

APPLICATION PROCEDURES FOR CANADIAN AND MEXICAN OPERATORS OF FOREIGN CIVIL AIRCRAFT TO CONDUCT SPECIALTY AIR SERVICES IN THE UNITED STATES

Introduction

The operation of "specialty air services" in the United States by operators of foreign civil aircraft is governed by section 1108(b) of the Federal Aviation Act of 1958, as amended, as implemented by 14 CFR Part 375 of the Department's regulations (copy attached). Part 375 governs the navigation in the United States of "foreign civil aircraft", that is, civil, non-military aircraft that either are foreign-registered or are U.S.-registered but owned, controlled or operated by non U.S.-citizens (as such citizens are defined in the Act).¹

Who Must File an Application

Part 375 requires that an operator of a foreign civil aircraft obtain prior Department approval, in the form of a foreign aircraft permit, before engaging in any commercial air operations in the United States. Commercial air operations include the range of activities which are commonly known as "specialty air services."² Thus, a Canadian or Mexican operator seeking to perform flight operations in the United States using a foreign civil aircraft, and involving crop dusting, pest control, pipeline patrols, mapping, photography, surveying, banner towing, logging, and any other agricultural or industrial operations conducted for remuneration or hire, including the wet-lease (i.e., the lease of an aircraft and crew) of aircraft to a U.S. or foreign operator, must file an application for a foreign aircraft permit. Sightseeing flights within the United States may also be authorized under these procedures as long as all passengers are returned to the point of departure (i.e., no "cabotage" traffic may be carried between two U.S. points).

Note that nonrevenue flights, such as ferry flights and flights for the operator's own use, are authorized by regulation in Part 375 and do not require prior Department approval. Nor is our prior approval required for an operator to dry-lease its foreign

¹ Section 101(16) of the Act defines "citizen of the United States" as "(a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions."

² They do not, however, include air operations in common carriage covered under Title IV of the Federal Aviation Act, Sections 401 et seq.