

I. Canada

We have for many years found Canadian reciprocity in the area of specialty air services to be defective. This is because Canada affords its operators a "first refusal" or "primary rights" privilege over applications filed by U.S. operators, whereby Canada will not approve a U.S. operator's application if a Canadian operator claims it can provide the service.

The United States does not condone the existence of first refusal, and does not give first refusal privileges to its operators. However, in response to the practice on the part of Canada, which has effectively closed the Canadian market to U.S. specialty air service operators, we have adopted a practice of withholding approval of applications by Canadian operators to conduct specialty air services in the United States unless the applicant can conclusively demonstrate that no other operator, of either the United States or a foreign country with satisfactory reciprocity, can conduct the operation, and that there is a compelling public interest need for the service.

In light of the existence of Canada's first refusal practice, and our response, Canadian applicants for foreign aircraft permits should be prepared, at the time of their application, to demonstrate that no non-Canadian operator has the capability to conduct the operation being proposed.

II. Mexico

The state of reciprocity with Mexico is untested at present, as we are aware of no instances where a U.S. operator has attempted to conduct specialty air services in that country. Therefore, a Mexican operator applying to conduct such services in the United States would need to confirm that reciprocity exists, either by providing with its application a statement from the Mexican government that Mexico would authorize U.S. operators to conduct these services, or by providing other information demonstrating that reciprocity exists. While, as noted above, we require Mexican applicants to serve their applications on interested U.S. operators, we do not give U.S. operators first refusal privileges. Thus, if reciprocity appears adequate, we will not disapprove a Mexican operator's application if a U.S. operator merely states that it is available to perform the proposed operation.

Issuance of a Foreign Aircraft Permit

If we determine that a particular application warrants approval under our procedures, we will issue a foreign aircraft permit authorizing the flights. The permit must be carried on board the operator's aircraft while it is operating in U.S. airspace. In conducting the operations authorized by a foreign aircraft permit, the operator must comply with all applicable regulations of the Federal Aviation Administration, including 14 CFR Part 91 of the FAA's rules. The operator is also responsible for complying with all applicable requirements of the U.S. Customs Service and the Immigration and Naturalization Service.