

(1) The proposed services are authorized pursuant to the terms of the International Air Services Transit Agreement;

(2) Substantial ownership and effective control are vested in nationals of a State party to the International Air Services Transit Agreement;

(3) The proposed operations will be in compliance with the laws of the United States, the Department's rules, or the provisions of this section; or

(4) The operator or its government have performed their obligations under the International Air Services Transit Agreement.

(e) *Prohibited operations.* If the Department issues an order of notification as described in paragraph (d) of this section, neither the operator, nor the carrier offering the services to the public, shall commence the proposed operations, or, except as may be otherwise specified in the order, operate any flights subsequent to receipt of the order, unless and until the Department issues a foreign aircraft permit pursuant to the provisions of section 1108(b) of the Act and this part specifically authorizing such operations.

(f) *Foreign aircraft permit—application and procedures.* If the Department issues an Order of Notification as described in paragraph (d) of this section, the carrier's Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement shall be treated as an application for the required foreign aircraft permit, and further procedures on such application shall be as directed by the Department.

(g) *Short notice filing.* Nothing in this section shall be construed as precluding the filing of an application for a foreign aircraft permit to perform transit operations pursuant to the International Air Services Transit Agreement less than 30 days in advance of the proposed operation. No such flights shall be operated, however, unless or until a specific foreign aircraft permit has been issued by the Department.

(h) *Nature of privilege conferred.* Air transportation is not authorized under this section, and the burden rests upon each operator and carrier to show that the proposed operations will not con-

stitute air transportation within the meaning of the Federal Aviation Act. In addition, each operator and carrier has the burden of demonstrating that the proposed operations are authorized by the International Air Services Transit Agreement, and that the appropriate authorization should not be withheld pursuant to section 5 of Article I thereof. Stopovers for the convenience or pleasure of the passengers are not authorized under this section and stops other than for strictly operational reasons shall not be made. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 or 416(b) of the Act is not authorized by this section. Any authorization or permit granted under this section is non-transferable, and may be withheld, revoked, suspended, withdrawn, or cancelled by the Department, without notice or hearing, if required by the public interest. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement shall make special application to the Department under §375.70.

Subpart G—Penalties

§375.60 Penalties.

The operation of a foreign aircraft within the United States or over adjacent territorial waters in violation of the provisions of this part constitutes a violation of the Federal Aviation Act and of this chapter, and may, in addition, constitute a violation of the rules of the Federal Aviation Administration. Such operation makes the person or persons responsible for the violation or violations subject to a civil penalty as provided in section 901 of the Act, and to the alteration, amendment, modification, suspension or revocation of any permit issued under this part and of any U.S. certificate involved as provided in section 609 of the Act. Engaging in air transportation as defined in the Act by a foreign aircraft without a foreign air carrier permit issued pursuant to section 402 of the Act or an exemption, or in violation of the terms of such authority constitutes not only a violation of this part but of title IV of

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the Act as well, which entails a criminal penalty as set forth in section 902 of the Act.

Subpart H—Special Authorization

§ 375.70 Special authorization.

Any person desiring to navigate a foreign civil aircraft within the United States other than as specifically provided in this part may petition the De-

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partment for a special authorization to conduct the particular flight or series of flights. Such authorization may be issued only if the Department finds that the proposed operation is fully consistent with the applicable law, that the applicant's homeland grants a similar privilege with respect to operators of U.S.-registered aircraft, and that the proposed operation is in the interest of the public of the United States.