(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on April 6, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7118 Filed 4–20–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 204 and 399

[Docket No. OST–2003–15759]

RIN 2105–AD25

Review of Data Filed by Certificated or Commuter Air Carriers To Support Continuing Fitness Determinations Involving Citizenship Issues

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is adopting its proposed editorial changes to its rules on Data to Support Fitness Determinations, 14 CFR part 204, and has determined to maintain its existing procedures for conducting reviews of the continuing fitness of air carriers. These actions complete this rulemaking. The Department had earlier withdrawn a proposal made in this rulemaking to modify the Department's standards for determining whether carriers remain under the actual control of U.S. citizens.

EFFECTIVE DATE: The rule is effective May 23, 2007.

FOR FURTHER INFORMATION CONTACT: William M. Bertram, Chief, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590; (202) 366–9721.

SUPPLEMENTARY INFORMATION:

Introduction

By statute, only citizens of the United States may obtain and hold certificate authority under 49 U.S.C. 41102 or 41103 authorizing them to provide air transportation within the United States or operate as a U.S. air carrier on international routes. The statutory citizenship requirements require that at least 75 percent of the voting interest of a U.S. air carrier be owned and controlled by U.S. citizens, that the president and two-thirds of the board of directors and managing officers be U.S. citizens, and that U.S. carriers be subject to the actual control of U.S. citizens. 49 U.S.C. 40102(a)(15). In this proceeding, we invited public comment on three matters related to our consideration of citizenship issues: (i) We proposed technical changes to our rules governing citizenship and fitness determinations, 14 CFR part 204; (ii) we considered whether we should modify our procedures for reviewing whether a carrier is complying with the continuing citizenship requirement; and (iii) we proposed to modify the standards used for determining whether a carrier is actually controlled by U.S. citizens. We have withdrawn the proposal to modify our standards on actual control. 71 FR 71106 (December 8, 2006). In this final rule, we are resolving the other two matters. We are adopting the proposed technical changes to part 204, and we explain why we have decided to continue following our procedural practices in continuing fitness cases.

Background

We examine carrier citizenship primarily in two situations. First, when a firm applies for authority to operate as a U.S. carrier, we conduct an initial fitness review, which necessarily includes a review of the carrier's citizenship. We conduct initial fitness reviews through docketed proceedings, where a public record of the pleadings is maintained; we publish all Department decisions in the case; and we give interested persons an opportunity to comment on the application. Second, we conduct a continuing fitness review if an existing carrier undergoes a substantial change in ownership, operations, or management. We usually conduct continuing fitness investigations without a public proceeding and therefore do not create a docket containing record material, publish a final decision, or provide an opportunity for public comment. In some continuing fitness cases, we may decide to use more formal public procedures. See 71 FR 26426–26427.

Rulemaking Notices

We issued a Notice of Proposed Rulemaking (NPRM) that proposed to update our interpretation of actual control and to continue using our informal procedures in most continuing fitness reviews. 70 FR 67389 (November 7, 2005). We also proposed changes to part 204 to correct minor typographical errors, update statutory references, and clarify some language. 70 FR 67395. We thereafter issued a Supplemental Notice of Proposed Rulemaking (SNPRM) to address the comments made on the NPRM, and to propose additional refinements to our proposed modification of our actual control standard. 71 FR 26425 (May 5, 2006). We again proposed to continue using our informal procedures in most continuing fitness reviews.

In the NPRM and SNPRM, we stated that we had tentatively determined to continue using the same informal procedures for continuing fitness reviews that we have always used. 71 FR 26436; 70 FR 67392. We believed that significant potential harm could result if we made all substantial foreign investment cases subject to public notice and comment, and that using public proceedings in all significant cases appeared to be unnecessary for the protection of interested persons. We stated that we would have the option of beginning a public proceeding in any case if we found that doing so would be useful. 71 FR 26436.

Comments

The comments on the NPRM and SNPRM focused on our proposed change to our standard for defining when U.S. citizens had actual control of a U.S. carrier. None of the commenters opposed our proposed changes to part 204. While several commenters discussed the procedural issues in their responses to our NPRM, only Continental commented in any detail on our SNPRM's proposed decision to continue using informal procedures in most continuing fitness reviews. Continental asserted that the informal procedures enable us to resolve citizenship matters after negotiating only with the carrier and its foreign investors, not with other persons affected by the transaction. Continental Comments at 9.

