness of maintenance activities and maintenance inspection programs is required. This system evaluates such functions as reliability reports, audits, component tear-down reports, inspection procedures and results, tool calibration program, real-time aircraft maintenance actions, warranty programs, and other maintenance functions. The extent of this program is directly related to the air carrier's size and scope of operation. The cause of any recurring discrepancy or negative trend is researched and eliminated. Action is taken to prevent recurrence of these discrepancies and preventive actions are monitored to ensure effectiveness. The results of preventive actions are provided to appropriate maintenance technicians.

(iii) *Maintenance inspection activity.* A process to ensure required aircraft inspections are completed and the results properly documented is required. Also required is a system to evaluate contract vendors, suppliers, and their products. Inspection personnel are identified, trained (initial and recurrent), and provided guidance regarding inspector responsibility and authority. The inspection activity is normally a separate entity within the maintenance department.

(iv) *Maintenance training.* Training is conducted commensurate with the size and type of maintenance function being performed. Continuing education and progressive experience are provided for all maintenance personnel. Orientation, familiarization, on-the-job, and appropriate recurrent training for all full and part-time personnel are expected. The use of such training aids as mockups, simulators, and computer-based training enhances maintenance training efforts and is desired. Training documentation is required; it is current, complete, well maintained, and

correctly identifies any special authorization such as inspection and airworthiness release. Trainers are fully qualified in the subject manner.

(v) *Maintenance control.* A method to control maintenance activities and track aircraft status is required. Qualified personnel monitor maintenance preplanning, ensure completion of maintenance actions, and track deferred discrepancies. Deferred maintenance actions are identified to supervisory personnel and corrected in accordance with the criteria provided by the manufacturer or regulatory agency. Constant and effective communications between maintenance and flight operations ensure an exchange of critical information.

(vi) *Aircraft maintenance program.* Aircraft are properly certified and maintained in a manner that ensures they are airworthy and safe. The program includes the use of manufacturer's and CAA information, as well as company policies and procedures. Airworthiness directives are complied with in the prescribed time frame, and service bulletins are evaluated for applicable action. Approved reliability programs are proactive, providing management with visibly on the effectiveness of the maintenance program; attention is given to initial component and older aircraft inspection intervals and to deferred maintenance actions. Special tools and equipment are calibrated.

(vii) *Maintenance records.* Maintenance actions are well documented and provide a complete record of maintenance accomplished and, for repetitive actions, maintenance required. Such records as aircraft log books and maintenance documentation are legible, dated, clean, readily identifiable, and maintained in an orderly fashion. Inspection compliance, airworthiness release, and maintenance release records, etc., are completed and signed by approved personnel.

(viii) *Aircraft appearance.* Aircraft exteriors, including all visible surfaces and components, are clean and well maintained. Interiors are also clean and orderly. Required safety equipment and systems are available and operable.

(ix) *Fueling and servicing.* Aircraft fuel is free from contamination, and company fuel facilities (farms) are in-

spected and results documented. Procedures and instructions pertaining to servicing, handling, and storing fuel and oil meet established safety standards. Procedures for monitoring and verifying vendor servicing practices are included in this program.

(x) *Maintenance manuals.* Company policy manuals and manufacturer's maintenance manuals are current, available, clear, complete, and adhered to by maintenance personnel. These manuals provide maintenance personnel with standardized procedures for maintaining company aircraft. Management policies, lines of authority, and company maintenance procedures are documented in company manuals and kept in a current status.

(xi) *Maintenance facilities.* Well maintained, clean maintenance facilities, adequate for the level of aircraft repair authorized in the company's CAA certificate are expected. Safety equipment is available in hangars, shops, etc., and is serviceable. Shipping, receiving, and stores areas are likewise clean and orderly. Parts are correctly packaged, tagged, segregated, and shelf life properly monitored.

(5) *Quality and safety requirements—security.* Company personnel receive training in security responsibilities and practice applicable procedures during ground and in-flight operations. Compliance with provisions of the appropriate standard security program, established by the Transportation Security Administration or foreign equivalent, is required for all DOD missions.

(6) *Quality and safety requirements—specific equipment requirements.* Air carriers satisfy DOD equipment and other requirements as specified in DOD agreements.

