

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Petition of

AER LINGUS LIMITED

for temporary waiver of Part 257

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Docket OST-99- 5727

MOTION OF
AER LINGUS LIMITED
FOR CONFIDENTIAL TREATMENT

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this document should be sent to:

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May 25, 1999

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Pursuant to Rule 39 of the Department's Rules of Practice, Aer Lingus Limited ("Aer Lingus") seeks confidential treatment for one paragraph of its petition. Copies of the paragraph for which confidential treatment is requested have been submitted to the Department in a sealed envelope, as required by Rule 39.

Aer Lingus states as follows in support of its motion:

1. Aer Lingus is seeking confidential treatment under Rule 39 for its discussion of specific requirements of the FAA-approved security program applicable to World's wet lease to Aer Lingus, which is sensitive security

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information protected from public disclosure under an exemption in the Freedom of Information Act ("FOIA")¹ and applicable FAA confidentiality requirements.

2. FOIA Exemption 3 protects information from public disclosure "specifically exempted from disclosure by statute" provided that the statute "establishes particular criteria for withholding or refers to particular types of matters to be withheld." (5 U.S.C. § 552(b)(3)(B)) Applicable aviation statutes specifically provide that "[n]otwithstanding Section 552 of Title 5, the Administrator [of the Federal Aviation Administration] shall prescribe regulations prohibiting disclosure of information obtained or developed in carrying out security" if the disclosure of the information would be "detrimental to the safety of persons travelling in air transportation." (49 U.S.C. § 40119 (b)(1)(C))

3. The information Aer Lingus seeks to keep confidential is prohibited from public disclosure by Part 191 of the Federal Aviation Regulations ("FARs"), as amended, "Protection of Sensitive Security Information," which implements 49 U.S.C. § 40119. (See 14 C.F.R. § 191) Part 191, like the statute, prohibits disclosure of information "developed in the conduct of security" if disclosure would "be detrimental to the safety of persons traveling in air transportation." (14 C.F.R. § 191.3(b)(3)) Aer Lingus is seeking confidential treatment for specific information describing the security program utilized in conjunction with the World wet lease which has been approved by the FAA through the end of 1999. Public disclosure of

¹ 5 U.S.C. § 552(b)(3)(B).

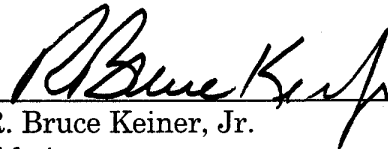
this information would reveal otherwise secret security measures and could provide information to those seeking to undermine the safety of persons travelling in air transportation.

4. Under the FARs, “sensitive security information” is “not available for public inspection” or available to be “released to the public.” The FARs specifically define as “sensitive security information . . . any approved or standard security program for an air carrier [or] foreign air carrier, . . . Security Directives, Information circulars, and any comments, instructions or implementing guidance pertaining thereto,” or “any security contingency plan or information.” (14 C.F.R. § 191.7(a), (b), (d)) Section 191.3(a) of the FARs also prohibits disclosure of “information contained” in the above records to the public. (See 14 C.F.R. § 191.3(a)) Thus, disclosure of the confidential information covered by this motion, including details of the requirements and operation of security programs, would reveal information contained in records defined as “sensitive security information” and could constitute a violation of the FARs.

WHEREFORE, Aer Lingus asks the Department to grant confidential treatment of the confidential information identified in this motion.

Respectfully submitted,

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