

**Department of the Air Force, DoD**

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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 CARRIER QUALITY AND SAFETY REVIEW PROGRAM**

Sec.

861.1 References.

861.2 Purpose.

861.3 DOD commercial air carrier quality and safety requirements.

861.4 DOD Commercial Airlift Review Board procedures.

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

SOURCE: 57 FR 44683, Sept. 29, 1992, unless otherwise noted.

**§861.1 References.**

(a) Section 1204, Public Law 99-661; 10 U.S.C. 2640, Charter Air Transportation of Members of the Armed Forces.

(b) DOD Directive 4500.53, Commercial Passenger Airlift Management and Quality Control.

(c) AMCR 76-8, Contract Airlift Management, Civil Air Carriers.

(d) MTMCR 15-1, Procedure for Disqualifying and Placing Carriers in Non-use.

**§861.2 Purpose.**

Department of Defense Directive 4500.53, Commercial Passenger Airlift Management and Quality Control, charges the Commander, Air Mobility Command (AMC), with establishing safety standards and criteria for commercial passenger airlift service used by the Department of Defense. It also charges the Commander, AMC, jointly with the Commander, Military Traffic Management Command (MTMC), with establishing the Commercial Airlift Review Board and providing policy guidance and direction for its operation. This part establishes Department of Defense (DOD) quality and safety criteria for commercial air carriers providing or seeking to provide airlift services to the DOD. Included are the operating procedures of the Commercial Airlift Review Board (CARB). The CARB has the authority to suspend air carriers from DOD use

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or take other action when issues of air safety arise.

#### **§ 861.3 DOD commercial air carrier quality and safety requirements.**

(a) DOD, as a customer of airlift services, expects an air carrier or operator soliciting for or doing business with the DOD to engage in quality programs and business practices that not only ensure good service but enhance the safety, operational, and maintenance standards established by the applicable Civil Aviation Agency Regulations (CARs). Accordingly, and as required by U.S. Public Law 99-661, the DOD has established a set of air carrier quality and safety requirements that reflect the type programs and practices the DOD seeks from air carriers or operators airlifting DOD resources.

(b) A DOD survey team will use the following requirements, the specifics of the applicable DOD contract or agreement, the CARs, and the experienced judgment of DOD personnel to evaluate an air carrier's capability to perform for the DOD. The survey will also include, with the carrier's coordination, observation of cockpit crew performance, as well as ramp inspections of selected company aircraft. A satisfactory on-site survey (audit) conducted by DOD personnel is prerequisite to participation in the DOD air transportation program. Surveys are conducted prior to an air carrier's acceptance into the program; thereafter, surveys will be completed on a biennial 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 commercial air carrier table-top performance evaluations.

(c) 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/FAA part 135 air carrier may not have a formal flight control function, such as a 24-hour dispatch organization, that same air taxi is expected to demonstrate some kind of effective flight following capability. On the other hand, a major carrier/FAA part 121 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.

(d) The air carrier requirements stated in this part provide the criteria against which would-be DOD air carrier contractors may be subjectively evaluated by the DOD. These requirements are neither all-inclusive nor are they inflexible in nature. They are not replacements for the certification criteria and other regulations established by civil aviation agencies; rather, these requirements are customer-developed and describe enhanced air carrier activities sought by the DOD.

NOTE: The term "Civil Aviation Agency (CAA)" is used throughout this part since these requirements are applicable to U.S. and international air carriers doing business with DOD. CAA includes the United States Federal Aviation Administration.

(1) *Quality and Safety Requirements—prior experience.* Commercial air carriers or operators applying to conduct passenger or cargo business for the United States Department of Defense are required to possess 12 months of continuous service equivalent to the service sought by DoD. The service must have been performed for the 12 continuous months immediately prior to applying for DoD business. Prior experience must be equivalent in difficulty and complexity in regard to distance, weather systems, international or national procedures, similar aircraft, schedule demands, aircrew experience, and management required.

(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.

(3) *Quality and safety requirements—operations*—(i) *Flight safety*. Establish 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 individ-

ual'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, that 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 interacting together using standardized procedures and including the principles of Cockpit 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. 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, cockpit 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, 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 in-

idents 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 from 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 risk 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 operation 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 personnel possess the knowledge and the necessary aircraft-specific experience to accomplish the maintenance tasks.

Noncertified and inexperienced personnel receive proper supervision. Freedom from alcohol abuse and illegal drugs is required.

(ii) *Quality assurance (continuing analysis and surveillance program)*. 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 to 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 is 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 authorizations such as inspection and air-

worthiness release. Trainers are fully qualified in the subject matter.