(7) *Quality and safety requirements—oversight of commuter or foreign air carriers in code-sharing agreements.* Air carriers awarded a route under the Passenger Standing Route Order (PSRO) program, the GSA City Pair Program, or other DOD program, that includes performance of a portion of the route by a commuter or foreign air carrier with which it has a code-sharing arrangement, must have a formal procedure in place to periodically review and assess the code-sharing air carrier's safety, operations, and maintenance

programs. The extent of such reviews and assessments must be consistent with, and related to, the code-sharing air carrier's safety history. These procedures must also provide for actual inspections of the foreign code-sharing air carrier if the above reviews and assessments indicate questionable safety practices.

(8) *Quality and safety requirements—aeromedical transport requirements.* (i) The degree of oversight is as determined by the CARB or higher authority. When an inspection is conducted, DOD medical personnel may also participate to assess the ability to provide the patient care and any specialty care required by DOD. The CARB's review will be limited solely to issues related to flight safety.

(ii) Portable Electronic Devices (PEDs) used in the provision of medical services or treatment on board aircraft are tested for non-interference with aircraft systems and the results documented to show compliance with 14 CFR 91.21 or other applicable CAA regulations. If there are no CAA regulations, actual use/inflight testing of the same or similar model PED prior to use with DOD patients is the minimum requirement.

**§861.5 DOD Commercial Airlift Review Board procedures.**

(a) This section establishes procedures to be used by the DOD when, in accordance with references in §861.1(a) and (b):

(1) An air carrier is subject to review or other action by the DOD Commercial Airlift Review Board, or CARB;

(2) A warning, suspension, temporary nonuse, or reinstatement action is considered or taken against a carrier by the CARB; or

(3) An issue involving an air carrier is referred by the CARB to higher authority for appropriate action.

(b) These procedures apply to air carriers seeking to provide or already providing air transportation services to DOD. It also applies to U.S. or foreign air carriers providing operational support services to DOD which, on a case-by-case basis and at the discretion of the CARB or higher authority, require some level of oversight by DOD.

(c) An air carrier's sole remedy in the case of a suspension decision by the CARB is the appellate process under this part.

(d) Quality and safety issues relating to air carriers used, or proposing to be used, by DOD, per reference (b) must be referred to the CARB for appropriate disposition.

(e) *CARB responsibilities.* As detailed in the reference in §861.1(b), the CARB provides a multifunctional review of the efforts of the DOD Air Carrier Survey and Analysis Office and is the first level decision authority in DOD on quality and safety issues relating to air carriers. Responsibilities include, but are not limited to: the review and approval or disapproval of air carriers seeking initial approval to provide air transportation service to DOD; the review and approval or disapproval of air carriers in the program that do not meet DOD quality and safety requirements; the review and approval or disapproval of air carriers in the program seeking to provide a class of service different from that which they are currently approved; taking action to suspend, reinstate, or place into temporary nonuse or extended temporary nonuse, DOD approved carriers; taking action, on an as needed basis, to review, suspend, reinstate, or place into temporary nonuse or extended temporary nonuse, an air carrier providing operational support services to DOD; and, referring with recommendations, issues requiring resolution or other action by higher authority.

(f) *CARB administrative procedures—(1) Membership.* The CARB will consist of four voting members appointed by USCINCTRANS from USTRANSCOM and its component commands. These members and their alternates will be general officers or their civilian equivalent, with experience in the operations, maintenance, transportation, or air safety fields. A Chairman and alternate will be designated. Nonvoting CARB members will be appointed as necessary by USCINCTRANS. A nonvoting recorder will also be appointed.

(2) *Decisions.* Decisions of the CARB will be taken by a majority vote of the voting members present, with a minimum of three voting members (or their alternates) required to constitute

a quorum. In the event of a tie, the Chair of the CARB will decide the issue.

(3) *Meetings of the CARB.* The CARB may meet either in person or by some electronic means. It will be convened by either USCINCTRANS or the Chair of the CARB. The meeting date, time, and site of the CARB will be determined at the time of the decision to convene the CARB. Minutes of CARB meetings will be taken by the recorder, summarized, and preserved with all other records relating to the CARB meeting. The recorder will ensure the air carrier and appropriate DOD and federal agencies are notified of the CARB's decision(s) and reasons therefore. In the event of a fatal accident, the CARB shall convene as soon as possible but not later than 72 hours after notification by the Chair.

(g) *CARB operating procedures—(1) Placing an air carrier into temporary nonuse.* (i) In case of a fatal aircraft accident or for other good cause, two or more voting members of the CARB may jointly make an immediate determination whether to place the air carrier involved into a temporary nonuse status pending suspension proceedings. Prior notice to the air carrier is not required.

