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SUBCHAPTER A—ECONOMIC REGULATIONS

PART 200—DEFINITIONS AND INSTRUCTIONS

Sec.
200.1 Terms and definitions.
200.2 Instructions.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417, 461.

§ 200.1 Terms and definitions.

Unless otherwise specifically stated, words and phrases other than those listed in this section have the meaning defined in the Statute.

(a) *Board* or *CAB* means the Civil Aeronautics Board.

(b) *Department* or *DOT* means the Department of Transportation.

(c) *Act* means the Federal Aviation Act of 1958, as amended.

(d) *Section* refers to a section of the Statute or a section of the regulations in this chapter, as indicated by the context. The terms *this section*, *pursuant to this section*, *in accordance with the provisions of this section*, and words of similar import when used in this chapter refer to the section of this subchapter in which such terms appear.

(e) *Rule*, *regulation*, and *order* refer to the rules, regulations, and orders prescribed by the Board or the Department pursuant to the Statute.

(f) *Statute* when used in this chapter means Subtitle VII of Title 49 of the United States Code (Transportation).

(g) *FAA* means the Federal Aviation Administration, U.S. Department of Transportation.

(h) *BTS* means the Bureau of Transportation Statistics, U.S. Department of Transportation.

[Doc. No. 47939, 57 FR 40100, Sept. 2, 1992, as amended by Amdt. No. OST–95–397, 60 FR 43523, Aug. 22, 1995; 60 FR 66722, Dec. 26, 1995]

§ 200.2 Instructions.

The regulations of the Department may be cited by section numbers. For example, this regulation may be cited as ''§ 200.2 of the Aviation Economic Regulations.'' The sections contained in the Rules of Practice may also be cited by appropriate rule numbers. (See § 302.1(c) of this chapter.) For example, 14 CFR 302.10 may be cited as ''rule 10 of the Rules of Practice.''

[Doc. No. 47939, 57 FR 40100, Sept. 2, 1992, as amended at 65 FR 6456, Feb. 9, 2000]

PART 201—AIR CARRIER AUTHORITY UNDER SUBTITLE VII OF TITLE 49 OF THE UNITED STATES CODE—[AMENDED]

Subpart A—Application Procedures

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201.6 Applicability.
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AUTHORITY: 5 U.S.C. 1008; 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: Docket No. 47582, 57 FR 38765, Aug. 27, 1992, unless otherwise noted.

Subpart A—Application Procedures

§ 201.1 Formal requirements.

(a) Applications for certificates of public convenience and necessity under section 41102 of the Statute and for interstate all-cargo air transportation certificates under section 41103 of the Statute shall meet the requirements set forth in part 302 of this chapter as to general requirements, execution, number of copies, service, and formal specifications of papers.

(b) Any person desiring to provide air transportation as a commuter air carrier must comply with the registration provisions of part 298 of this chapter and submit data to support a fitness determination in accordance with part 204 of this chapter. An executed original plus two (2) true copies of the fitness data shall be filed with DOT Dockets, PL–401, 400 7th Street, SW., Washington, DC 20590–0002. Requests for confidential treatment of documents

should be filed in accordance with the requirements of part 302 of this chapter.

(Approved by the Office of Management and Budget under control number 2106–0023)

[Docket No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995; 64 FR 3212, Jan. 21, 1999]

§ 201.2 Amendments.

If, after receipt of any application, the Department asks the applicant to supply additional information, such information shall be furnished in the form of a supplement to the original application.

§ 201.3 Incorporation by reference.

Incorporation by reference shall be avoided. However, where two or more applications are filed by a single carrier, lengthy exhibits or other documents attached to one may be incorporated in the others by reference if that procedure will substantially reduce the cost to the applicant.

§ 201.4 General provisions concerning contents.

(a) All pages of an application shall be consecutively numbered, and the application shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(b) All amendments to applications shall be consecutively numbered and shall comply with the requirements of this part.

(c) Requests for authority to engage in interstate air transportation shall not be included in the same application with requests for authority to engage in foreign air transportation. Similarly, requests for authority to engage in scheduled air transportation under section 41102 of the Statute shall not be included in the same application with requests for authority to engage in charter air transportation under section 41102 of the Statute or with requests for authority to engage in interstate all-cargo air transportation under section 41103 of the Statute.

(d) Each application shall specify the type or types of service (passengers, property or mail) to be rendered and whether such services are to be rendered on scheduled or charter operations.

(e) Each application for foreign scheduled air transportation shall include an adequate identification of each route for which a certificate is desired, including the terminal and intermediate points to be included in the certificate for which application is made.

(f) Each application shall give full and adequate information with respect to each of the relevant filing requirements set forth in part 204 of this chapter. In addition, the application may contain such other information and data as the applicant shall deem necessary or appropriate in order to acquaint the Department fully with the particular circumstances of its case; however, the statements contained in an application shall be restricted to significant and relevant facts.

(Approved by the Office of Management and Budget under control number 2106–0023)

[Docket No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995]

§ 201.5 Advertising and sales by applicants.

(a) An applicant for new or amended certificate or commuter air carrier authority shall not:

(1) Advertise, list schedules, or accept reservations for the air transportation covered by its application until the application has been approved by the Department; or

(2) Accept payment or issue tickets for the air transportation covered by its application until the authority or amended authority has become effective or the Department issues a notice authorizing sales.

(b) An applicant for new or amended certificate or commuter air carrier authority may not advertise or publish schedule listings for the air transportation covered by its application after the application has been approved by the Department (but before all authority issued by DOT, including the FAA, becomes effective) unless such advertising or schedule listings prominently state: ''This service is subject to receipt of government operating authority.''

Subpart B—Certificate Terms, Conditions, and Limitations

§ 201.6 Applicability.

Unless the certificate or the order authorizing its issuance shall otherwise provide, such terms, conditions and limitations as are set forth in this part, and as may from time to time be prescribed by the Department, shall apply to the exercise of the privileges granted by each certificate issued under section 41102 or section 41103 of the Statute.

[Docket No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995]

§ 201.7 General certificate conditions.

(a) It shall be a condition upon the holding of a certificate that any intentional failure by the holder to comply with any provision of Statute or any order, rule, or regulation issued thereunder or any term, condition, or limitation of such certificate shall be a failure to comply with the terms, conditions, and limitations of the certificate within the meaning of section 41110 of the Statute even though the failure to comply occurred outside the territorial limits of the United States, except to the extent that such failure shall be necessitated by an obligation, duty, or liability imposed by a foreign country.

(b) Failure to file the reports required by part 241, 291, or 298 of this chapter shall be sufficient grounds to revoke a certificate.

(c) The authority to transport U.S. mail under a certificate is permissive, unless the Department, by order or rule, directs a carrier or class of carriers to transport mail on demand of the U.S. Postal Service; such certificate confers no right to receive subsidy, for the carriage of mail or otherwise.

(d) An all-cargo air transportation certificate shall confer no right to carry passengers, other than cargo attendants accompanying a shipment, or to engage in any air transportation outside the geographical scope of interstate cargo transportation. Such certificate shall not, however, restrict the right of the holder to provide scheduled, charter, contract, or other transportation of cargo, by air, within that geographical scope.

(e) It shall be a condition upon the holding of a certificate that the holder have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523), and a tariff (for those carriers otherwise generally required to file tariffs) that includes its terms, and that the holder comply with all other requirements of part 203. OST Form 4523 may be obtained from the Office of Aviation Analysis, Special Authorities Division.

[Docket No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995]

PART 203—WAIVER OF WARSAW CONVENTION LIABILITY LIMITS AND DEFENSES

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203.2 Applicability.
203.3 Filing requirements for adherence to Montreal Agreement.
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AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: ER–1324, 48 FR 8044, Feb. 25, 1983, unless otherwise noted.

§ 203.1 Scope.

This part requires that certain U.S. and foreign direct air carriers waive the passenger liability limits and certain carrier defenses in the Warsaw Convention in accordance with the provisions of Agreement 18900, dated May 13, 1966, and provides that acceptance of authority for, or operations by the carrier in, air transportation shall be considered to act as such a waiver by that carrier.

[ER–1324, 48 FR 8044, Feb. 25, 1983, as amended by Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

§ 203.2 Applicability.

This part applies to all direct U.S. and foreign direct air carriers, except for air taxi operators as defined in part

298 of this chapter that (a) are not commuter air carriers, (b) do not participate in interline agreements, and (c) do not engage in foreign air transportation.

§ 203.3 Filing requirements for adherence to Montreal Agreement.

All direct U.S. and foreign air carriers shall have and maintain in effect and on file in the Department's Documentary Services Division (Docket 17325) on OST Form 4523 a signed counterpart to Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and Hague Protocol approved by CAB Order E–23680, dated May 13, 1966 (the Montreal Agreement), and a signed counterpart of any amendment or amendments to such Agreement that may be approved by the Department and to which the air carrier or foreign air carrier becomes a party. U.S. air taxi operators registering under part 298 of this chapter and Canadian charter air taxi operators registering under part 294 of this chapter may comply with this requirement by filing completed OST Forms 4507 and 4523, respectively, with the Department's Office of Aviation Analysis. Copies of these forms can be obtained from the Office of Aviation Analysis, Special Authorities Division.

[Docket No. 47939, 57 FR 40100, Sept. 2, 1992, as amended at 60 FR 43523, Aug. 22, 1995]

§ 203.4 Montreal Agreement as part of airline-passenger contract and conditions of carriage.

(a) As required by the Montreal Agreement, carriers that are otherwise generally required to file tariffs shall file with the Department's Tariffs Division a tariff that includes the provisions of the counterpart to Agreement 18900.

(b) As further required by that Agreement, each participating carrier shall include the Agreement's terms as part of its conditions of carriage. The participating carrier shall give each of its passengers the notice required by the Montreal Agreement as provided in § 221.175 of this chapter.

(c) Participation in the Montreal Agreement, whether by signing the Agreement, filing a signed counterpart to it under § 203.3, or by operation of law under § 203.5, shall constitute a special agreement between the carrier and its passengers as a condition of carriage that a liability limit of not less than $75,000 (U.S.) shall apply under Article 22(1) of the Warsaw Convention for passenger injury and death. Such participation also constitutes a waiver of the defense under Article 20(1) of the Convention that the carrier was not negligent.

(The reporting provisions contained in paragraph (a) were approved by the Office of Management and Budget under control number 3024–0064.)

[ER–1324, 48 FR 8044, Feb. 25, 1983, as amended by ER–1338, 48 FR 31013, July 6, 1983; Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

§ 203.5 Compliance as condition on operations in air transportation.

It shall be a condition on the authority of all direct U.S. and foreign carriers to operate in air transportation that they have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900, and a tariff (for those carriers otherwise generally required to file tariffs) that includes its provisions, as required by this subpart. Notwithstanding any failure to file that counterpart and such tariff, any such air carrier or foreign air carrier issued license authority (including exemptions) by the Department or operating in air transportation shall be deemed to have agreed to the provisions of Agreement 18900 as fully as if that air carrier or foreign air carrier had in fact filed a properly executed counterpart to that Agreement and tariff.

[ER–1324, 48 FR 8044, Feb. 25, 1983, as amended by Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS

Subpart A—General Provisions

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204.7 Revocation for dormancy.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 417.

SOURCE: Docket No. 47582, 57 FR 38766, Aug. 27, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 204.1 Purpose.

This part sets forth the fitness data that must be submitted by applicants for certificate authority, by applicants for authority to provide service as a commuter air carrier to an eligible place, by carriers proposing to provide essential air transportation, and by certificated air carriers and commuter air carriers proposing a substantial change in operations, ownership, or management. This part also contains the procedures and filing requirements applicable to carriers that hold dormant authority.

[Docket No. 47582, 57 FR 38766, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995]

§ 204.2 Definitions.

As used in this part:

(a) *All-cargo air carrier or section 41103 carrier* means an air carrier holding an all-cargo air transportation certificate issued under section 41103 of the Statute authorizing the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(b) *Certificate authority* means authority to provide air transportation granted by the Department of Transportation or Civil Aeronautics Board in the form of a certificate of public convenience and necessity under section 41102 of the Statute or an all-cargo air transportation certificate to perform all-cargo air transportation under section 41103 of the Statute. *Certificated carriers* are those that hold certificate authority.

(c) *Citizen of the United States* means:

(1) An individual who is a citizen of the United States;

(2) A partnership each of whose partners is an individual who is a citizen of the United States; or

(3) A corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(d) *Commuter air carrier* means an air carrier holding or seeking authority under part 298 of this Chapter that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

(e) *Eligible place* means a place in the United States that—

(1) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(2) Received scheduled air transportation at any time between January 1, 1990, and November 4, 1990; and

(3) Is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute.

(f) *Essential air service* is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of the Statute.

(g) *Fit* means fit, willing, and able to perform the air transportation in question properly and to conform to the provisions of the Statute and the rules, regulations and requirements issued under the Statute.

(h) *Interstate air transportation* means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(1) Between a place in—

(i) A State, territory, or possession of the United States and a place in the

District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) The District of Columbia and another place in the District of Columbia; or

(iv) A territory or possession of the United States and another place in the same territory or possession; and

(2) When any part of the transportation is by aircraft.

(i) *Key personnel* include the directors, president, chief executive officer, chief operating officer, all vice presidents, the directors or supervisors of operations, maintenance, and finance, and the chief pilot of the applicant or air carrier, as well as any part-time or full-time advisors or consultants to the management of the applicant or air carrier.

