

STATEMENT OF DANIEL C. BEAUDETTE, ACTING MANAGER OF THE AIR TRANSPORTATION DIVISION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, CONCERNING THE CERTIFICATION OF NEW AIR CARRIERS. JULY 9, 1985.

Mr Chairman and Members of the Subcommittee:

I am here today to give you an overview of the process by which FAA certifies an applicant for an air carrier operating certificate. Prior to 1958, the Civil Aeronautics Authority (CAA) regulated both the economic and the safety aspects of aviation. In 1958, Congress, through the Federal Aviation Act divided these functions between two agencies; the Civil Aeronautics Board (CAB) kept the economic functions, and the Federal Aviation Administration took over the safety functions. With the sunset of the CAB as of the end of last year, the economic functions transferred to the Office of the Secretary of Transportation (OST). Thus, an applicant who wishes to operate as a new air carrier must obtain a certificate of public convenience and necessity from the OST and an air carrier operating certificate from the FAA.

The regulations which govern the safety certification of new air carriers are found in Part 121 and Part 135 of the Federal Aviation Regulations and Special Federal Aviation Regulation 38-2. Guidance on how to apply these regulations to applicants for certification is supplied to our field facilities through

our airworthiness and flight operations orders or "handbooks" which are developed in headquarters. The handbook guidance is further supported or elaborated through memoranda and frequent telephone conversations between headquarters and regional staff.

Since 1958, the process used by FAA to certify new air carriers has remained basically the same. We did make some modifications in the process last year, and in order to be as clear as possible, I will first describe the way we conducted the certification process prior to last year, and then I will explain some of the minor changes which we recently implemented. An applicant for an air carrier operating certificate applied for certification through our flight standards field offices. Typically, informal meetings were held to inform the applicant of the requirements and procedures for certification and for the FAA to make initial assessments of the applicant's potential capabilities. The action which would more formally begin the process would be a "letter of intent" to start operations, which the applicant would send to the field office. This letter outlined, in general terms, the applicant's proposed scope and type of operations, type of equipment, areas of operations, and airports to be used, etc.

The next step would be for the carrier to flesh out the details of its proposed enterprise by submitting a formal application in letter form. Accompanying the formal application, or to be

followed shortly thereafter, would be the carriers' proposed general operations, maintenance and training manuals along with checklists, Approved Airplane Flight Manuals, Minimum Equipment List, and other documents needed to evaluate its readiness to conduct air transportation in compliance with the regulations and safe operating practices. We would be looking to evaluate such factors as whether the carrier had the capability to maintain aircraft in an airworthy condition, to properly train crewmembers, dispatchers and maintenance personnel; to safely turn around aircraft and crews from one flight to the next flight, and other pertinent parts of an air carrier operation.

As part of the formal application the new carrier would be required to submit a compliance statement, which lists all regulations appropriate to its proposed operations and how it intends to meet those regulations. Typically, the compliance statement would cite appropriate provisions in its required manuals which spell out in detail how these functions will be carried out. FAA of course, reviews this document to make sure that all pertinent regulations have been listed, and that the proposed means of compliance are adequate.

As these "paper" reviews are being conducted, we move into the next phase of our examination of the carrier, that is field inspections. FAA inspectors monitor the performance of such tasks as the training and checking of personnel and the

inspection of proposed maintenance facilities. We examine the aircraft to be used to see if they meet certification and operational requirements. As this process evolves, we look at the proposed management personnel to see if they have the knowledge and experience needed to operate an airline. We also look at the compliance history of the people who will be involved in the management of the company.

At some point, usually in the later phases of the process, the carrier applicant would be required to submit to the FAA a plan for "proving flights" which, as the name suggests, are flights in which the applicant proves to FAA's satisfaction that it has the capability to actually run an airline in compliance with the regulations and safe operating practices. While a carrier may receive credit for ferry flights and FAA-observed training flights, it must also make plans to conduct flights which would be representative of their proposed operation, a dress rehearsal, so to speak. A carrier may request a reduction in the hours of proving flights required, based on the capabilities and past experience of its personnel. Despite any reduction which may be granted when FAA accepts the plan, the key factor is that the carrier must prove to the FAA's satisfaction, through the proving flights, that it can properly and safely run an airline. Thus, if the FAA discovers any deficiencies in the carrier applicant's procedures, that applicant will have to correct the problems and demonstrate that it has done so, even

if this results in having to fly more hours of proving flights than called for in the plan. Likewise, if a carrier demonstrates its capabilities to FAA's satisfaction prior to the completion of the number of hours of proving flights called for by the plan, no further flights would be required. In short, the carrier applicant must demonstrate its ability to comply with the applicable regulations and the procedures and programs contained in its manuals irrespective of the number of hours of proving flights in its plan.