(ii) The carrier shall be promptly notified of the temporary nonuse determination and the basis therefore.

(iii) Temporary nonuse status terminates automatically if suspension proceedings are not commenced, as set out in paragraph (g)(2) of this section, within 30 days of inception unless the CARB and air carrier mutually agree to extend the temporary nonuse status.

(2) *Suspension of an air carrier.* (i) On a recommendation of the DOD Air Carrier Survey and Analysis Office or any individual voting member of the CARB, the CARB shall consider whether or not to suspend a DOD approved air carrier.

(ii) If the CARB determines that suspension may be appropriate, it shall notify the air carrier that suspension action is under consideration and of the basis for such consideration. The air carrier will be offered a hearing within 15 days of the date of the notice, or other such period as granted by the CARB, at which the air carrier may be

present and may offer evidence. The hearings shall be as informal as practicable, consistent with administrative due process. Formal rules of evidence do not apply.

(iii) The types of evidence which may be considered includes, but is not limited to:

(A) Information and analysis provided by the DOD Air Carrier Survey and Analysis Office.

(B) Information submitted by the air carrier.

(C) Information relating to action that may have been taken by the air carrier to:

(1) Correct the specific deficiencies that led the CARB to consider suspension; and

(2) Preclude recurring similar deficiencies.

(D) Other matters the CARB deems relevant.

(iv) The CARB's decisions on the reception or exclusion of evidence shall be final.

(v) Air carriers shall have the burden of proving their suitability to safely perform DOD air transportation and/or operational support services by clear and convincing evidence.

(vi) After the conclusion of such hearing, or if no hearing is requested and attended by the air carrier within the time specified by the CARB, the CARB shall consider the matter and make a final decision whether or not to suspend the air carrier or to impose such lesser sanctions as appropriate. The air carrier will be notified of the CARB's decision.

(3) *Reinstatement.* (i) The CARB may consider reinstating a suspended carrier on either CARB motion or carrier motion, unless such carrier has become ineligible in the interim.

(ii) The carrier has the burden of proving by clear and convincing evidence that reinstatement is warranted. The air carrier must satisfy the CARB that the deficiencies, which led to suspension, have been corrected and that action has been implemented to preclude the recurrence of similar deficiencies.

(iii) Air carrier evidence in support of reinstatement will be provided in a timely manner to the CARB for its review. The CARB may independently

corroborate the carrier-provided evidence and may, at its option, convene a hearing and request the participation of the air carrier.

(4) *Appeal of CARB decisions.* (i) An air carrier placed in suspension by the CARB may administratively appeal this action to USCINCTRANS. An appeal, if any, must be filed in writing, with the DOD Air Carrier Survey and Analysis Office, and postmarked within 15 workdays of receipt of notice of the CARB's suspension decision. In the sole discretion of USCINCTRANS, and for good cause shown, the suspension may be stayed pending action on the appeal.

(ii) Air carriers shall not be entitled to a de novo hearing or personal presentation before the appellate authority.

(iii) The decision of the appellate authority is final and is not subject to further administrative review or appeal.

(5) *Referral of issues to higher authorities.* The approval or disapproval of an air carrier for use by DOD, the placing of approved carriers into temporary nonuse status, and the suspension and reinstatement of approved carriers, are all decisions which must be made by the CARB. Other matters may be referred by the CARB to USCINCTRANS for appropriate action, with or without recommendations by the CARB. The CARB will forward for decision, through USCINCTRANS to the Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)), all air carrier use/non-use recommendations involving foreign air carriers other than those providing charter transportation or operational support service to the Department of Defense.

**§ 861.6 DOD review of foreign air carriers.**

Foreign air carriers providing or seeking to provide services to DOD shall be subject to review and, if appropriate, approval by DOD. Application of the criteria and requirements of this part and the degree of oversight to be exercised by DOD, if any, over a foreign air carrier depends upon the type of services performed and, in some instances, by the quality of oversight exercised by the foreign air carrier's

CAA. The scope and frequency of the review of any given foreign air carrier under this part will be at the discretion of the CARB or higher authority.