(j) *Normalized operations* are those which are relatively free of start-up costs and temporary barriers to full-scale operations posed by the carrier's limited experience.

(k) *Relevant corporations* are the applicant or air carrier, any subsidiary thereof, any predecessor thereof (i.e., any air carrier in which any directors, principal officers or persons having a substantial interest have or once had a substantial interest), and any company (including a sole proprietorship or partnership) which has a significant financial or managerial influence on the applicant or air carrier. The latter includes:

(1) Any company (including a sole proprietorship or partnership) holding more than 50 percent of the outstanding voting stock of the applicant or air carrier; and

(2) Any company (including a sole proprietorship or partnership) holding between 20 percent and 50 percent of the outstanding voting stock of the applicant or air carrier and which has significant influence over the applicant or air carrier as indicated, for example, by 25 percent representation on the board of directors, participation in policy-making processes, substantial inter-company transactions, or managerial personnel with common responsibilities in both companies.

(l) *Substantial change in operations, ownership, or management* includes, but is not limited to, the following events:

(1) Changes in operations from charter to scheduled service, cargo to passenger service, short-haul to long-haul service, or (for a certificated air carrier) small-aircraft to large-aircraft operations;

(2) The filing of a petition for reorganization or a plan of reorganization under Chapter 11 of the federal bankruptcy laws;

(3) The acquisition by a new shareholder or the accumulation by an existing shareholder of beneficial control of 10 percent or more of the outstanding voting stock in the corporation; and

(4) A change in the president, chief executive officer or chief operating officer, and/or a change in at least half of the other key personnel within any 12-month period or since its latest fitness review, whichever is the more recent period.

(m) *Substantial interest* means beneficial control of 10 percent or more of the outstanding voting stock.

[Docket No. 47582, 57 FR 38766, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995; 64 FR 12085, Mar. 11, 1999]

Subpart B—Filing Requirements

§ 204.3 Applicants for new certificate or commuter air carrier authority.

An applicant for a type of certificate authority it does not currently hold or for commuter air carrier authority shall file the data set forth in paragraphs (a) through (v) of this section. In addition, the Department may require an applicant to provide additional data if necessary to reach an informed judgment about its fitness. If the applicant has previously formally filed any of the required data with the Department or with another Federal agency and they are available to the Department, and those data continue to reflect the current state of the carrier's fitness, the applicant may instead identify the data and provide a citation for the date(s) and place(s) of filing. Prior to filing any data, the applicant may contact the Air Carrier Fitness Division to ascertain what data required by this section are already

available to the Department and need not be included in the filing.

NOTE: If the applicant intends to use as evidence data it has previously filed pursuant to part 241 reporting requirements and those data contain errors, the applicant must first file corrected reports in accordance with § 241.22(g).

(a) The name, address, and telephone number of the applicant.

(b) The form of the applicant's organization.

(c) The State law(s) under which the applicant is organized.

(d) If the applicant is a corporation, a statement provided by the Office of the Secretary of State, or other agent of the State in which the applicant is incorporated, certifying that the applicant corporation is in good standing.

(e) A sworn affidavit stating that the applicant is a citizen of the United States.

(f) The identity of the key personnel who would be employed by the applicant, including:

(1) Their names and addresses;

(2) The experience, expertise, and responsibilities of each;

(3) The number of shares of the applicant's voting stock held by each and the percentage of the total number of such shares issued and outstanding, and the citizenship and principal business of any person for whose account, if other than the holder, such interest is held;

(4) The citizenship of each; and

(5) A description of the officerships, directorships, shares of stock (if 10 percent or more of total voting stock outstanding), and other interests each holds or has held in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics or persons whose principal business (in purpose or fact) is the holding of stock in or control of any air carrier, common carrier or person substantially engaged in the business of aeronautics.

(g) A list of all persons having a substantial interest in the applicant. Such list shall include:

(1) Each person's name, address and citizenship;

(2) The number of shares of the applicant's voting stock held by each such person and the corresponding percentage of the total number of such shares issued and outstanding, and the citizenship and principal business of any person for whose account, if other than the holder, such interest is held;

(3) If any two or more persons holding a substantial interest in the applicant are related by blood or marriage, such relationship(s) shall be included in the list; and

(4) If any person or subsidiary of a person having a substantial interest in the applicant is or has ever been

(i) An air carrier, a foreign air carrier, a common carrier, or

(ii) Substantially engaged in the business of aeronautics, or

(iii) An officer or director of any such entity, or

(iv) A holder of 10 percent or more of total outstanding voting stock of any such entity, the list shall describe such relationship(s).

(h) A list of the applicant's subsidiaries, if any, including a description of each subsidiary's principal business and relationship to the applicant.

(i) A list of the applicant's shares of stock in, or control of, any air carrier, foreign air carrier, common carrier, or person substantially engaged in the business of aeronautics.

(j) To the extent any relevant corporation has been engaged in any business prior to the filing of the application, each applicant shall provide:

(1) Copies of the 10K Annual Reports filed in the past 3 years by any relevant corporation required to file such reports with the Securities and Exchange Commission, and

(2) Copies of recently filed 10Q Quarterly Reports, as necessary, in order to show the financial condition and results of operations of the enterprise current to within 3 months of the date of the filing of the application.

(k) If 10K Reports are not filed with the Securities and Exchange Commission, the following, for the 3 most recent calendar or fiscal years, reflecting the financial condition and results of operations of the enterprise current to within 3 months of the date of the filing of the application:

(1) The Balance Sheet of each relevant corporation;

(2) The Income Statement of each relevant corporation;

(3) All footnotes applicable to the financial statements, including:

(i) A statement as to whether the documents were prepared in accordance with Generally Accepted Accounting Principles, and

(ii) A description of the significant accounting policies of each relevant corporation, such as for depreciation, amortization of intangibles, overhauls, unearned revenues, and cost capitalization;

(4) A statement of significant events occurring subsequent to the most recent Balance Sheet date for each relevant corporation; and

(5) A statement identifying the person who has prepared the financial statements, his or her accounting qualifications, and any affiliation he or she has with the applicant.

(l) A list of all actions and outstanding judgments for more than $5,000 against any relevant corporation, key personnel employed (or to be employed) by any relevant corporation, or person having a substantial interest in any relevant corporation, including the amount of each judgment, the party to whom it is payable, and how long it has been outstanding.

(m) The number of actions and outstanding judgments of less than $5,000 against each relevant corporation, key personnel employed (or to be employed) by any relevant corporation, or person having a substantial interest in any relevant corporation, and the total amount owed by each on such judgments.

(n) A description of the applicant's fleet of aircraft, including:

(1) The number of each type of aircraft owned, leased and to be purchased or leased;

(2) Applicant's plans, including financing plans, for the purchase or lease of additional aircraft; and

(3) A sworn affidavit stating that each aircraft owned or leased has been certified by the FAA and currently complies with all FAA safety standards.

(o) A description of the current status of all pending investigations, enforcement actions, and formal complaints filed by the Department, including the FAA, involving the applicant or any relevant corporation, any personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation, regarding compliance with the Statute or orders, rules, regulations, or requirements issued pursuant to the Statute, and any corrective actions taken. (If an applicant has a compliance history that warrants it, additional information may be required.)

(p) A description of all charges of unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violation, brought against any relevant corporation or person having a substantial interest in any relevant corporation, or member of the key personnel employed (or to be employed) by any relevant corporation in the past 10 years. Such descriptions shall include the disposition or current status of each such proceeding.

(q) A description of any aircraft accidents or incidents (as defined in the National Transportation Safety Board Regulations, 49 CFR 830.2) experienced by the applicant, its personnel, or any relevant corporation, which occurred either during the year preceding the date of application or at any time in the past and which remain under investigation by the FAA, the NTSB, or by the company itself, including:

(1) The date of the occurrence;

(2) The type of flight;

(3) The number of passengers and crew on board and an enumeration of any injuries or fatalities;

(4) A description of any damage to the aircraft;

(5) The FAA and NTSB file numbers and the status of the investigations, including any enforcement actions initiated against the carrier or any of its personnel; and

(6) Positive actions taken to prevent recurrence. (If an applicant's history of accidents or incidents warrants it, additional information may be required.)

(r) A brief narrative history of the applicant.

(s) A description of all Federal, State and foreign authority under which the applicant has conducted or is conducting transportation operations, and the identify of the local FAA office and personnel responsible for processing an

application for any additional FAA authority needed to conduct the proposed operations.

(t) A description of the service to be operated if the application is granted, including:

(1) A forecast Balance Sheet for the first normal year ending after the initially proposed operations have been incorporated, along with the assumptions underlying the accounts and amounts shown; and

(2) A forecast Income Statement, broken down by quarters, for the first year ending after the initially proposed operations are normalized, and an itemization of all pre-operating and start-up costs associated with the initiation of the proposed service. Such Income Statement shall include estimated revenue block hours (or airborne hours, for charter operators) and revenue miles by type of aircraft, number of passengers and number of tons of mail and cargo to be carried, transport revenues and an estimate of the traffic which would be generated in each market receiving the proposed service. Such statements shall also include a statement as to whether the statements were prepared on the accrual or cash basis, an explanation of how the estimated costs and revenues were developed, a description of the manner in which costs and revenues are allocated, how the underlying traffic forecasts were made, and what load factor has been assumed for the average and peak month. Pre-operating and start-up costs should include, but are not limited to, the following: Obtaining necessary government approval; establishing stations; introductory advertising; aircraft, equipment and space facility deposits and rent; training; and salaries earned prior to start-up.

(u) A signed counterpart of Agreement 18900 (OST Form 4523) as required by part 203 of this chapter.

(v) The following certification, which shall accompany the application and all subsequent written submissions filed by the applicant in connection with its application:

Pursuant to title 18 United States Code section 1001, I [the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or covered up any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined nor more than $10,000 or imprisoned not more than five years, or both.

(The reporting requirements contained in this section were approved by the Office of Management and Budget under control number 2106–0023)

[Docket No. 47582, 57 FR 38766, Aug. 27, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

§ 204.4 Carriers proposing to provide essential air service.

Applicants proposing to provide essential air service have been divided into two categories, and are subject to differing data submission requirements as set forth in paragraphs (a) and (b) of this section. However, if a carrier has previously filed any of the required data with the Department or other Federal agency and they are available to the Department, and these data continue to reflect the current state of the carrier's fitness, the carrier may instead identify the data and provide a citation for the date and place of filing. All carriers may contact the Air Carrier Fitness Division to ascertain what information is already available to the Department and thus may not need to be resubmitted.

(a) Carriers who propose to begin or expand non-subsidized essential air service when the incumbent leaves the market must file the following information:

(1) All of the information required under § 204.3 of this part.

(2) A description of the back-up aircraft available to the applicant, including:

(i) The number of each type of such aircraft;

(ii) The conditions under which such aircraft will be available to the carrier;

(iii) The carrier's plans for financing the acquisition or lease of such additional aircraft; and

(iv) A sworn affidavit stating that all such aircraft have been certified by the FAA and currently comply with all FAA safety standards.

(3) A description of the fuel available to perform the proposed essential air services and the carrier's contracts with fuel suppliers.

(4) The carrier's systemwide on-time and completion record for the preceding year and, if applicable, in the subject market(s).

(5) A list of the markets the carrier serves and the number of weekly round trips it provides in each.

(6) A description of the average number of block hours each type of aircraft is currently flown per day.

(7) An estimate of the impact the proposed essential air service would have on the carrier's utilization of its aircraft fleet.

(8) A detailed schedule of the service to be provided, including times of arrivals and departures, the aircraft to be used for each flight, and the fares to be charged.

(9) A pro-forma income statement for the proposed operation for the first annual period.

(b) Carriers filing proposals to provide subsidized service in response to an order inviting proposals shall file:

(1) All of the information required under § 204.3 of this part.

(2) All of the information required under paragraph (a) of this section.

(3) A forecast Income Statement covering the operations conducted in essential air service for the first year following the initiation of the proposed essential services. Such statement shall include:

(i) Subsidy needed;

(ii) Estimated block hours and revenue miles by type of aircraft;

(iii) Total projected revenue including volumes of passengers and freight by essential air service market and the associated fares and rates;

(iv) An explanation of the derivation of estimates of operating expenses; and

(v) A description of the manner in which costs and revenues are allocated.

(4) A traffic forecast including a load factor analysis on all segments between the small community and the hub; and an estimate of the number of seats available to and from the eligible point each day.

(Approved by the Office of Management and Budget under control number 2106–0023)

[Docket No. 47582, 57 FR 38766, Aug. 27, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

§ 204.5 Certificated and commuter air carriers undergoing or proposing to undergo substantial change in operations, ownership, or management.

(a) A certificated or commuter air carrier proposing a substantial change in operations, ownership or management shall file the data set forth in § 204.3. These data must be submitted in cases where:

(1) The proposed change requires new or amended authority, or

(2) Although the carrier's existing certificate or commuter authority is adequate for the performance of its planned services, the change substantially alters the factors upon which its latest fitness finding is based.

(b) Information which a carrier has previously formally filed with the Department, or with another Federal agency where they are available to the Department, which continues to reflect the current state of the carrier's fitness may be omitted. The carrier instead should identify the data and provide a citation for the date(s) and place(s) of filing. Prior to filing any data, the carrier may contact the Department (Air Carriers Fitness Division) to ascertain what data required by this section, if any, are already available to the Department or are not applicable to the substantial change in question and need not be included in the filing.