(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 visibility 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 legibly prepared, dated, clean, readily identifiable, and maintained in an orderly fashion. Inspection compliance, airworthiness release, and maintenance release records, etc., are complete and signed by approved personnel.

(viii) *Aircraft appearance (in-service aircraft)*. 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

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company fuel facilities (farms) are inspected 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 are schooled 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 CAA, 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 Air Mobility Command contracts or Military Traffic Management Command Military Air Transportation Agreements.

[57 FR 44683, Sept. 29, 1992, as amended at 61 FR 17841, Apr. 23, 1996]

#### § 861.4 DOD Commercial Airlift Review Board procedures.

(a) This part establishes the procedures to be used by the United States Air Force Air Mobility Command (AMC) and the United States Army Military Traffic Management Command (MTMC) when, in accordance with references § 861.1 (a) through (d):

(1) A commercial air carrier is subject to review or other action by the DOD Commercial Airlift Review Board (hereinafter referred to as the CARB),

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

(3) Review or other CARB action is escalated to a higher authority.

These procedures apply to all commercial air carriers providing DOD passenger or cargo airlift through charter, individual ticket movements, contracts, or other transportation agreements. They also apply to carriers providing air transportation purchased by DOD individuals for which government reimbursement will be made in whole or in part.

(b) Safety or airworthiness issues, per reference § 861.1(b) must be referred to the CARB. AMC and MTMC may each take independent corrective action in accordance with their respective procedures on standards of service issues when safety and airworthiness issues are not involved. The DOD Air Carrier Survey and Analysis Directorate will be informed of all actions taken independently by AMC or MTMC.

(c) Except as otherwise provided herein, the rights and remedies of the government and commercial air carriers outlined in these procedures are not exclusive and are in addition to any other rights and remedies provided for by law, regulation, contract, or agreement.

(d) *Definitions.* (1) Letter of warning is a notice to a carrier of a failure to satisfy safety or airworthiness requirements which, if not remedied, may result in temporary nonuse or suspension. The issuance of a letter of warning is not a prerequisite to a suspension or other action.

(2) Temporary nonuse is the immediate exclusion of a carrier from any flight activities in the DOD airlift transportation program, pending a decision on suspension, taken under the conditions outlined in paragraph (h)(1) of this section. 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.

(3) Suspension is the exclusion of an air carrier from participating in the DOD airlift transportation program. The period of suspension will normally:

(i) Remain in effect until the carrier furnishes satisfactory evidence that the conditions causing the suspension have been remedied or

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

(4) The procedures for commercial airlift safety review include five possible levels with increasing authority:

(i) DOD Air Carrier Survey and Analysis Directorate.

(ii) DOD Commercial Airlift Review Committee.

(iii) DOD Commercial Airlift Review Board.

(iv) Commanders MTMC and AMC.

(v) DOD Commercial Airlift Review Authority.

These levels are described in reference § 861.1(b), with the exception of the DOD Commercial Airlift Review Committee, which is described in reference § 861.1(c). The Committee provides multifunctional review of the efforts of the DOD Air Carrier Survey and Analysis Directorate, including approval or disapproval of carriers initially seeking DOD business, and offers advice to the higher authorities when appropriate.

(e) *Causes and conditions for suspension.* (1) Carrier shall be subject to suspension for good cause, including:

(i) Failing to comply with generally accepted standards of airmanship, training, and maintenance practices and procedures.

(ii) Failing to satisfy DOD quality and safety requirements as described in § 861.3.

(iii) Failing to comply with all provisions of applicable statutes, agreements, and contract terms, as such may affect flight safety, as well as with all applicable Federal Aviation Administration regulations, airworthiness directives, orders, rules, and standards promulgated under the Federal Aviation Act of 1958 as amended.

(iv) Involvement of one of the carrier's aircraft in a serious or fatal accident, incident, or operational occur-

rence (regardless of whether or not such aircraft is being used in the performance of government procured transportation).

(v) Any other condition which affects the safe operation of the carrier's flights hereunder.

(vi) Compliance with published standards does not, standing alone, constitute compliance with generally accepted standards or airmanship, training, or maintenance practices.

(f) *Reinstatement considerations.* In no event shall reinstatement occur unless and until the carrier shows to the satisfaction of the CARB that deficiencies that led to suspension have been corrected and that actions have been implemented to preclude the recurrence of similar deficiencies.