(a) *Foreign air carriers seeking to provide or providing air transportation services under a contract or Military Air Transportation Agreement with DOD, or pursuant to another arrangement entered into by, or on behalf of, DOD.* Foreign air carriers seeking to provide or providing air transportation services under a contract or Military Air Transportation Agreement with DOD, must meet all requirements of § 861.4, and be approved by the CARB in accordance with § 861.5. This includes foreign air carriers seeking to provide, or providing, airlift services to DOD personnel pursuant to an arrangement entered into by another federal agency, state agency, foreign government, international organization, or other entity or person on behalf of, or for the benefit of, DOD, regardless of whether DOD pays for the airlift services provided. For purposes of establishing the degree of oversight and review to be conducted under the DOD Commercial Air Transportation Quality and Safety Review Program, such foreign air carriers are considered the same as U.S. carriers. In addition, they must have an operating certificate issued by the appropriate CAA using regulations which are the substantial equivalent of those found in the U.S. FARs, and must maintain such certification throughout the term of the contract or agreement. The CAA responsible for exercising oversight of the foreign air carrier must meet ICAO standards as determined by ICAO, or the FAA under the FAA's International Aviation Safety Assessment Program.

(b) *Foreign air carriers providing passenger services under the GSA City Pair Program.* Foreign air carriers performing any portion of a route awarded to a U.S. air carrier under the GSA City Pair Program pursuant to a code-sharing agreement with that U.S. air carrier, are generally not subject to DOD survey and approval under §§ 861.4 and 861.5. However, DOD will periodically review the performance of such foreign carriers. This review may consist of recurring performance evaluations, periodic examination of the U.S.

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code-sharing carrier's operational reviews and assessments of the foreign carrier and, where appropriate and agreed to by the air carriers concerned and DOD, on-site surveys of the foreign air carrier. Such carriers must also meet the 12 months prior experience requirement of § 861.4(e)(1). The CARB or higher authority may prescribe additional review requirements. Should circumstances warrant, use of these air carriers by DOD passengers on official business may be restricted or prohibited as necessary to assure the highest levels of passenger safety.

(c) *Other foreign air carriers carrying individually ticketed DOD passengers on official business.* Foreign air carriers carrying individually ticketed DOD passengers on official business are not subject to DOD survey and approval under §§ 861.4 and 861.5. However, the DOD Air Carrier Survey and Analysis Division may periodically review the performance of such carriers. Reviews may include voluntary on-site surveys as directed by the CARB or higher authority. In the event questions relating to the safety and continued use of the carrier arise, the matter may be referred to the CARB for appropriate action.

(d) *Foreign air carriers from countries in which the CAA is not in compliance with ICAO standards.* Unless otherwise authorized, use by DOD personnel on official business of foreign air carriers from countries in which the CAA is not in compliance with ICAO standards is prohibited except for the last leg into and the first leg out of the U.S. on such carriers. This includes foreign air carriers performing any portion of a route awarded to a U.S. air carrier under the GSA City Pair Program pursuant to a code-sharing agreement with that U.S. air carrier.

(e) *On-site surveys.* The scope of the on-site survey of a foreign air carrier will be at the discretion of the CARB. In the event a foreign air carrier denies a request made under this part to conduct an on-site survey, the CARB will consider all available information and make a use/nonuse recommendation to DOD. If placed in nonuse status by

DOD, such air carriers will not be used unless, in accordance with the reference in § 861.1 (b), in the judgment of the appropriate Combatant Commander, no acceptable alternative to using the carrier exists and the travel is mission essential.

(f) *Foreign carriers providing operational support services to DOD.* Such carriers are subject to DOD oversight, on a case-by-case basis, to the extent directed by the CARB or higher authority.

### **§ 861.7 Disclosure of voluntarily provided safety-related information.**

(a) *General.* In accordance with paragraph (h) of the reference in § 861.1 (a), DOD may withhold from public disclosure safety-related information voluntarily provided to DOD by an air carrier for the purposes of this part if DOD determines that—

(1) The disclosure of the information would, in the future, inhibit an air carrier from voluntarily providing such information to DOD or another Federal agency for the purposes of this part or for other air safety purposes; and

(2) The receipt of such information generally enhances the fulfillment of responsibilities under this part or other air safety responsibilities involving DOD or another Federal agency.

(b) *Processing requests for disclosure of voluntarily provided safety-related information.* Requests for public disclosure will be administratively processed in accordance with 32 CFR part 806, Air Force Freedom of Information Act Program.

(c) *Disclosure of voluntarily provided safety-related information to other agencies.* The Department of Defense may, at its discretion, disclose voluntarily provided safety-related information submitted under this part by an air carrier, to other agencies with safety responsibilities. The DOD will provide such information to another agency only upon receipt of adequate assurances that it will protect the information from public disclosure, and that it will not release such information unless specifically authorized.