(c) Information filings pursuant to this section made to support an application for new or amended certificate authority shall be filed with the application and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Information filed in support of a certificated or commuter air carrier's continuing fitness to operate under its existing authority in light of substantial changes in its operations, ownership or management shall be addressed to the Chief,

Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(Approved by the Office of Management and Budget under control number 2106–0023)

§ 204.6 Certificated and commuter air carriers proposing a change in operations, ownership, or management which is not substantial.

Carriers proposing to make a change which would not substantially affect their operations, management, or ownership, such as certificated carriers applying for additional authority which would not substantially change their operations, will be presumed to be fit and need not file any information relating to their fitness at time of the change. However, if the Department concludes, from its own analysis or based on information submitted by third parties, that such change may bring the carrier's fitness into question, the Department may require the applicant carrier to file additional information.

§ 204.7 Revocation for dormancy.

(a) An air carrier that has not commenced any type of air transportation operations for which it was found fit, willing, and able within one year of the date of that finding, or an air carrier that, for any period of one year after the date of such a finding, has not provided any type of air transportation for which that kind of finding is required, is deemed no longer to continue to be fit to provide the air transportation for which it was found fit and, accordingly, its authority to provide such air transportation shall be revoked.

(b) An air carrier found fit which commences operations within one year after being found fit but then ceases operations, shall not resume operations without first filing all of the data required by § 204.3 at least 45 days before it intends to provide any such air transportation. Such filings shall be addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. The Department will entertain requests for exemption from this 45-day advance filing requirement for good cause shown. If there has been no change in fitness data previously formally filed with the Department, the carrier shall file a sworn statement to that effect signed by one of its officers. The carrier may contact the Department (Air Carrier Fitness Division) to ascertain which data are already available to the Department and need not be refiled. A carrier to which this paragraph applies shall not provide any air transportation for which it is required to be found fit, willing, and able until the Department decides that the carrier continues to be fit, willing, and able to perform such air transportation. During the pendency of the Department's consideration of a data submission under this paragraph, the expiration period set out in paragraph (a) of this section shall be stayed. If the decision or finding by the Department on the issue of the carrier's fitness is favorable, the date or that decision or finding shall be the date considered in applying paragraph (a) of this section.

(c) For purposes of this section, the date of a Department decision or finding shall be the service date of the Department's order containing such decision or finding, or, in cases where the Department's decision or finding is made by letter, the date of such letter.

(d) For purposes of this section, references to operations and to the providing of air transportation shall refer only to the actual performance of flight operations under an operating certificate issued to the carrier by the FAA.

(Approved by the Office of Management and Budget under control number 2106–0023)

PART 205—AIRCRAFT ACCIDENT LIABILITY INSURANCE

Sec.
205.1 Purpose.
205.2 Applicability.
205.3 Basic requirements.
205.4 Filing of evidence of insurance.
205.5 Minimum coverage.
205.6 Prohibited exclusions of coverage.
205.7 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.
205.8 Cargo liability disclosure statement.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 417.

SOURCE: ER–1253, 46 FR 52577, Oct. 27, 1981, unless otherwise noted.

§ 205.1 Purpose.

This part contains the rules for aircraft accident liability insurance coverage needed by U.S. direct air carriers to obtain or to exercise authority from the Department to operate in interstate or foreign air transportation, and by foreign direct air carriers to operate under permit or other authority in foreign air transportation. It further requires a disclosure statement to shippers about cargo liability limits and insurance coverage for U.S. and foreign direct air carriers.

[ER–1253, 46 FR 52577, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40100, Sept. 2, 1992; Doc. No. OST-96-1269, 61 FR 19165, May 1, 1996]

§ 205.2 Applicability.

These rules apply to all U.S. direct air carriers, including commuter air carriers and air taxi operators as defined in § 298.2 of this chapter, and foreign direct air carriers, including Canadian charter air taxi operators as defined in § 294.2(c) of this chapter.

[Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

§ 205.3 Basic requirements.

(a) A U.S. or foreign direct air carrier shall not engage in air transportation unless it has in effect aircraft accident liability insurance coverage that meets the requirements of this part for its air carrier or foreign air carrier operations. The minimum amounts of coverage required by this part may be provided either by insurance policies or by self-insurance plans. The currently effective policy of insurance or complete plan for self-insurance shall be available for inspection by the Department at the carrier's principal place of business. The current certificate of insurance or a summary of the complete self-insurance plan on file with the Department, as required by § 205.4, shall be available for public inspection at the carrier's principal place of business.

(b) For purposes of this part, a certificate of insurance is one or more certificates showing insurance by one or more insurers (excluding reinsurers) of currently effective and properly endorsed policies of aircraft accident liability insurance in compliance with this part. When more than one such insurer is providing coverage, the limits and types of liability assumed by each insurer (excluding reinsurers) shall be clearly stated in the certificate of insurance. Insurance policies and self-insurance plans named in a certificate of insurance that accompanies an application for initial registration or for operating authority shall become effective not later than the proposed starting date for air carrier operations as shown in the application.

(c) The certificate of insurance shall list the types or classes of aircraft, or the specific aircraft by FAA or foreign government registration number, with respect to which the policy of insurance applies, or shall state that the policy applies to all aircraft owned or operated by the carrier in its air transportation operations. With respect to certificates of insurance that list aircraft by government registration number, the policy or self-insurance plan shall state that, while an aircraft owned or leased by the carrier and declared in the policy is withdrawn from normal use because of its breakdown, repair, or servicing, such insurance as is provided by the policy or plan for that aircraft shall apply also to another aircraft of similar type, horsepower, and seating capacity, whether or not owned by the insured, while temporarily used as a substitute aircraft.

(d) Each certificate of insurance shall be signed by an authorized officer, agent, or other representative of the insurer or the insurance broker.

(e) Insurance coverage to meet the requirements of this part shall be obtained from one or more of the following:

(1) An insurer licensed to issue aircraft accident liability policies in any State, Commonwealth, or Territory of the United States, or in the District of Columbia;

(2) Surplus line insurers named on a current list of such insurers issued and approved by the insurance regulatory authority of any State, Commonwealth, or Territory of the United States or of the District of Columbia; or

(3) Insurers licensed or approved by a foreign government.

This requirement may be waived by the Department in the public interest.

[ER–1253, 46 FR 52577, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

§ 205.4 Filing of evidence of insurance.

(a) A U.S. or foreign air carrier shall file a certificate of insurance or a complete plan for self-insurance with the Department's Office of Aviation Analysis. Each carrier shall ensure that the evidence of aircraft accident liability coverage filed with the Department is correct at all times. The Department will normally notify the carrier within 20 days of receipt if the certificate or plan does not meet the requirements of this part. The two Certificates of Insurance (OST Form 6410 for U.S. air carriers, including commuter air carriers and air taxi operators, and OST Form 6411 for foreign air carriers, including Canadian charter air taxi operators) are available from the Office of Aviation Analysis. The Department may return the certificate or self-insurance plan to the carrier if it finds for good cause that such plan or certificate does not show adequate evidence of insurance coverage under this part.

(b) If the coverage is by type or class of aircraft or by specific aircraft, endorsements that add previously unlisted aircraft or aircraft types or classes to coverage, or that delete listed aircraft, types, or classes from coverage, shall be filed with the Department's Office of Aviation Analysis not more than 30 days after the effective date of the endorsements. Aircraft shall not be listed in the carrier's operations specifications with the FAA and shall not be operated unless liability insurance coverage is in force.

(c) When the insured air carrier is a U.S. air taxi operator operating in the State of Alaska, certificates and endorsements shall be filed with the Department's Alaska Field Office, 801 B Street, Suite 506, Anchorage, Alaska 99501-3657.

(Approved by the Office of Management and Budget under control number 2106–0030)

[Docket No. 47939, 57 FR 40100, Sept. 2, 1992, as amended by Doc. No. OST-96-1269, 61 FR 19165, May 1, 1996]

§ 205.5 Minimum coverage.

(a) Insurance contracts and self-insurance plans shall provide for payment on behalf of the carrier, within the specific limits of liability in this section, of all sums that the carrier shall become legally obligated to pay as damages, excluding any deductible in the policy, for bodily injury to or death of a person, or for damage to the property of others, resulting from the carrier's operation or maintenance of aircraft in air transportation provided under its authority from the Department.

(b) U.S. and foreign direct air carriers, including commuter air carriers but excluding U.S. air taxi operators and Canadian charter air taxi operators, shall maintain the following coverage:

(1) Third-party aircraft accident liability coverage for bodily injury to or death of persons, including nonemployee cargo attendants, other than passengers, and for damage to property, with minimum limits of $300,000 for any one person in any one occurrence, and a total of $20,000,000 per involved aircraft for each occurrence, except that for aircraft of not more than 60 seats or 18,000 pounds maximum payload capacity, carriers need only maintain coverage of $2,000,000 per involved aircraft for each occurrence.

(2) Any such carrier providing air transportation for passengers shall, in addition to the coverage required in paragraph (b)(1) of this section, maintain aircraft accident liability insurance coverage for bodily injury to or death of aircraft passengers, with minimum limits of $300,000 for any one passenger, and a total per involved aircraft for each occurrence of $300,000 times 75 percent of the number of passenger seats installed in the aircraft.

(c) U.S. air taxi operators registered under part 298 shall maintain the following coverage:

(1) Third-party aircraft accident liability coverage for bodily injury to or death of persons, including nonemployee cargo attendants, other than passengers, with minimum limits of:

(i) $75,000 for any one person in any one occurrence, and a total of $300,000 per involved aircraft for each occurrence, and

(ii) A limit of a least $100,000 for each occurrence for loss of or damage to property.

(2) U.S. air taxi operators carrying passengers in air transportation shall, in addition to the coverage required in paragraph (c)(1) of this section, maintain aircraft accident liability insurance coverage for bodily injury to or death of aircraft passengers, with minimum limits of $75,000 for any one passenger, and a total per involved aircraft for each occurrence of $75,000 times 75 percent of the number of passenger seats installed in the aircraft.

(d) Canadian charter air taxi operators registered under part 294 of this chapter shall maintain the following coverage:

(1) Third-party aircraft accident liability coverage for bodily injury to or death of persons, including nonemployee cargo attendants, other than passengers, and for damage to property, with a minimum coverage of $75,000 for any one person in any one occurrence, and a total of $2,000,000 per involved aircraft for each occurrence, except that Canadian charter air taxi operators operating aircraft of more than 30 seats or 7,500 pounds maximum cargo payload capacity, and a maximum authorized takeoff weight on wheels not greater than 35,000 pounds shall maintain coverage for those aircraft of $20,000,000 per involved aircraft for each occurrence.

(2) Canadian charter air taxi operators engaging in passenger charter air service under part 294 of this chapter shall, in addition to the coverage required in paragraph (d)(1) of this section, maintain aircraft accident liability coverage for bodily injury to or death of aircraft passengers, with a minimum coverage of $75,000 for any one passenger and a total per involved aircraft for each occurrence of $75,000 times 75 percent of the total number of passenger seats installed in the aircraft.

(e) Notwithstanding paragraphs (b), (c) and (d) of this section, the carrier may be insured for a combined single limit of liability for each occurrence. The combined single-limit coverage must be not less than the combined required minimums for bodily injury and property damage coverage plus, if the aircraft is used in passenger service, the required total passenger coverages stipulated in paragraph (b) of this section for U.S. and foreign direct air carriers and commuter carriers, paragraph (c) of this section for U.S. air taxi operators, or paragraph (d) of this section for Canadian charter air taxi operators.[1] The single-limit liability policy for the required aircraft accident liability coverage may be provided by a single policy or by a combination of primary and excess policies.

(f) The liability coverage shall not be contingent upon the financial condition, solvency, or freedom from bankruptcy of the carrier. The limits of the liability for the amounts required by this part shall apply separately to each occurrence. Any payment made under the policy or plan because of any one occurrence shall not reduce the coverage for payment of other damages resulting from any other occurrence.

[Docket No. 47939, 57 FR 40101, Sept. 2, 1992; 57 FR 52590, Nov. 4, 1992]

§ 205.6 Prohibited exclusions of coverage.

(a) No warranty or exclusion in the policy or plan or in any endorsement or amendment to the policy or plan, nor any violation of the policy or plan by the carrier, shall remove the liability coverage required by this part, except as specifically approved by the Department. This requirement shall not limit the right of insurers to recover from the carrier for amounts paid.

(b) A policy of insurance or a self-insurance plan required by this part shall not contain the following exclusions:

(1) Violation of any safety-related requirement imposed by statute or by rule of a government agency.

[1] For example: the minimum single limit of liability acceptable for any aircraft in air taxi passenger service with 16 passenger seats would be computed on the basis of limits set forth in paragraph (c) as follows: 16 × .75 equals 12; 12 × $75,000 equals $900,000; $900,000 plus $300,000 (nonpassenger liability per occurrence) plus $100,000 (property damage per occurrence) equals $1,300,000. The latter amount is the minimum in which a single-limit liability policy may be written.

(2) Liability assumed by the carrier under an agreement to raise the liability limitations of the Warsaw Convention by signing a counterpart to the agreement of carriers (such as the Montreal Agreement, 18900, as approved by Board Order E-23680, May 13, 1966, agreeing to a limit on the carrier's liability for injury or death of passengers of $75,000 per passenger), or any amendment to such agreement that may be approved by the Department and to which the carrier becomes a party.