(g) *CARB membership.* (1) Four voting members will constitute the CARB; two senior, knowledgeable individuals appointed by Commander, AMC; one similarly knowledgeable individual appointed by USCINCTRANS; and one appointed by Commander, MTMC. At least one of the voting HQ AMC members and the MTMC member will be of general/flag officer or civilian equivalent rank. Other non-voting CARB members will be appointed as necessary to facilitate the CARB deliberative process. A non-voting recorder will also be appointed.

(2) The HQ AMC senior member will act as the CARB chairperson. A voting member who will not be present at any meeting of the CARB, may be represented by a knowledgeable alternate empowered with the voting responsibilities of the voting member. Three voting members (or their alternate) shall constitute a quorum. Decisions shall be by majority vote. In the case of a tie vote, the chairperson will have the deciding vote.

(3) The meeting date, time, and site of the CARB will be determined at the time of the decision to convene the CARB. Teleconferencing, if utilized, will be specified in the notice to the carrier.

(4) Minutes of CARB hearings may be recorded or summarized and will be maintained with all other records pertaining to the CARB proceeding.

(5) The CARB recorder shall ensure that the air carrier and appropriate

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DOD agencies are notified of the CARB's decision and reasons therefor.

(h) *CARB operating procedures*—(1) *Temporary nonuse.* (i) In case of a fatal aircraft accident or for other good cause, the two senior members of the CARB (see paragraph (g)(1) of this section) will jointly make an immediate determination whether to place the carrier involved in a temporary nonuse status pending suspension proceedings. Prior notice to the carrier is not required.

(ii) Such determination shall include consideration of the advice of the DOD Commercial Airlift Review Committee, if reasonably available, but will not await such advice.

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

(iv) Temporary nonuse status terminates automatically if suspension proceedings are not commenced, as set out in paragraph (h)(2)(ii) of this section, within 30 days of inception, unless otherwise agreed to per paragraph (d)(2) of this section.

(2) *Suspension:* (i) On a recommendation of the DOD Air Carrier Survey and Analysis Directorate, the DOD Commercial Airlift Review Committee, or any individual member of the CARB, the CARB shall consider whether or not to suspend a carrier.

(ii) If the CARB determines that suspension may be appropriate, it shall notify the carrier that suspension action is under consideration and of the basis for such consideration and offer the carrier a hearing thereon within 15 days of the date of the notice, or such other period as granted by the CARB, at which the carrier may be present and may offer evidence. The presiding member of the CARB shall establish procedures for such hearing as may be appropriate which shall be as informal as practicable, consistent with administrative due process.

(iii) Types of evidence which may be considered, if appropriate, shall include, but not be limited to, the following:

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

(B) Carrier's written/oral evidence.

(C) Corrective actions that may have been taken by the carrier to:

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

(2) Preclude recurring similar deficiencies.

(D) Such other matters as the CARB deems relevant.

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

(iv) Carriers shall have the burden of proving their suitability to safely perform DOD airlift services by clear and convincing evidence.

(v) After the conclusion of such hearing, or if no hearing is requested and attended by the 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 carrier or to impose such lesser sanction as is appropriate. The carrier shall 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 the reinstatement considerations in paragraph (f) of this section have been satisfied.

(iii) 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 carrier.

(i) *Decision by others.* In the event the CARB is unable to decide an issue properly before it, or if the issue in the judgment of the CARB requires review at a DOD organizational level higher than the CARB, the issue will be referred to the Commander, AMC, and Commander, MTMC, for appropriate disposition. In such event, the decision will be made upon the written record only, no hearing will be held.

(j) *Appeal of a determination.* (1) A carrier placed in suspension may administratively appeal this action to the authorities shown in paragraph (j)(3) of this section. An appeal, if any, must be

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filed within 15 work days after receipt of the decision of the CARB or Commander, AMC, and Commander, MTMC. The suspension will not be stayed pending appeal unless for good cause, as determined by the CARB. The decision of the appellate authority designated herein is final and is not subject to further administrative review or appeal.

(2) An appeal will be in writing only and carriers shall not be entitled to a de novo hearing before the administrative appellate authorities.

(3) The following administrative appellate authorities will review and make decisions on appeals:

(i) When the decision being appealed was made by the CARB, the appellate authorities are Commander, AMC, and Commander, MTMC. They will jointly decide the appeal.

(ii) When Commander, AMC, and Commander, MTMC, are unable to jointly agree on an appeal, they shall refer the matter to the DOD Commercial Airlift Review Authority (CARA) for its decision.

(iii) When the decision being appealed was made by Commander, AMC, and Commander, MTMC, the appellate authority is the DOD CARA.

[57 FR 44683, Sept. 29, 1992, as amended at 61 FR 17841, Apr. 23, 1996]