Decision on Procedures

We have determined to continue following our existing procedures for continuing fitness reviews for the reasons stated in our earlier notices. We can, of course, always choose to use public procedures in any continuing fitness review, and interested persons have the right to ask us to do so. *See* 71 FR 26436.

We think that our procedures give the public a significant amount of information on our decisions in fitness cases, notwithstanding Continental's assertion to the contrary, although we will be considering whether they can be improved. First, we decide all initial fitness cases in public orders that explain the basis for our decision on all significant issues. If such a case presents a significant citizenship issue, the order deciding the case will discuss why we find that the applicant is (or is not) actually controlled by U.S. citizens. Second, in continuing fitness reviews where we begin public proceedings, any final decision on the merits would be a public order that would explain the basis for that decision.

When we use the more informal procedures in continuing fitness reviews, we do not publish our final decision explaining our analysis of any citizenship issues. However, we will be following the same procedures in such cases that we use in other situations where we believe that a carrier or other person may have violated our regulations or statute. Continental has presented no reason why we should treat continuing fitness reviews differently from all other enforcement investigations, which are typically done informally unless the enforcement office determines that there is a need for a formal enforcement proceeding.

Nevertheless, we think it may be helpful if carriers, potential investors, and the public generally had additional information on our analyses in citizenship cases. We will consider developing procedures that would give the public more information on our decisions in citizenship matters, and we are actively exploring whether there are practicable means of doing so in appropriate cases.

Airports Council International—Europe (''ACI''), bmi, and Virgin Atlantic Airways would like us to make commitments on the timetable for the completion of our review of citizenship issues in initial fitness cases. bmi Comments at 2; Virgin Atlantic Comments at 4; ACI Comments at 2. We appreciate the interest of a carrier and its investors, officers, and employees in obtaining a prompt decision from us on any application for operating authority. We intend to complete our decisions in such cases as promptly as possible and with the aim of imposing the minimum administrative burden consistent with ensuring that the standards we have set forth are met. However, we do not proceed on an initial application for operating authority until the record is complete, and the applicant has the responsibility of providing us with a complete record. 14 CFR 302.209. Citizenship, moreover, is but one of several matters that must be addressed in determining whether a carrier is fit, for we must also review the applicant's financial fitness, managerial competence, and compliance disposition. In initial fitness cases deadlines for the completion of our decision-making process are set by 49 U.S.C. 41108 and 14 CFR part 302, subpart B.

Part 204 Modifications

Part 204 of our rules governs the data needed for fitness determinations. We proposed minor changes to that part to correct typographical errors, clarify some language, and update references to the applicable statutory language. 71 FR 26436. In section 204.2, we are amending the definition of ''citizen of the United States'' to mirror the language that is now contained in 49 U.S.C. 40102(a)(15). We believe that the regulations should mirror the text of the statute as it is currently written. Finally, we are making minor changes to section 204.5 to clarify language in paragraph (a)(2); deleting a typographical error in paragraph (b); revising the address in paragraph (c); and adding a new paragraph (d) that would replace the last sentence of paragraph (c). These amendments to part 204 should make the regulations easier to understand for carriers consulting the sections. Because we have withdrawn the proposed policy statement on our standards for determining actual control, we will not adopt the proposal to include a cross-reference to that policy statement in part 204.

No commenter opposed these changes, and we find that they should be made for the reasons given in the SNPRM.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the Department to assess both the costs and the benefits of a regulatory change. This rulemaking was initially considered significant under DOT Policies and Procedures and E.O. 12866 because of significant public interest in our proposal to adopt a policy statement modifying our standards for determining actual control. The NPRM and the SNPRM were reviewed by the Office of Management and Budget under Executive Order 12866. In the NPRM and SNPRM, we tentatively concluded that the benefits of our proposed rule would outweigh its costs, which would be minimal because the rule would not impose any new costs on the affected certificated and commuter air carriers. 70 FR 67389, 67395; 71 FR 26440.

Commenters had an opportunity to submit comments on our tentative analysis. None of the commenters submitted comments on our tentative regulatory evaluation.