Once the plan for proving flights is accepted, FAA begins more intensive surveillance of the applicant. An emergency evacuation demonstration is conducted which tests the emergency equipment as well as the applicant's ability to maintain such equipment. The evacuation demonstration also verifies in a practical manner the quality of training given to the cockpit and cabin crewmembers on the use of the emergency equipment and the procedures to be used during an emergency evacuation. This capability can be demonstrated through a partial evacuation. During ferry or training flights, the applicant's maintenance programs, procedures and capabilities are examined. As previously mentioned, the carrier applicant would be required to fly into a number of the airports that are representative of those it proposes to serve. During these flights, FAA inspectors examine the competence of flight crews, flight dispatchers, flight attendants, and ground personnel; the

adequacy of maintenance programs and fueling procedures; and management's capabilities in the exercise of operational control. We also pose hypothetical problems for the crews and the company's operational control systems to see how they would react in unusual situations such as weather diversions and/or equipment failures. In essence, the proving flights are used by the FAA to verify that the carrier applicant can actually conduct its operations in accordance with the proposed methods and conditions set forth in its compliance statement.

After each proving flight, an FAA inspector briefs the applicant's management on any deficiencies detected during the flight or during ground operations, and the applicant must take action to correct these deficiencies. If they are major, the applicant must demonstrate the effectiveness of the corrective action by conducting additional flights. Once the FAA is satisfied that the carrier applicant's programs and systems adequately provide for compliance with the regulations and safe operating practices, the proving flights are terminated. Only after a successful demonstration by way of proving flights is an Air Carrier Operating Certificate granted to the carrier, along with operations specifications, which detail the conditions under which the carrier may operate.

The flight standards field office is required to prepare a certification report and forward it to the region which in turn

forwards a copy to headquarters. The field office also notifies OST that we have granted the certificate. Once the carrier has obtained certificate of public convenience and necessity from OST (or when that certificate becomes effective, if it were granted prior to the issuance of the FAA certificate), the carrier may begin to operate.

I mentioned earlier in my statement that the FAA had made some changes in its certification process last year. These changes, which were implemented last summer, basically streamline and better formalize the early stages of the process. For example, instead of the "letter of intent" which began the process in the past, we now require a formal Pre-Application Statement of Intent form to be completed by the Applicant. The field office is instructed not to further process this form unless it appears likely that the applicant will proceed towards full certification. The Pre-Application Statement of Intent form provides the FAA with a better method for tracking the certification process and for regional headquarters to make early decisions as to the most appropriate field office to be assigned responsibility for the certification. Our handbooks now contain much more explicit instructions to field inspectors on how to process the formal application. For instance, these instructions now require an "initial compliance statement" to accompany the formal application and final compliance to be supplied later. This permits an earlier review of how the

applicant intends to conduct its operations as well as allowing for changes as the certification process proceeds. The handbook instructions now require resumes of key management personnel to be submitted with the formal application. Other changes were implemented last summer, but the basic thrust of our certification process remains the same--to ensure that the carrier applicant has the capability to conduct a safe operation at the time of certificate issuance.

At this point, Mr. Chairman, it would be appropriate for me to say a few words about the impact of CAB sunset on FAA's certification process. We have made no changes in our safety certification process as a result of the sunset of CAB and the concomitant transfer of its economic fitness determinations to OST. Prior to CAB sunset, we had established a CAB/FAA task force to meet on a regular basis to discuss common concerns in the certification area. We still hold those meetings with OST personnel who perform those functions now--and in fact, for the most part they are the same people who performed those functions for CAB, because, in addition to inheriting CAB's authority, OST inherited a number of CAB employees. This has naturally helped to achieve continuity in the performance of their functions.

That concludes my prepared statement, Mr. Chairman. At this point, my colleagues and I would be pleased to respond to your questions.