[ER–1253, 46 FR 52577, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40100, 40101, Sept. 2, 1992]

§ 205.7 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

(a) Each policy of aircraft accident liability insurance and plan for self insurance shall specify that it shall remain in force, and may not be replaced, canceled, withdrawn, or in any way modified to reduce the minimum standards set forth in this part, or to change the extent of coverage, by the insurer or the carrier, nor expire by its own terms, in regard to coverage for the carrier in its common carrier operations in air transportation, until 10 days after written notice by the insurer (in the event of replacement, by the retiring insurer), or by the insurer's representative, or by the carrier, describing the change, to the Department's Office of Aviation Analysis (or, for Alaskan air taxi operators, to the Department's Alaska Field Office), which 10-day notice period shall start to run from the date such notice is actually received at the Department. For purposes of this part, a policy will not be considered to have expired if the same insurer renews its coverage without reduction in the extent of coverage or amounts of coverage, and without a break in coverage, whether or not a new policy is issued, and notice to the Department is not required in that event. If the coverage being changed is by type or class of aircraft or by specific aircraft, endorsements adding or deleting specific aircraft or types or classes of aircraft, for which prior notice would be required by this paragraph, shall be filed in accordance with § 205.4(b), and prior notice of the change need not be given under this paragraph.

(b) The requirements of this section shall not apply if the policy contains a lesser time period for cancellation in a war risk exclusion. If the war risk exclusion is activated by the insurer, the insurer or its representative shall immediately notify the Department.

[Docket No. 47939, 57 FR 40100, 40101, Sept. 2, 1992]

§ 205.8 Cargo liability disclosure statement.

Every direct U.S. or foreign air carrier providing air cargo service in air transportation shall give notice in writing to the shipper, when a shipment is accepted, of the existence or absence of cargo liability insurance, and the limits on the extent of its liability, if any. The notice shall be clearly and conspicuously included on or attached to all of its rate sheets and airwaybills.

[ER–1282, 47 FR 16173, Apr. 15, 1982]

PART 206—CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY: SPECIAL AUTHORIZATIONS AND EXEMPTIONS

Sec.

206.1 Emergency transportation.
206.2 Exemption from schedule filing.
206.3 Transportation of newspersons by all-cargo carriers.
206.4 Exemption of air carriers for military transportation.
206.5 Small aircraft operations by certificated carriers.

AUTHORITY: 49 U.S.C. Chapters 401, 415, 417, 419.

§ 206.1 Emergency transportation.

Notwithstanding the provisions of section 41101 of the Statute, and any term, condition or limitation attached to the exercise of the privileges of an air carrier certificate of public convenience and necessity which prohibits an air carrier from engaging in air transportation between any points on its route, the air carrier may carry between such points (a) any person or persons certified by a physician to be in need of immediate air transportation in order to secure emergency

medical or surgical treatment together with any necessary attendant or attendants and (b) any medical supplies certified by a physician as requiring immediate air transportation for the protection of life. Air carriers offering to provide this emergency transportation shall file appropriate tariffs pursuant to Chapter 415 of the Statute.

(Secs. 204, 416, 72 Stat. 743, 771; 49 U.S.C. 1324, 1386)

[ER–261, 24 FR 1860, Mar. 14, 1959, as amended at 60 FR 43524, Aug. 22, 1995]

§ 206.2 Exemption from schedule filing.

All air carriers are hereby exempted from the requirements of section 41902(b) of the Statute, which provides that each air carrier must periodically provide the Department and the U.S. Postal Service a listing of all of its regularly operated aircraft schedules and schedule changes, showing for each schedule the points served and the departure and arrival times.

[Docket No. 47939, 57 FR 40101, Sept. 2, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

§ 206.3 Transportation of newspersons by all-cargo carriers.

Notwithstanding the provisions of section 41101 and Chapter 415 of the Statute and part 221 of this chapter, an air carrier holding a certificate of public convenience and necessity for the transportation of only property and mail may provide transportation to persons on regularly scheduled cargo flights for the purpose of collecting data for preparation of feature news, pictorial or like articles provided that the transportation is limited to the writer, journalist, or photographer engaged in the preparation of data for use in feature news, pictorial, or like articles which are to appear in newspapers or magazines, or on radio or television programs and which will publicize the regularly scheduled cargo operations of the carrier.

[Docket No. 47939, 57 FR 40102, Sept. 2, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

§ 206.4 Exemption of air carriers for military transportation.

Air carriers providing air transportation pursuant to a contract with the Department of Defense are hereby exempted from Chapter 415 of the Statute, and from part 221, §§ 207.4 and 208.32, of this chapter, with respect to those services.

[Docket No. 47939, 57 FR 40102, Sept. 2, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

§ 206.5 Small aircraft operations by certificated carriers.

(a) A carrier holding an effective certificate issued under section 41102 of the Statute, when conducting operations with small aircraft, is exempt from the requirements of the Statute as set forth in subpart B of part 298 of this chapter, except section 41708 of the Statute, and is subject to the requirements set forth in the following provisions of this chapter:

(1) Part 205, with the minimum coverage requirements of § 205.5(b),

(2) Part 215,

(3) Part 298, subpart D, §§ 298.30, and 298.38, and subpart H, and

(4) Part 298, subpart F, if the certificated carrier conducts operations with small aircraft only (a certificated carrier conducting operations with both small and large aircraft is subject only to the reporting requirements contained in part 241 of this chapter).

(b) If a certificated carrier, when conducting operations with small aircraft, provides foreign air transportation that includes a segment for which tariff filing is required and another segment for which tariff filing is not required, then for through service over that routing the carrier has the option of filing a tariff or charging the sum of the applicable local rates, fares, or charges. If the carrier files a tariff for through service, it is not exempt from Chapter 415 or section 41310 of the Statute for that air transportation.

[Docket No. 47939, 57 FR 40102, Sept. 2, 1992, as amended at 60 FR 43524, Aug. 22, 1995]

PART 207—CHARTER TRIPS BY U.S. SCHEDULED AIR CARRIERS

Sec.
207.1 Applicability.
207.2 Terms of service.

AUTHORITY: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41102, 41103, 41301, 41504, 41702, 41708, 41712, 46101.

SOURCE: Docket No. OST–97–2356, 63 FR 28236, May 22, 1998, unless otherwise noted.

§ 207.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter air transportation conducted by air carriers holding certificates under 49 U.S.C. 41102 authorizing the operation of scheduled air transportation services.

§ 207.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of part 212 of this chapter.

PART 208—CHARTER TRIPS BY U.S. CHARTER AIR CARRIERS

Sec.
208.1 Applicability.
208.2 Terms of service.

AUTHORITY: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41102, 41103, 41301, 41504, 41702, 41708, 41712, 46101.

SOURCE: Docket No. OST–97–2356, 63 FR 28236, May 22, 1998, unless otherwise noted.

§ 208.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter air transportation conducted by air carriers holding certificates under 49 U.S.C. 41102 authorizing the operation of charter air transportation services.

§ 208.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of Part 212 of this chapter.

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

Subpart A—General

Sec.
211.1 Purpose.
211.2 Applicability.

Subpart B—General Requirements

211.10 Filing specifications.
211.11 Verification.
211.12 Filing and service.
211.13 Amendments to applications.
211.14 Incorporation by reference.
211.15 Statements of fact.
211.16 Oral hearing.

Subpart C—Information Requirements

211.20 Initial foreign air carrier permit or transfer of a permit.
211.21 Amendments or renewal of foreign air carrier permits.

Subpart D—Freely Associated State Air Carriers

211.30 Eligibility.
211.31 Application.
211.32 Issuance of permit.
211.33 Interstate and interstate authority.
211.34 Other permits.
211.35 Termination of eligibility.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: ER–1386, 49 FR 33439, Aug. 23, 1984, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 211 appear at 61 FR 34725, July 3, 1996.

Subpart A—General

§ 211.1 Purpose.

This part sets forth the filing and evidence requirements for foreign air carriers applying for authority to engage in foreign air transportation under section 41301 of Title 49 of the United States Code (Transportation).

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

§ 211.2 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to all foreign air carriers seeking initial foreign air carrier permits or the transfer, renewal, or amendment of an existing foreign air carrier permit.

(b) Canadian charter air taxi operators, foreign indirect air carriers of property, and foreign charter operators are not required to submit applications under this part. Instead, Canadian charter air taxi operators shall register under part 294 of this chapter, foreign indirect air carriers of property shall register under part 297 of this chapter,

and foreign charter operators shall register under subpart F of part 380 of this chapter.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

Subpart B—General Requirements

§ 211.10 Filing specifications.

(a) Except as provided in paragraph (b) of this section, applicants shall follow the requirements in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers.

(b) Mexican air taxi operators filing applications for foreign air carrier permits authorizing charter flights across the Mexico-United States border with small aircraft (a maximum passenger capacity of 60 seats or less, or a maximum payload capacity of 18,000 pounds or less) shall file an original and two copies of the application. The application shall conform to the instruction document available from the Foreign Air Carrier Licensing Division, Office of International Aviation, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(c) An application shall have consecutively numbered pages, and shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits are part of the application to which they are attached.

(d) Applications shall state all weights, measures and monetary units in U.S. terms, and all text in English.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984; 61 FR 34725, July 3, 1996]

§ 211.11 Verification.

Applications shall be verified and subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in which the application is executed. An application verified before a United States consular officer meets the requirements of this section.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

§ 211.12 Filing and service.

All types of applications for foreign air carrier permits (initial, renewal, amendment, or transfer) are filed as of the date the applications are received at the Department's Docket Facility. Each applicant shall serve those persons as required in part 302, subpart B, of this chapter.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984; 65 FR 6456, Feb. 9, 2000]

§ 211.13 Amendments to applications.

An applicant shall submit any information required by this part that is omitted from the original application, or any additional information, as an amendment to the original application. Applicants shall consecutively number amendments to applications and shall comply with the requirements of this subpart.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

§ 211.14 Incorporation by reference.

Where two or more applications are filed by a single carrier, the applicant may incorporate lengthy exhibits, or other documents, attached to one application into others by reference. The applicant may not incorporate by reference and update any information from a previous docket unless submitted within the past 2 years. The applicant must identify the docket, and the page number or exhibit number being incorporated, and state that

there has been no change in that information since submitting the original information.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

§ 211.15 Statements of fact.

The applicant shall include only significant and relevant facts in an application. Each application shall contain adequate information with respect to the evidence required in subpart C of this part. The application may contain other information and data the applicant considers necessary to explain particular circumstances.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

§ 211.16 Oral hearing.

If an oral evidentiary hearing is convened, the applicant must make available witnesses who are competent and able to testify to the accuracy of the statements and documents submitted.

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984]

Subpart C—Information Requirements

§ 211.20 Initial foreign air carrier permit or transfer of a permit.

A person applying for an initial foreign air carrier permit or the transfer of a permit shall submit the information listed below. The applicant must fully comply with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation, and include substitute information most closely approximating the information requested. The Department may require an applicant to provide additional information as necessary.

(a) State the name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and, if other than an individual, the name of the country under the laws of which it is organized and the statutory citation of such laws, if any.

(b) State the name and official address of the government air transport authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

(c) Supply the following information regarding the services proposed:

(1) A complete statement of the authority sought; and

(2) A description of the services proposed, specifying:

(i) The point or points in the United States proposed to be served:

(ii) The frequency of service planned at the start of operations, indicating any seasonal variations; whether the service proposed is to be scheduled, nonscheduled or charter; whether the service would be passenger, or property and mail, or a combination; and the type of equipment (and configuration) to be used; and

(iii) A service schedule stating the manner in which the service will be operated (e.g., nonstop or multi-stop, and the identity of proposed intermediate traffic and nontraffic points).

(d) Provide the names, addresses (both residence and business), and citizenship of all Directors, Officers and key management personnel, including the President, Vice Presidents, the Directors or Supervisors of Operations, Maintenance, and Finance, and the chief pilot and chief inspector. Indicate whether any of these persons are related by blood or marriage.

(e) Provide the names and citizenship of all persons holding five percent (5%) or more of the capital stock or capital of the applicant. Also indicate the number and percentage of shares of stock or percentage of capital held by each. If five percent or more of the applicant's stock is held by a corporation or partnership, set forth the name and citizenship of each person holding five percent or more of the entire capital stock or capital of that corporation or partnership and the respective interest of each. If any shares are held for the benefit of another person, give the name and citizenship of that person.

(f) If the applicant is not wholly owned by its homeland government,

state whether the applicant (each officer, director, manager, or holder of five percent or more of the capital stock) holds any interest directly or indirectly (through brokers or holding companies) in any of the entities listed below. If no interest is held, so state.

(1) Any U.S. carrier;

(2) Any other foreign air carrier;

(3) Any persons engaged in the business of aeronautics; and

(4) Any common carrier, or any person whose principal business is the holding of stock in, or control of, any air carrier.

(g) Indicate the relationship between the applicant and its homeland government. If the applicant is wholly owned or substantially owned by the government, indicate which governmental department has responsibility for managerial decisions.

(h) State whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR part 205. State the name(s) of its insurance carrier(s).

(i) Supply certified evidence, in English, of the applicant's operating authority issued by its government that relates to the operations proposed. This evidence must include a description of the applicant's present authority, the expiration date of this authority, and the manner in which it is expected to be renewed.

(j) Summarize the operating history of the applicant. Include the types of transportation services rendered, points served, etc., from the beginning of operations to the present. Also, if the applicant is a new airline (i.e., an airline that began direct air services within the past 12 months), briefly summarize the business experience of each officer, director and key management personnel, emphasizing any air transportation experience.