We have withdrawn the proposed policy statement, 71 FR 71106 (December 8, 2006), and there is no significant public interest in the technical changes that we are adopting for part 204, which will not make any substantive changes. In this proceeding we are not changing our procedures for resolving continuing fitness issues.

This final rule is not considered significant under Executive Order 12866 and was not reviewed by the Office of Management and Budget. This rule would result in little, if any cost.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires federal agencies, as part of each rule, to consider regulatory alternatives that minimize the impact on small entities while achieving the objectives of the rulemaking. This rule makes only editorial amendments to part 204 that do not change its substance. We certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessments

The Trade Agreement Act of 1979 prohibits federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that U.S. standards be compatible. The Department has assessed the potential effect of this rule and has determined that it will have no effect on any trade-sensitive activity.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is the Department's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The Department has determined that there are no ICAO Standards and

Recommended Practices that correspond to these regulations.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1955 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' This rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255). This rule does not have a substantial direct effect on, or significant federalism implications for the States, nor would it limit the policymaking discretion of the States.

This rule would not directly preempt any State law or regulation, nor impose burdens on the States. This action would not have a significant effect on the States' ability to execute traditional State governmental functions. The agency has, therefore, determined that this proposal does not have sufficient federalism implications to warrant either the preparation of a federalism summary impact statement or require consultations with State and local governments.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.) requires Federal agencies to obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulation. The agency has determined that the rule would not impose any additional requirements and does not change the paperwork collection that currently exists.

List of Subjects

14 CFR Part 204

Air carriers, Reporting and recordkeeping requirements.

14 CFR Part 399

Administration practice and procedure, Air carriers, Consumer protection.

■ For the reasons stated in the preamble, the Department amends 14 CFR part 204 as set forth below:

PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 49 U.S.C. Chapters 401, 411, 417.

■ 2. Revise § 204.1 to read as follows:

§ 204.1 Purpose.

This part sets forth the fitness data that must be submitted by applicants for certificate authority, by applicants for authority to provide service as a commuter air carrier to an eligible place, by carriers proposing to provide essential air transportation, and by certificated air carriers and commuter air carriers proposing a substantial change in operations, ownership, or management. This part also contains the procedures and filing requirements applicable to carriers that hold dormant authority.

■ 3. Revise § 204.2(c)(3) to read as follows:

§ 204.2 Definitions.

* * * * *

(c) *Citizen of the United States* means:

* * * * *

(3) A corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

* * * * *

■ 4. Amend § 204.5 as follows:

■ A. Revise paragraph (a)(2) to read as set forth below;

■ B. Amend paragraph (b) to remove the ''s'' after ''Carrier'' in the third sentence in the reference to ''Air Carrier Fitness Division'';

■ C. Revise paragraph (c) to read as set forth below; and

■ D. Add a new paragraph (d) to read as set forth below.

The revisions read as follows:

§ 204.5 Certificated and commuter air carriers undergoing or proposing to undergo a substantial change in operations, ownership, or management.

(a) * * *

(2) The change substantially alters the factors upon which its latest fitness finding is based, even if no new authority is required.

* * * * *

(c) Information filings pursuant to this section made to support an application for new or amended certificate authority shall be filed with the application and addressed to Docket Operations, M–30, U.S. Department of Transportation, Washington, DC 20590, or by electronic submission at [*http://dms.dot.gov*].

(d) Information filed in support of a certificated or commuter air carrier's continuing fitness to operate under its existing authority in light of substantial changes in its operations, management, or ownership, including changes that may affect the air carrier's citizenship, shall be addressed to the Chief, Air Carrier Fitness Division, Office of the Secretary, U.S. Department of Transportation, Washington, DC 20590.

Issued in Washington, DC, on April 16, 2007.

Andrew B. Steinberg,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. E7–7605 Filed 4–20–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

RIN 0648–AU80

[Docket No. 061016268–7080–02; I.D. 100506E]

Fisheries of the Northeastern United States; Regulatory Amendment to Modify Recordkeeping and Reporting and Observer Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures to modify the existing reporting and recordkeeping requirements for federally permitted seafood dealers/processors, and the observer requirements for participating hagfish vessels. The New England