

filed within 15 work days after receipt of the decision of the CARB or Commander, AMC, and Commander, MTMC. The suspension will not be stayed pending appeal unless for good cause, as determined by the CARB. The decision of the appellate authority designated herein is final and is not subject to further administrative review or appeal.

(2) An appeal will be in writing only and carriers shall not be entitled to a de novo hearing before the administrative appellate authorities.

(3) The following administrative appellate authorities will review and make decisions on appeals:

(i) When the decision being appealed was made by the CARB, the appellate authorities are Commander, AMC, and Commander, MTMC. They will jointly decide the appeal.

(ii) When Commander, AMC, and Commander, MTMC, are unable to jointly agree on an appeal, they shall refer the matter to the DOD Commercial Airlift Review Authority (CARA) for its decision.

(iii) When the decision being appealed was made by Commander, AMC, and Commander, MTMC, the appellate authority is the DOD CARA.

[57 FR 44683, Sept. 29, 1992, as amended at 61 FR 17841, Apr. 23, 1996]

## PART 863—LEASING USAF AIRCRAFT AND RELATED EQUIPMENT TO NONGOVERNMENT ORGANIZATIONS

Sec.

863.0 Purpose.

### Subpart A—Policy and Responsibilities

- 863.1 Leasing policy.
- 863.2 SAF/AQ responsibilities.
- 863.3 AFSC responsibilities.
- 863.4 AFLC responsibilities.

### Subpart B—Basic Terms and Conditions

- 863.5 Authorized uses.
- 863.6 Lease charges.
- 863.7 No cost to the USG.
- 863.8 Risk of loss.
- 863.9 Indemnification of the USG.
- 863.10 Maintenance responsibilities.
- 863.11 Inspection responsibilities.
- 863.12 USG support.
- 863.13 Terminating the lease agreement.

863.14 DSAA and State Department approvals.

863.15 Flights for dignitaries.

863.16 Air show participation plan clause.

### Subpart C—Lease Requests and Evaluation

863.17 Request initiation.

863.18 SPO or ALC.

863.19 HQ AFSC or HQ AFLC.

### Subpart D—Coordination and Approval Process

863.20 Air Staff coordination.

863.21 Secretariat approval process.

863.22 Processing time.

### Subpart E—Lease Negotiation and Administration

863.23 AFSC lease negotiation.

863.24 AFLC lease negotiation.

863.25 Delegation of lease administration.

863.26 Lessee compliance.

863.27 Lessee payments.

AUTHORITY: 10 U.S.C. 2667.

SOURCE: 54 FR 1169, Jan. 12, 1989, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation (AFR) 70-10.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

### §863.0 Purpose.

This part outlines United States Air Force (USAF) policies and procedures for leasing USAF aircraft and related equipment to nongovernment organizations (such as, American manufacturers) under 10 U.S.C. 2667. The intended uses of the leased assets might include, but are not necessarily limited to, participation in national and international trade or air shows, foreign military sales or direct foreign sales demonstrations, independent research and development efforts by defense firms, and direct or indirect support of United States Government (USG) contracts. This part does not apply to military leases of USG property to foreign governments or international organizations (such as, North Atlantic Treaty Organization) under Chapter 6 of the Arms Export Control Act. This part establishes the responsibilities for evaluating lease requests, obtaining

approvals, and negotiating and administering the lease agreements. This part applies to the Office of the Secretary of the Air Force, the Air Staff, Air Force Systems Command (AFSC), and Air Force Logistics Command (AFLC). This part requires coordination with the USAF operational commands, the Air Force Reserve, and the Air National Guard when their assets are under consideration for lease. It implements DOD Instructions 7230.7, January 29, 1985 (32 CFR part 288), and 7230.8, June 9, 1976.

### Subpart A—Policy and Responsibilities

#### § 863.1 Leasing policy.

10 U.S.C. 2667 provides the Secretary of the Air Force the authority to lease assets under the control of the USAF to nongovernment organizations. When the Secretary considers it advantageous for the United States, leases may be approved under such terms and conditions the Secretary considers will promote the national defense or be in the public interest. The statute provides that the property must be under the control of the department; not for the time needed for public use; and not excess property. Typically, the USAF does not lease assets which are otherwise available from commercial sources.

#### § 863.2 SAF/AQ responsibilities.

(a) The Secretary of the Air Force delegated the statutory authority to approve leases to the Assistant Secretary of the Air Force for Acquisition (SAF/AQ). Since final leasing authority rests at the secretariat level, field and staff elements must take care not to preempt or prejudice the Secretary's authority to determine whether a proposed lease is advantageous to the United States and what terms and conditions will be considered as promoting the national defense or being in the public interest.

(b) SAF/AQ determines whether a lease request from a nongovernment organization or from a command on behalf of a nongovernment organization meets the general guidelines of this part. Furthermore, SAF/AQ ensures that the Air Staff (HQ USAF/LE, PR,

XO, CC), the Office of the Secretary of the Air Force (SAF/AC, PA, GC), Defense Security Assistance Agency (DSAA), and USAF operational commands, the Air Force Reserve, or Air National Guard when their assets are potential lease candidates have coordinated, as necessary, before recommending that SAF/AQ sign a Determination and Finding (D&F). This document designates which command, normally AFSC or AFLC, will negotiate and execute the lease agreement and outlines the basic terms and conditions which must be contained in the lease. SAF/AQ makes the determination if it is unclear whether AFSC or AFLC should assume a particular leasing action. The determination and finding format for authority to lease United States government property is shown below.

#### DETERMINATION AND FINDING FORMAT

The Department of the Air Force (USAF) proposes to lease aircraft to for a period. (Describe the details of the proposed lease activity.) As consideration for the lease, the lease will contain the following additional terms and conditions:

(1) The leased property shall not be transferred, encumbered, or used for other purposes without the written consent of the Secretary of the Air Force.

(2) The leased property shall be furnished "as is" without any warranty, express or implied, as to serviceability, fitness for use, or other matters.

(3) The lessee shall pay the United States Government (USG) all rent, costs, and charges associated with the use of the leased property while under lease according to 32 CFR part 288 and this Determination and Finding.

(4) The lessee shall maintain the leased property during the term of the lease in a safe and serviceable condition according to prescribed USAF standards or pay the full cost of any such maintenance accomplished by the USG.

(5) Support provided by the USG, if any, shall be on a noninterference, reimbursable basis, including use of support aircraft, equipment, and facilities. The availability of such support, and the computation of any associated charges or costs, will be according to applicable Department of Defense directives and instructions and USAF regulations and manuals.

(6) The lessee shall be responsible for all costs relating to the leased property during the term of the lease including, without limitation, expenses of operation, maintenance, display, demonstration, ferrying, transportation, support, and protection.