(k) Provide a list of the aircraft owned, leased and operated by the applicant. State each aircraft registration number and the country of registration. If leased, state the address and citizenship of each lessor. Describe any plans for the acquisition or lease of additional aircraft if the present permit application is granted as proposed. If any of the listed aircraft will not be used exclusively by the applicant, explain its proposed use. State whether any aircraft are or will be wet-leased.

(l) State where and by whom the maintenance of the aircraft is or will be performed. State whether the applicant's maintenance program complies with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7. Also state whether the applicant's home country is a contracting State to the Convention on International Civil Aviation.

(m) Briefly describe any agreements or cooperative working arrangements (e.g., block-space, wet-lease), both oral and written, entered with and between the applicant, or on behalf of the applicant, and any U.S. or foreign air carrier, affecting the proposed services to the United States that are not on file with the Department. If there are no such agreements, so state.

(n) Supply financial data summaries, setting forth in U.S. dollars the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal). These summaries must be accompanied by a statement from the applicant's official responsible for preparation of the summaries that the submissions are complete and accurate. These summaries must include the following data, but need not be more detailed than the financial data summaries published by ICAO:

(1) The profit and loss summary shall identify:

(i) Total air transport operating revenues (separated into three categories: passenger, cargo, and other transport revenues);

(ii) Total air transport operating expenses;

(iii) Operating result (difference between (i) and (ii));

(iv) Non-operating items; and

(v) Profit or loss after income taxes.

(2) The balance sheet summary shall state and identify:

(i) Current assets;

(ii) Flight equipment (after depreciation);

(iii) Other assets;

(iv) Total assets (sum of (i) through (iii));

(v) Current liabilities;

(vi) Other liabilities;

(vii) Long-term debt;

(viii) Capital stock;

(ix) Retained earnings (balance including capital surplus); and

(x) Total liabilities and equity (sum of (v) through (ix)).

(o) Describe the amount, type and reason for financial assistance received or expected from the applicant's home government, if any.

(p) Submit an estimate showing the total traffic and the financial results of the proposed services for the first full year of normal operations and the supporting data employed to calculate the financial forecast.

(q) If the air transportation proposed is not covered by an air transport agreement, state in narrative form each of the elements of reciprocity or comity relied upon for the requested authority. If the authority requested is governed by an agreement, state whether the applicant has been formally designated by its homeland government, and, if so, cite the diplomatic note.

(r) To the extent not described in paragraph (q), state the policy of the applicant's homeland government with respect to U.S. carriers' applications for scheduled and charter authority. Specifically state whether the homeland government grants Fifth Freedom traffic rights to U.S. carriers.

(s) For the preceeding 5 years, state whether the applicant has been involved in any safety or tariff violations or any fatal accidents. If so, furnish details.

(t) Submit 3 completed copies of OST Form 4523 (Waiver of liability limits under the Warsaw Convention).

(Approved by the Office of Management and Budget under control number 3024–0068)

[ER–1386, 49 FR 33439, Aug. 23, 1984, as amended by ER–1397, 49 FR 50027, Dec. 26, 1984; 61 FR 34725, July 3, 1996]

§ 211.21 Amendments or renewal of foreign air carrier permits.

A person applying for an amendment or renewal of a foreign air carrier permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation and include substitute information most closely approximating the information requested. The Department may require an applicant to provide any additional information necessary.

(a) The information required in paragraphs (a), (b), (i), (o), (q), (r), and (s), of § 211.20.

(b) Except if seeking renewal of existing authority, the information specified in paragraphs (c) and (p) of § 211.20 regarding the new or altered services proposed to be operated.

(c) If the financial material for the applicant on file with the Department is more than 2 years old, financial summaries setting forth, in U.S. dollars, the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal) as required in paragraph (n) of § 211.20, together with the statement of completeness and accuracy required by that paragraph. If the financial material on file with the Department is 2 years old or less, the applicant may incorporate that information by reference as described in § 211.14 of this part.

(d) If the ownership and control of the applicant are substantially unchanged, so state. If a change has occurred, the applicant shall respond to the paragraph in § 211.20 that most closely relates to the change that has taken place.

(e) A statement that applicant's maintenance program continues to comply with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

[ER–1386, 49 FR 33439, Aug. 23, 1984]

Subpart D—Freely Associated State Air Carriers

SOURCE: Amdt. No. 211–18, 52 FR 5442, Feb. 22, 1987, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart D appear at 61 FR 34725, July 3, 1996.

§ 211.30 Eligibility.

Foreign carriers owned and controlled by citizens of the Federated States of Micronesia, the Marshall Islands, Palau and/or the United States may, in accordance with the provisions of paragraph 5(b) of Article IX of the

Federal Programs and Services Agreement, implementing section 221(a)(5) of the Compact of Free Association between the United States and those governments, apply for authority as ''Freely Associated State Air Carriers.'' The permit application for such authority shall be labeled on the front page, ''Application for Freely Associated State Foreign Air Carrier Permit.''

§ 211.31 Application.

The application shall include, in addition to other requirements of this part, documentation clearly establishing:

(a) That the carrier is organized under the laws of the Federated States of Micronesia, the Marshall Islands, Palau or the United States;

(b) That substantial ownership and effective control of the carrier are held by citizens of the Federated States of Micronesia, the Marshall Islands, Palau and/or the United States;

(c) That citizens of other countries do not have interests in the carrier sufficient to permit them substantially to influence its actions, or that substantial justification exists for a temporary waiver of this requirement;

(d) That the Administrator of the Federal Aviation Administration has determined that the carrier complies with such safety standards as the Administrator considers to be required.

(e) That the government or governments of the Freely Associated States concerned have consented to the carrier's operation as a ''Freely Associated State Air Carrier.''

§ 211.32 Issuance of permit.

If the Department is satisfied that the applicant meets the requirements of § 211.31 (a) through (e), and that grant of all or part of the requested authority would otherwise be in the public interest, the Department may, subject to Presidential review under section 801(a) of the Federal Aviation Act, issue a ''Freely Associated State Foreign Air Carrier Permit'' to the applicant, including such terms, conditions or limitations as the Department may find to be in the public interest.

§ 211.33 Interstate and interstate authority.

(a) An application under this subpart may include a request, in addition to other foreign air transportation, for authority to engage in interstate air transportation between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii, and interstate air transportation within the Commonwealth of the Northern Mariana Islands. A request for all or part of such limited interstate air transportation authority shall be supported by documentation establishing:

(1) The impact of such interstate air transportation services on the economic projections of the carrier's proposed operations;

(2) The need for such proposed interstate air transportation by the affected U.S. points;

(3) The economic impact of such interstate air transportation on services provided by other carriers providing essential air transportation services to eligible Freely Associated State points within the scope of part 272 of this chapter.

(b) The Department may grant a Freely Associated State Air Carrier authority to engage in all or part of the interstate air transportation requested in paragraph (a) of this section provided that the Department finds:

(1) That grant of such interstate air transportation authority would be in furtherance of the objectives of the Compact of Free Association and related agreements between the United States and the Freely Associated States, and would otherwise be in the public interest; and

(2) That grant of such interstate air transportation authority would not significantly impair the economic viability of existing services providing essential air transportation to any eligible Freely Associated State point within the scope of part 272 of this chapter, or significantly increase compensation that may be required to maintain any such essential air transportation.

(c) The Department may, at any time, subject to Presidential review under section 41307, suspend, modify, or revoke such interstate authority if it

concludes that the requirements specified in paragraph (b) of this section are not then being met.

[Amdt. No. 211–18, 52 FR 5442, Feb. 22, 1987]

§211.34 Other permits.

Nothing in this section shall be construed as limiting the authority of the Department to issue a foreign air carrier permit, other than a Freely Associated State Foreign Air Carrier Permit, to a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia, the Marshall Islands or Palau, that does not meet the requirements of this section.

§211.35 Termination of eligibility.

The eligibility of a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia, the Marshall Islands or Palau, respectively, for issuance of a Freely Associated State Foreign Air Carrier Permit under this subpart shall exist only for such period as subparagraphs (a), (d), and (e) (eligibility for Freely Associated State essential air transportation subsidy compensation), or subparagraph (c) (limited interstate air transportation authority), of paragraph (5) of the Agreement on Civil Aviation Economic Services and Related Programs (Article IX of the Federal Programs and Services Agreement) remain in effect between the Government of those States and the Government of the United States, insofar as authority is conferred by such permits for purposes specified in those subparagraphs.

[Amdt. No. 211–18, 52 FR 5442, Feb. 22, 1987]

PART 212—CHARTER RULES FOR U.S. AND FOREIGN DIRECT AIR CARRIERS

Sec.

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APPENDIX A TO PART 212—CERTIFICATED OR FOREIGN AIR CARRIER'S SURETY BOND UNDER PART 212 OF THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION (14 CFR PART 212)
APPENDIX B TO PART 212—CERTIFICATION OF COMPLIANCE

AUTHORITY: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41103, 41504, 41702, 41708, 41712, 46101.

SOURCE: Docket No. OST–97–2356, 63 FR 28236, May 22, 1998, unless otherwise noted.

§212.1 Scope.

This part applies to all charter flights, and all other flights carrying charter passengers or cargo, in interstate and/or foreign air transportation by U.S. certificated air carriers or in foreign air transportation by foreign air carriers. It does not apply to any flights performed by a commuter air carrier, air taxi operator, or certificated air carrier operating ''small aircraft'' under part 298 of this chapter. Nothing in this part gives authority to operate a type or level of service not authorized by certificate, foreign air carrier permit, or exemption, except that a certificated air carrier authorized to conduct scheduled operations may conduct charter flights, in interstate and/or foreign air transportation, without limitation as to the points served.

§212.2 Definitions.

For the purposes of this part:

Affinity (pro rata) charter means a charter arranged by an organization on behalf of its membership, and which meets the requirements of §212.5.

Certificated air carrier means a U.S. direct air carrier holding a certificate issued under 49 U.S.C. 41102.

Charter flight means a flight operated under the terms of a charter contract between a direct air carrier and its charterer or lessee. It does not include scheduled interstate air transportation, scheduled foreign air transportation, or nonscheduled cargo foreign

air transportation, sold on an individually ticketed or individually waybilled basis.

Charter operator means:

(1) A ''Public Charter operator'' as defined in § 380.2 of this chapter, or

(2) An ''Overseas Military Personnel Charter operator'' as defined in § 372.2 of this chapter.

Direct air carrier means a certificated or foreign air carrier that directly engages in the operation of aircraft under a certificate, permit, or exemption issued by the Department.

Fifth freedom charter means a charter flight carrying traffic that originates and terminates in countries other than the carrier's home country, regardless of whether the flight operates via the home country.

Foreign air carrier means a direct air carrier which is not a citizen of the United States as defined in 49 U.S.C. 40102(a) that holds a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing direct foreign air transportation.

Fourth freedom charter means a charter flight carrying traffic that terminates in the carrier's home country having originated in another country.

Gambling junket charter means a charter arranged by a casino, hotel, cruise line, or its agents, the purpose of which is to transport passengers to the casino, hotel, or cruise ship where gambling facilities are available, and which meets the requirements of § 212.6.

Long-term wet lease means a wet lease which either—

(1) Lasts more than 60 days, or

(2) Is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

Mixed charter means a charter, the cost of which is borne partly by the charter participants and partly by the charterer, where all the passengers meet the eligibility requirements for ''affinity (pro rata)'' charters of § 212.5.

Part charter means flight carrying both charter and scheduled passenger traffic.

Single entity charter means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

Third freedom charter means a charter flight carrying traffic that originates in the carrier's home country and terminates in another country.

Wet lease means a lease between direct air carriers by which the lessor provides all or part of the capacity of an aircraft, and its crew, including operations where the lessor is conducting services under a blocked space or code-sharing arrangement.

§ 212.3 General provisions.

(a) Certificated and foreign air carriers may conduct charter flights as described in this part, and may carry charter passengers on scheduled flights, or charter cargo on scheduled or nonscheduled flights (or on the main deck or in the belly of passenger charter flights), subject to the requirements of this chapter and any orders of, or specific conditions imposed by, the Department.

(b) Charter flights may be operated on a round-trip or one-way basis, with no minimum group, shipment, or contract size.

(c) Contracts to perform charter flights must be in writing and signed by an authorized representative of the certificated or foreign air carrier and the charterer prior to the operation of the flights involved. The written agreement shall include:

(i) The name and address of either the surety whose bond secures advance charter payments received by the carrier, or of the carrier's depository bank to which checks or money orders for the advance charter payments are to be made payable as escrow holder pending completion of the charter trip; and

(2) A statement that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such trips.

(d) A certificated or foreign air carrier must make a reasonable effort to verify that any charterer with which it contracts, and any charter it conducts, meets the applicable requirements of this chapter.

(e) The certificated or foreign air carriers shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation, *provided*, however, that in the case of a passenger charter for less than the entire of an aircraft, the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(f) A certificated or foreign air carrier operating a U.S.-originating passenger charter shall be responsible to return to his or her point of origin any passenger who purchased round trip transportation on that charter and who was transported by that carrier on his or her outbound flight; except that this provision shall not apply in cases where the return transportation is to be provided by another certificated or foreign air carrier.

(g) A certificated or foreign air carrier may not perform any charter flight for which a statement of authorization is required under §212.9 until one has been granted by the Department. In addition, if a foreign air carrier is required to obtain a statement of authorization under paragraph (e) of that section, neither it, not any charter operator, or any other person shall advertise or sell any passenger charter services except those that have been specifically authorized by the Department.

(h) A certificated air carrier may not operate charters where such operations would result in a substantial change in the scope of its operations within the meaning of part 204 of this chapter.

(i) A certificated air carrier may not limit its baggage liability for interstate charter flights except as set forth in part 254 of this chapter.

(j) A certificated air carrier may not, except as set forth in part 121 of the Federal Aviation Regulations (14 CFR part 121), limit the availability, upon reasonable request, of air transportation and related services to a person who may require help from another person in expeditiously moving to an emergency exit for evacuation of an aircraft.

(k) A certificated air carrier holding a certificate to conduct only cargo operations may not conduct passenger charters.

(l) A certificated air carrier may not perform any charter in interstate commerce within the State of Alaska.

(m) A foreign air carrier may operate charters in foreign air transportation only to the extent authorized by its foreign air carrier permit under 49 U.S.C. 41302 or exemption authority under 49 U.S.C. 40109, and only to the extent to which such operations are consistent with the provisions of any applicable bilateral aviation undertaking.

§212.4 Authorized charter types.

Certificated and foreign air carriers may conduct the following charter types, subject to the provisions of this part:

(a) Affinity (pro rata) charters.

(b) Single entity charters, including:

(1) Wet leases involving the carriage of passengers and/or cargo, provided, that the wet lessee holds appropriate economic authority from the Department to conduct the proposed operations; and

(2) Charters pursuant to contracts with the Department of Defense, provided, that foreign air carriers may conduct charters for the Department of Defense only to the extent that such operations are consistent with the provisions of 49 U.S.C. 40118.

(c) Mixed charters.

(d) Gambling junket charters.

(e) Public Charters in accordance with part 380 of this chapter (including operations by educational institutions as defined in that part).

(f) Overseas military personnel charters in accordance with part 372 of this chapter.

(g) Cargo charters.

§ 212.5 Operation of affinity (pro rata) charters.

An affinity (pro rata) charter operated by a certificated or foreign air carrier must meet the following criteria:

(a) The aircraft must be chartered by an organization, no part of whose business is the formation of groups for transportation or solicitation or sale of transportation services, for the purpose of providing air transportation to its members and their immediate families.

(b) The charter must be organized by the organization itself, or by a person or company who acts not as a principal, but as an agent for the chartering organization or the certificated or foreign air carrier.

(c) No solicitation, sales, or participation may take place beyond the bona fide members of an eligible chartering organization, and their immediate families (spouse, children, and parents). All printed solicitation materials shall contain the following notice in boldface, 10-point or larger type—

Some of the Federal rules that protect against tour changes and loss of passengers' money in publicly sold charters do not apply to this charter flight.

(d) ''Bona fide members'' are members of an organization who: Have not joined the organization merely to travel on a charter flight; and who have been members of the chartering organization for a minimum of six months prior to the date of commencement of the affected flight; *provided*, that the ''six month'' rule does not apply to:

(1) Employees of a single commercial establishment, industrial plant, or government agency, or

(2) Students and employees of a single school.

(e) The charter price due the direct air carrier shall be prorated equally among all the charter passengers, except that children under 12 may be offered discounted or free transportation.

(f) The certificated or foreign air carrier shall make reasonable efforts to assure that passengers transported meet the eligibility requirements of this section. The certificated or foreign air carrier shall also obtain (no later than the date of departure), and maintain for two years, a certification by an authorized representative of the chartering organization that all passengers are eligible for transportation under this section.

§ 212.6 Operation of gambling junket charters.

A gambling junket charter operated by a certificated or foreign air carrier must meet the following criteria:

(a) The aircraft must be chartered by

(1) A casino, hotel, or cruise line duly licensed by the government of any state, territory or possession of the United States, or by a foreign government, or

(2) An agent of such a casino, or cruise line on behalf of that casino, hotel, or cruise line.

(b) The casino, hotel, or cruise line or its agents, may not require a passenger to incur any expense in taking the trip, *provided*, that this provision shall not preclude the casino, hotel, or cruise line or its agents, from requiring prospective passengers to pay nominal reservation fees that are duly refundable by the casino, hotel, or cruise line before the flight, establish a minimum line-of-credit at the casino, hotel, or cruise line, bring (but not necessarily spend) a specified minimum amount of money, or meet other requirements that do not place them in financial jeopardy; nor does it preclude the casino, hotel, or cruise line, or its agents, from offering operational land packages for a fee.

§ 212.7 Direct sales.

(a) Certificated and foreign air carriers may sell or offer for sale, and operate, as principal, Public Charter flights under part 380 of this chapter directly to the public.

(b) Each certificated or foreign air carrier operating a charter trip under this section shall comply with all the requirements of part 380 of this chapter, except that:

(1) Those provisions of part 380 relating to the existence of a contract between a charter operator and a direct air carrier do not apply;

(2) A depository agreement shall comply with §380.34a (d) and (f);

(3) A security agreement shall comply with §380.34 (c) and (d); and

(i) If no depository agreement is used, protect charter participant payments (including those for ground accommodations and services) and assure the certificated or foreign air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant payments (including those for ground accommodations and services) and assure the certificated or foreign air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) The Department reserves the right to limit or prohibit the operation of direct sales Public Charters by a foreign air carrier upon a finding that such action is necessary in the public interest.

§212.8 Protection of customers' payments.

(a) Except as provided in paragraph (c) of this section, no certificated air carrier or foreign air carrier shall perform any charter trip (other than a cargo charter trip) originating in the United States or any Overseas Military Personnel Charter trip, as defined in part 372 of this chapter, nor shall such carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Department a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums payable in advance to the carrier by charterers, in connection with any such trip to be performed by said carrier, shall be deposited with and maintained by the bank, as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay the carrier either by check or money order made payable to the depository bank. Such check or money order and any cash received by the carrier from a charterer (or its agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the check or money order or the cash, along with a statement showing the name and address of the charterer (or its agent); provided, however, that where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may be authorized by the carrier to deduct its commission and remit the balance of the advance payment to the carrier either by check or money order made payable to the designated bank.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed; provided, however, that the bank may be required by the terms of the agreement to pay over to the carrier a specified portion of such escrowed funds, as payment for the performance of the outbound segment of a round-trip charter upon the carrier's written certification that such segment has been so completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter, provided however, that in the case of a split charter escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight.

(5) As used in this section the term ''bank'' means a bank insured by the Federal Deposit Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Department. Claims against the escrow may be made only with respect to the non-performance of air transportation.

(c) The carrier may elect, in lieu of furnishing an escrow agreement pursuant to paragraph (a) of this section, to furnish and file with the Department a surety bond with guarantees to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all overseas military personnel charter trips, as defined in part 372 of this chapter, to be performed, in whole or in part, by such carrier pursuant to any contracts entered into by such carrier. The amount of such bond shall be unlimited.[1] Claims under the bond may be made only with respect to the non-performance of air transportation.

(d) The bond permitted by this section shall be in the form set forth as the appendix to this part. Such bond shall be issued by a bonding or surety company—

(1) Which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of ''A'' or better or

(2) Which is listed in the U.S. Department of Treasury's notice listing companies holding Certificates of Authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies, published in the FEDERAL REGISTER on or about July 1. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which there is located the office or usual residence of the agency designated by the carrier under 49 U.S.C. 46103 to receive service of notices, process and other documents issued by or filed with the Department of Transportation. For the purposes of this section the term ''State'' includes any territory or possession of the United States, or the District of Columbia. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Department will notify the certificated or foreign air carrier by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time limit set forth in the notification, no amounts payable in advance by customers for the subject charter trips shall be accepted by the carrier.

(e) The bond required by this section shall provide that unless the charterer files a claim with the carrier, or, if the carrier is unavailable, with the surety, within 60 days after cancellation of a charter trip with respect to which the charterer's advance payments are secured by the bond, the surety shall be released from all liability under the bond to such charterer for such charter trip. The contract between the carrier and the charterer shall contain notice of this provision.

§ 212.9 Prior authorization requirements.

(a) Certificated air carriers shall obtain a statement of authorization for each long-term wet lease to a foreign air carrier.

(b) Foreign air carriers shall obtain a statement of authorization for each:

(1) Fifth freedom charter flight to or from the United States;

(2) Long-term wet lease;

(3) Charter flight for which the Department specifically requires prior authorization under paragraph (e) or (f) of this section; or

(4) Part charter.

(c) The Department may issue blanket statements of authorization to foreign air carriers to conduct fifth freedom charters. The standards for issuing such blanket authorizations shall be those stated in § 212.11. The Department may revoke any authority granted under this paragraph at any time without hearing.

(d) The Department may at any time, with or without hearing, but with at

[1] While the face amount of the bond is unlimited, claims are limited to amounts that are paid to carrier for U.S.-originating passenger charter flights that carrier fails to perform or to refund.

least 30 days' notice, require a foreign air carrier to obtain a statement of authorization before operating any charter flight. In deciding whether to impose such a requirement, the Department will consider (but not be limited to considering) whether the country of the carrier's nationality:

(1) Requires prior approval for third or fourth freedom charter flights by U.S. air carriers;

(2) Has, over the objection of the U.S. Government, denied rights of a U.S. air carrier guaranteed by a bilateral agreement; or

(3) Has otherwise impaired, limited, or denied the operating rights of U.S. air carriers, or engaged in unfair, discriminatory, or restrictive practices with respect to air transportation services to, from, through, or over its territory.

(e) The Department, in the interest of national security, may require a foreign air carrier to provide prior notification or to obtain a statement of authorization before operating any charter flight over U.S. territory.

§ 212.10 Application for statement of authorization.

(a) Application for a statement of authorization shall be submitted on OST Form 4540 except that for part charters or long-term wet leases the application may be in letter form. An application for a long-term wet lease shall describe the purpose and terms of the wet lease agreement. Except for an application for a long-term wet lease involving a codeshare agreement, an original and two copies of an application shall be submitted to the Department of Transportation, Office of International Aviation, U.S. Air Carrier Licensing Division, X–44 (for an application by a certificated air carrier), or Foreign Air Carrier Licensing Division, X–45 (for an application by a foreign air carrier), 400 7th Street, SW., Washington, DC 20590; an original and two copies of an application for a long-term wet lease involving a codeshare agreement shall be submitted to DOT Dockets, PL–401, 400 7th Street, SW., Washington, DC 20590, or by electronic submission to DOT Dockets according to procedures at the DOT Dockets website. Upon a showing of good cause, the application may be transmitted by facsimile (fax) or telegram, or may be made by telephone, provided, that in the case of a fax or telephone application, the applicant must confirm its request (by filing an original and two copies of its application as described above) within three business days.

(b) A copy of each application for a long-term wet lease shall also be served on the Director of Flight Standards Service (AFS–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, and on each certificated air carrier that is authorized to serve the general area in which the proposed transportation is to be performed.

(c)(1) Applicants for statements of authorization filed by foreign air carriers shall include documentation to establish the extent to which the country of the applicant's nationality deals with U.S. air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement, and

(i) The Department has not established that the country accords reciprocity;

(ii) The Department has found reciprocity defective in the most recent prior approval application involving the country; or

(iii) Changes in reciprocity have occurred since the most recent Department finding for the country in question.

(2) Applications filed by certificated or foreign air carriers to conduct long-term wet leases shall include, for the country of the lessee's nationality, the documentation specified in paragraph (c)(1) of this section.

(d)(1) Applications shall be filed at least 5 business days before commencement of the proposed flight or flights, except as specified in paragraphs (d)(2), (d)(3), and (d)(4) of this section. Late applications may be considered upon a showing of good cause for the lateness.

(2) Applications for a part charter or for a long-term wet lease shall be filed at least 45 calendar days before the date of the first proposed flight.

(3) Applications specifically required under § 212.9(d) shall be filed at least 30 calendar days before the proposed flight or flights (10 calendar days for

cargo charters), unless otherwise specified by the Department.

(4) Applications required by a Department order under § 212.9(e) shall be filed at least 14 calendar days before the proposed flight or flights, unless otherwise specified by the Department.

(5) Where an application is required by more than one provision of this part and/or order of the Department, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(6) The Department may require service of applications as it deems necessary.

(e)(1) Any part in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application or before the date of the proposed flight or flights, whichever is earlier. Memorandums will be considered to the extent practicable; the Department may act on an application without waiting for supporting or opposing memorandums to be filed.

(2) Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Department is requested to consider.

(3) A copy of each memorandum shall be served on the certified or foreign air carrier applying for approval.

(f)(1) Unless otherwise ordered by the Department, each application and memorandum filed in response will be available for public inspection at the Office of International Aviation immediately upon filing. Such information with respect to codeshare applications and responsive pleadings will be available for public inspection at DOT Dockets or at the DOT Dockets website. Notice of the filing of all applications shall be published in the Department's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Department finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

[Docket No. OST–97–2356, 63 FR 28236, May 22, 1998, as amended at 64 FR 3213, Jan. 21, 1999]

§ 212.11 Issuance of statement of authorization.

(a) The Department will issue a statement of authorization if it finds that the proposed charter flight, part charter, or wet lease meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the public interest the Department will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought to covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which an applicant foreign air carrier's home country (and, in the case of a long-term wet lease, the lessee's home country) deals with U.S. air carriers on the basis of substantial reciprocity.

(3) Whether the applicant or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease:

(i) Whether the lessor (applicant) or its agent or the lessee (charterer) or its agent has previously violated the provisions of the Department's charter regulations.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the lessor owns and/or controls the lessee, or is owned and/or controlled by the lessee.

(c) The Department will submit any denial of an authorization specifically required of a foreign air carrier under § 212.9(d) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Department where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President. For the purposes of this paragraph, an

application filed by a foreign air carrier under § 212.9(d) to conduct a cargo charter will be considered as timely filed only if it is filed at least 30 calendar days before the proposed flight, notwithstanding the 10-day filing requirement for cargo charters in § 212.10(d)(3).

(d) The Department will publish notice of its actions on applications for statements of authorization in its Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters of endorsed forms advising applicants of action taken on their applications.

§ 212.12 Waiver.

The Department may grant a waiver of any of the provisions of this part upon a finding that such waiver is in the public interest. A certificated or foreign air carrier may request a waiver by filing a written application with the Department, citing the specific provision to be waived and providing justification for such waiver.

APPENDIX A TO PART 212—CERTIFICATED OR FOREIGN AIR CARRIER'S SURETY BOND UNDER PART 212 OF THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION (14 CFR PART 212)

Know all persons by these presents, that we _____ (Name of certificated or foreign air carrier) of _____, (City) _____ (State or Country) as Principal (hereinafter called Principal), and _____ (name of Surety) a corporation created and existing under the laws of the State of _____ (State) as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in an unlimited amount, as required by 14 CFR 212.8, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the principal, a certificated air carrier holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102, or a foreign air carrier holding a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing that foreign air carrier to engage in charter trips in foreign air transportation, is subject to rules and regulations of the Department of Transportation relating to security for the protection of charterers of civil aircraft and has elected to file with the Department of Transportation such a bond as will guarantee to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all Overseas Military Personnel Charters, as defined in 14 CFR part 372, to be performed, in whole or in part, by such certificated or foreign air carrier pursuant to contracts entered into by such carrier after the execution date of this bond, and

Whereas this bond is written to assure compliance by the Principal with rules and regulations of the Department of Transportation relating to security for the protection of charterer of civil aircraft for charter trips (other than cargo charters) originating in the United States or of Overseas Military Personnel Charter trips and shall inure to the benefit of any and all such charterers to whom the Principal may be held legally liable for any of the damages herein described.

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to such charterer any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts made by the Principal while this bond is in effect for the performance of charter trips (other than cargo charter trips) originating in the United States and of Overseas Military Personnel Charter trips, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder in any specified amount. The surety agrees to furnish written notice to the Department of Transportation forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the _____ day of _____, _____, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Department of Transportation at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Department. The Surety shall not be liable hereunder for the payment of the damages hereinbefore described which arise as the result of any contracts for the performance of air transportation services made by the Principal after the termination of this bond becomes effective, as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts for the performance of air transportation services made by the Principal after

the termination of this bond becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charterer who shall within sixty (60) days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by this bond give written notice of claim to the certificated or foreign air carrier, or, if it is unavailable, to the Surety, and all liability on this bond for such charter trip shall automatically terminate sixty (60) days after the termination date thereof except for claims filed within the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the _____ day of _____, _____.

Principal

Name _____

By: Signature and title _____

Witness _____

Surety

Name _____

By: Signature and title _____

Witness _____

Bonding or surety company must be listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of ''A'' or better or in the Department of the Treasury listing of companies holding certificates of authority as acceptable sureties on Federal bonds. In addition, the bonding or surety company shall be one legally authorized to issue bonds of that type in the State(s) in which the charter flight(s) originate. Agents must provide satisfactory proof that they have the requisite authority to issue this bond.

APPENDIX B TO PART 212—CERTIFICATION OF COMPLIANCE

Organization Charterworthiness for Affinity Charter Air Transportation and Eligibility of All Prospective Passengers for Such Flights Under Part 212 of the Regulations of the Department of Transportation (14 CFR Part 212)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

Sec.
213.1 Applicability.
213.2 Reports of traffic data.
213.3 Filing and approval of schedules.
213.4 [Reserved]
213.5 Filing and service of schedules and applications for approval of schedules; procedure thereon.
213.6 Compliance.
213.7 Filing requirements for adherence to Montreal Agreement.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: ER–624, 35 FR 8881, June 9, 1970, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 213 appear at 61 FR 34725, July 3, 1996.

§ 213.1 Applicability.

This regulation sets forth terms, conditions, and limitations applicable to foreign air carrier permits issued under section 41302 of Title 49 of the United States Code (Transportation) authorizing scheduled foreign air transportation. Unless such permits or the orders issuing such permits otherwise provide, the exercises of the privileges to engage in scheduled foreign air transportation granted by any such permit shall be subject to the terms, conditions, and limitations as are set forth in this part, and as may from time to time be prescribed by the Department.

[ER–680, 36 FR 7306, Apr. 17, 1971, as amended at 61 FR 34725, July 3, 1996]

§ 213.2 Reports of traffic data.

The Department may at any time require any foreign air carrier to file with the Department traffic data disclosing the nature and extent of such carrier's engagement in transportation between points in the United States and points outside thereof. The Department will specify the traffic data required in each such instance. Interested persons seeking reconsideration of a Department determination under this section may file a petition pursuant to Rule 14 of part 302 within 10 days after Department action.

[ER–624, 35 FR 8881, June 9, 1970, as amended at 65 FR 6456, Feb. 9, 2000]

§ 213.3 Filing and approval of schedules.

(a) In the absence of provisions to the contrary in the permit and of Department action pursuant to this section, a foreign air carrier may determine the schedules (including type of equipment

used) pursuant to which it engages in transportation between points in the United States and points outside thereof.

(b) In the case of a foreign air carrier permit for scheduled air transportation which is not the subject of an air transport agreement between the United States and the government of the holder, the Department, if it finds that the public interest so requires, may with or without hearing order the foreign air carrier to file with it within 7 days after service of such order, an original and three copies of any or all of its existing schedules of service between any point in the United States and any point outside thereof, and may require such carrier thereafter to file an original and three copies of any proposed schedules of service between such points at least 30 days prior to the date of inauguration of such service. Such schedules shall contain all schedules of aircraft which are or will be operated by such carrier between each pair of points set forth in the order, the type of equipment used or to be used, the time of arrival and departure at each point, the frequency of each schedule, and the effective date of any proposed schedule.

(c) In the case of any foreign air carrier permit for scheduled air transportation which is the subject of an air transport agreement between the United States and the government of the holder, the Department may with or without hearing issue an order, similar to that provided for in paragraph (b) of this section, if it makes the findings provided for in that subsection and, in addition, finds that the government or aeronautical authorities of the government of the holder, over the objections of the U.S. Government, have: (1) Taken action which impairs, limits, terminates, or denies operating rights, or (2) otherwise denied or failed to prevent the denial of, in whole or in part, the fair and equal opportunity to exercise the operating rights, provided for in such air transport agreement, of any U.S. air carrier designated thereunder with respect to flight operations to, from, through, or over the territory of such foreign government.

(d) The carrier may continue to operate existing schedules, and may inaugurate operations under proposed schedules 30 days after the filing of such schedules with the Department, unless the Department with or without hearing issues an order, subject to stay or disapproval by the President of the United States within 10 days after adoption, notifying the carrier that such operations, or any part of them, may be contrary to applicable law or may adversely affect the public interest. If the notification pertains to a proposed schedule, service under such schedule shall not be inaugurated; if the notification pertains to existing schedules, service under such schedules shall be discontinued on the date specified in the Department's order. Such date shall be not less than ten days after adoption of the Department's order unless affirmative Presidential approval is obtained at an earlier date.

(e) No petitions for reconsideration may be filed with respect to Department orders issued pursuant to paragraph (b), (c), or (d) of this section. Nevertheless, if the Department serves a notification under paragraph (d) of this section, the carrier may make application to the Department for approval of any or all existing or proposed schedules, pursuant to the provisions of §213.5. The Department may with or without hearing withdraw, in whole or in part, its notification at any time and may permit existing or proposed schedules to be operated for such period or periods as the Department may determine.

(f) The date of service on a foreign air carrier of orders and notifications pursuant to this section shall be the date of mailing thereof, by certified or registered mail, to the agent designated by the foreign air carrier pursuant to 49 U.S.C. 46103 or, if the foreign air carrier has failed to designate an agent, the date of mailing by registered air mail to the foreign air carrier's home office.

[ER–624, 35 FR 8881, June 9, 1970, as amended by ER–870, 39 FR 30843, Aug. 26, 1974; ER–1107, 47 FR 46495, Oct. 19, 1982; 61 FR 34725, July 3, 1996]

§ 213.4 [Reserved]

§ 213.5 Filing and service of schedules and applications for approval of schedules; procedure thereon.

(a) *Number of copies and certificate of service.* An original and three copies of each schedule, and an original and seven (7) copies of application for approval of schedules (§ 213.3(e)) shall be filed with the Department, each setting forth the names and addresses of the persons, if any, required to be served, and stating that service has been made on all such persons by personal service or by registered or certified mail (if the addressee is located within the United States, its territories and possessions) or by registered air mail (if the addressee is located outside the United States, its territories and possessions) and the date of such service. In the case of service by mail, the date of mailing shall be considered the date of service.

(b) *Pleadings by interested persons.* Any interested person may file and serve upon the foreign air carrier a memorandum in opposition to, or in support of, schedules or an application for approval of schedules within 10 days of the filing opposed or supported. All memoranda shall set forth in detail the reasons for the position taken together with a statement of economic data and other matters which it is desired that the Department officially notice, and affidavits stating other facts relied upon. Memoranda shall contain a certificate of service as prescribed in paragraph (a) of this section. An executed original and seven (7) true copies shall be filed with the Department's Docket Facility. Unless otherwise provided by the Department, further pleadings will not be entertained.

(c) *Determination and petitions for reconsideration.* The Department may make its determination upon the application and other pleadings or, in its discretion, after hearing. Interested persons seeking reconsideration of the Department's determination on an application approval of schedules may file a petition pursuant to Rule 14 of part 302 of this chapter within 10 days of Department action. Any interested person may file an answer in opposition to, or in support of, the petition within 10 days after it is filed. An executed original and 19 copies of such petition for reconsideration or memorandum shall be filed with the Docket Facility. All petitions for reconsideration shall contain a certificate of service in the form prescribed by paragraph (a) of this section. Unless ordered by the Department upon application or upon its own motion, further pleadings will not be entertained.

[ER–624, 35 FR 8881, June 9, 1970, as amended by ER–644, 35 FR 14382, Sept. 12, 1970; 61 FR 34725, July 3, 1996; 65 FR 6456, Feb. 9, 2000]

§ 213.6 Compliance.

Any violation by the foreign air carrier of applicable provisions of Subtitle VII of Title 49 of the U.S. Code or of orders, rules or regulations issued thereunder, or of the terms, conditions or limitations applicable to the exercise of the privileges granted by the permit shall constitute a failure to comply with the terms, conditions and limitations of such permit: *Provided,* That upon a showing that a violation of a provision not mandatorily prescribed by law resulted from the observance by the holder of an obligation, duty or liability imposed by a foreign country, the Department may excuse the violation.

[ER–624, 35 FR 8881, June 9, 1970, as amended at 61 FR 34725, July 3, 1996]

§ 213.7 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a foreign air carrier permit or other authority authorizing direct foreign scheduled air transportation that the holder have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523), and a tariff (for those carriers otherwise generally required to file tariffs) that includes its provisions, and comply with all other requirements of part 203 of this chapter. That form can be obtained from the Foreign Air Carrier Licensing Division (X-45), Office of International Aviation,

Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(Approved by the Office of Management and Budget under control number 3024–0064)

[ER–1330, 48 FR 8050, Feb. 25, 1983, as amended by ER–1346, 48 FR 31014, July 6, 1983; 61 FR 34725, July 3, 1996]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Sec.
214.1 Applicability.
214.2 Terms of service.

§214.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only.

(Secs. 204, 402, Pub. L. 85–726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371)

[ER–1223, 46 FR 28379, May 26, 1981]

§214.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of part 212 of this chapter.

(Secs. 204, 402, Pub. L. 85–726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371)

[ER–1223, 46 FR 28379, May 26, 1981]

PART 215—USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS AND COMMUTER AIR CARRIERS

Sec.
215.1 Applicability.
215.2 Purpose.
215.3 Use of name.
215.4 Change of name or use of trade name.
215.5 Procedure in case of similarity of names.
215.6 Acknowledgment of registration.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 417.

SOURCE: 53 FR 17923, May 19, 1988, unless otherwise noted.

§215.1 Applicability.

This part applies to all certified air carriers, commuter air carriers, and foreign direct air carriers and to initial or amended applications for authority, applications for certificate or permit transfers or reissuances, and registration of business names.

§215.2 Purpose.

This part sets rules under which direct air carriers may use the names in their operating authorizations and change those names. It further provides for notification to air carriers that may be affected by the use by other air carriers of the same or similar names. Its purpose is to place the responsibility for resolving private disputes about the use of similar names with the air carriers involved, through recourse to the trade names statutes and the courts. These rules do not preclude Department intervention or enforcement action should there be evidence of a significant potential for, or of actual, public confusion.

§215.3 Use of name.

In holding out to the public and in performing air transportation services, a direct air carrier or foreign direct air carrier subject to this part shall use only the name in which its operating authorization is issued or trade name is registered, and shall not operate or hold out to the public in a name not acknowledged by the Department to be so registered. Except as provided in §§221.21(J) and 221.35(d) of this chapter, minor variations in the use of this name, including abbreviations, contractions, initial letters, or other variations of the name that are identifiable with the authorized name, are permitted. Slogans and service marks shall not be considered names for the purpose of this part, and their use is not restricted.

§215.4 Change of name or use of trade name.

(a) *Registrations.* Any air carrier subject to this part that desires to change the name in which its operating authorization has been issued, or to use a trade name, or to obtain initial operating authority must register the name with the Department. The Department

will construe any application for initial, reissued, or transferred authority, a well as any commuter air carrier registration or amendment filed under part 298, as containing a ''registration'' of the intended name. A separate name registration document need not be filed. A carrier registering use of a trade name, without seeking reissuance of its underlying certificate or foreign air carrier permit or exemption authority, must file a statement that complies with §§ 302.3 and 302.4 of this chapter registering its intended name with the Air Carrier Fitness Division if it is a U.S. certificated or commuter carrier, or within the Licensing Division if it is a foreign air carrier.

(b) *Montreal Agreement*. Each registration under this section shall be accompanied by three copies of a counterpart to the Montreal Agreement (Agreement 18900) (OST Form 4523) signed by the carrier using the proposed name. Upon arrival of the application, the Department will place a copy of the signed OST form 4523 in Docket 17325.

(Reporting and recordkeeping requirements in paragraph (b) were approved by the Office of Management and Budget under control number 3024–0064.)

§ 215.5 Procedure in case of similarity of names.

The Department will compare the proposed name in any registration filed under this part or in an application for new, reissued, or transferred authority with a list of names used by existing certificated, commuter and foreign direct air carriers. The Department will notify the applicant of any other certificated, foreign or commuter carriers that may have an identical or similar name. The registrant must then notify those carriers of its registration. The notification will identify the applicant and state its proposed name or the name requested, area of operation or proposed area of operation, type of business, and other pertinent matters. The registrant must then file a certificate of service of the notification with the Department.

§ 215.6 Acknowledgment of registration.

After completion of the filing and notification requirements of this part, the Department may acknowledge the registration by notice in the action granting the application for initial operating authority, transfer, or reissuance or in approving the commuter registration, or by separate notice in the case of use of a trade name. Non-action under this provision shall not be construed as an adjudication of any rights or liabilities.

PART 216—COMMINGLING OF BLIND SECTOR TRAFFIC BY FOREIGN AIR CARRIERS

Sec.
216.1 Definitions.
216.2 Applicability.
216.3 Prohibition.
216.4 Special authorizations.
216.5 Existing permits.
216.6 Existing unauthorized operations.

AUTHORITY: 49 U.S.C. Chapters 401, 413, 417.

SOURCE: ER–525, 33 FR 692, Jan. 19, 1968, unless otherwise noted.

§ 216.1 Definitions.

(a) As used in this part, unless the context otherwise requires:

Act means the Federal Aviation Act of 1958, as amended.

Blind sector traffic means revenue traffic, carried by a foreign air carrier on a flight operating in air transportation, which is enplaned at one foreign point and deplaned at another foreign point, where at least one of such points is not named as a terminal or intermediate point in the carrier's applicable foreign air carrier permit.

NOTE: This definition shall not be deemed to include the carriage of authorized *beyond homeland* traffic (i.e., traffic carried between a point named in a carrier's foreign air carrier permit and a point beyond a homeland terminal point authorized under such permit).

Revenue traffic means persons, property or mail carried for compensation or hire.

(b) Terms defined in section 101 of the Act have the meaning expressed in such definitions.

§216.2 Applicability.

This part sets forth the requirements applicable to foreign air carriers for obtaining a Special Authorization from the Board with respect to any deviation from an authorized foreign air transportation route for the purpose of commingling blind sector traffic with air transportation traffic carried pursuant to a foreign air carrier permit issued by the Board. The deviation by a foreign air carrier from its authorized route for the purpose of combined carriage to or from the United States of nonrevenue or other traffic, the carriage of which does not constitute engaging in foreign air transportation, is governed by the provisions of part 375 of this chapter.

§216.3 Prohibition.

No foreign air carrier shall carry any blind sector traffic, as defined in this part, on any flight operating in air transportation pursuant to the authority of a foreign air carrier permit issued under section 402 of the Act, unless the combined carriage of such traffic has been specifically authorized by such permit, or by a Special Authorization issued under §216.4.

§216.4 Special authorizations.

(a) *Applications*. Any foreign air carrier may apply to the Board for a Special Authorization, as required by this part, for the carriage of blind sector traffic on a particular flight, series of flights, or for a specified or indefinite period of time between specified points. Applications shall be submitted directly to the Board, addressed to the attention of the Director, Bureau of International Aviation. One original and two copies in conformity with the requirements of §§302.3(b) and 302.4 (a) and (b) of this chapter shall be filed. The applications shall contain a proper identification of the applicant; the flight or flights upon which it is proposed to carry such blind sector traffic, including routing, nontraffic stops, and dates or duration of the authority sought; a full description of such traffic, and points between which such traffic will be carried; information or documentation as to whether the country of which the applicant is a national grants reciprocal privileges to U.S. carriers; and the reasons for requesting such authorization together with such additional information as will establish that the grant of such authority will otherwise be in the public interest. Such additional information as may be specifically requested by the Board shall also be furnished.

(b) *Service*. Applications shall be served upon each direct U.S. air carrier certificated to engage in individually ticketed or waybilled foreign air transportation over any portion of the route to which the application pertains, and on such other persons as the Board may require, and proof of such service shall accompany the application as provided in §302.7 of this chapter. Notice of such applications shall also be published in the Board's Weekly List of Applications Filed.

(c) *Memoranda in support or opposition*. Any interested person may file a memorandum in support of or in opposition to the grant of an application. Such memorandum shall set forth in detail the reasons why it is believed that the application should be granted or denied and shall be accompanied by such data, including affidavits, which it is desired that the Board consider. Copies of the memorandum shall be served upon the applicant. Nothing in this subparagraph shall be deemed to preclude the Board from granting or denying an application when the circumstances so warrant without awaiting the filing of memoranda in support of or in opposition to the application.

(d) *Time for filing*. (1) Applications seeking authority to engage in blind sector operations for a period of 3 months or longer, shall be submitted at least 60 days in advance of the proposed commencement of such operations. Memoranda in response to such an application shall be submitted within 15 days after the date of filing thereof.

(2) Applications seeking authority to engage in blind sector operations for a period less than three months shall be filed at least 20 days in advance of the proposed commencement of such operations, and memoranda in response thereto within 7 days after the date of filing thereof: *Provided*, That the Board may consider late filed applications upon a showing of good cause for failure to adhere to this requirement.

(e) *General procedural requirements.* Except as otherwise provided herein, the provisions of part 302, subpart A, of this chapter shall apply to the extent applicable.

(f) *Issuance of Special Authorization.* A Special Authorization authorizing the carriage of blind sector traffic will be issued only if the Board finds that the proposed carriage is fully consistent with applicable law and this part, and that grant of such authority would be in the public interest. The application may be granted or denied in whole or in part without hearing, and a Special Authorization made subject to any conditions or limitations, to the extent that such action is deemed by the Board to be in the public interest. Special Authorizations are not transferable.

(g) *Nature of the privilege conferred.* A Special Authorization issued pursuant to this section shall constitute a privilege conferred upon a carrier, which may be enjoyed only to the extent that its continued exercise remains in the interest of the public. Accordingly, any Special Authorization issued pursuant to this section may be revoked, suspended, amended or restricted without hearing.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

[ER–525, 33 FR 692, Jan. 19, 1968, as amended by ER–910, 40 FR 23844, June 3, 1975; ER–1060, 43 FR 34117, Aug. 3, 1978; 65 FR 6456, Feb. 9, 2000]

§ 216.5 Existing permits.

''Foreign aircraft permits'' issued by the Board under the provisions of part 375 of the Board's Special Regulations, authorizing the combined carriage of blind sector traffic as defined in this part, shall continue in effect in accordance with their terms until their expiration date unless sooner terminated, revoked or modified by the Board. Such permits shall, upon the effective date of this part, be deemed to constitute a Special Authorization issued pursuant to § 216.4.

§ 216.6 Existing unauthorized operations.

Notwithstanding the provisions of § 216.3, if within 30 days after the effective date of this part a carrier files an application for a Special Authorization to continue to perform existing blind sector operations which have been regularly performed by such carrier commencing on a date prior to August 9, 1967, such carrier may continue to engage in such blind sector operations until final decision by the Board on such application: *Provided,* That any such application shall, in addition to the requirements of § 216.4(a), contain a statement that the carrier is relying upon this section for continuance of preexisting blind sector operations, and shall fully describe such operations including the date inaugurated, and the frequency and continuity of performance.

PART 217—REPORTING TRAFFIC STATISTICS BY FOREIGN AIR CARRIERS IN CIVILIAN SCHEDULED, CHARTER, AND NON-SCHEDULED SERVICES

Sec.
217.1 Definitions.
217.2 Applicability.
217.3 Reporting requirements.
217.4 Data collected (service classes).
217.5 Data collected (data elements).
217.6 Extension of filing time.
217.7 Certification.
217.8 Reporting procedures.
217.9 Waivers from reporting requirements.
217.10 Instructions.
217.11 Reporting compliance.

AUTHORITY: 49 U.S.C. 329 and chapters 401, 413, 417.

SOURCE: 53 FR 46294, Nov. 16, 1988, unless otherwise noted.

§ 217.1 Definitions.

As used in this part:

Foreign Air Carrier means a non-U.S. air carrier holding a foreign air carrier permit or exemption authority from the Department of Transportation.

Large Aircraft means an aircraft designed to have a passenger capacity of more than 60 seats or a payload of more the 18,000 pounds.

Small Aircraft means an aircraft that is not a large aircraft.

Statement of Authorization under this part means a statement of authorization from the Department, pursuant to 14 CFR part 207, 208, or 212, as appropriate, that permits joint service transportation, such as blocked space agreements, part-charters, code-sharing or wet-leases, between two direct air carriers holding underlying economic authority from the Department.

§ 217.2 Applicability.

This part applies to foreign air carriers that are authorized by the Department to provide civilian passenger and/or cargo scheduled, nonscheduled and charter services to or from the United States, whether performed pursuant to a permit or exemption authority. Operations conducted wholly with small aircraft are exempt from the requirements of this part. Where the service operations involve both large and small aircraft, only the large aircraft services must be reported.

§ 217.3 Reporting requirements.

(a) Each foreign air carrier shall file BTS Form 41 Schedule T–100(f) ''Foreign Air Carrier Traffic Data by Nonstop Segment and On-flight Market.'' All traffic statistics shall be compiled in terms of each flight stage as actually performed.

(b) The traffic statistics reported on Schedule T–100(f) shall be accumulated in accordance with the data elements prescribed in § 217.5 of this part, and these data elements are patterned after those in section 19–5 of part 241 of this chapter.

(c) One set of Form 41 Schedule T–100(f) data shall be filed.

(d) Schedule T–100(f) shall be submitted to the Department within thirty (30) days following the end of each reporting month.

(e) Schedule T–100(f) shall be filed with the Bureau of Transportation Statistics at the address referenced in § 217.10 and the Appendix to § 217.10 of this part.

[53 FR 46294, Nov. 16, 1988, as amended at 60 FR 66722, Dec. 26, 1995]

§ 217.4 Data collected (service classes).

(a) The statistical classifications are designed to reflect the operating elements attributable to each distinctive class of service offered for scheduled, nonscheduled and charter service.

(b) The service classes that foreign air carriers shall report on Schedule T–100(f) are:

(1) F Scheduled Passenger/Cargo

(2) G Scheduled All-Cargo

(3) L Nonscheduled Civilian Passenger/Cargo Charter

(4) P Nonscheduled Civilian All-Cargo Charter

(5) Q Nonscheduled Services (Other than Charter). This service class is reserved for special nonscheduled cargo flights provided by a few foreign air carriers under special authority granted by the Department.

§ 217.5 Data collected (data elements).

(a) Within each of the service classifications prescribed in § 217.4, data shall be reported in applicable traffic elements.

(b) The statistical data to be reported on Schedule T–100(f) are:

(1) *Air carrier*. The name and code of the air carrier reporting the data. The carrier code is assigned by DOT. The Office of Airline Information (OAI'S) will confirm the assigned code upon request; OAI's address is in the Appendix to § 217.10 of this part.

(2) *Reporting period date*. The year and month to which the reported data are applicable.

(3) *Origin airport code*. This code represents the industry designator as described in the Appendix to § 217.10 of this part. A common private industry source of these industry designator codes is the *Official Airline Guides* (OAG). Where none exists, OAI will furnish a code upon request. OAI's address is in the Appendix to § 217.10 of this part.

(4) *Destination airport code*. This represents the industry designator, from the source described in § 217.5(b)(3).

(5) *Service class code*. For scheduled and other services, the applicable service class prescribed in § 217.4 of this part shall be reported.

(6) *Aircraft type code*. This code represents the aircraft type, as specified in the Appendix to § 217.10 of this part.

Where none exists, OAI will furnish a code upon request.

(7) *Revenue aircraft departures performed (Code 510)*. The number of revenue aircraft departures performed.

(8) *Revenue passengers transported (Code 130)*. The total number of revenue passengers on board over a flight stage, including those already on the aircraft from previous flight stages. Includes both local and through passengers on board the aircraft.

(9) *Revenue freight transported (kilograms) (Code 237)*. The volume, expressed in kilograms, of revenue freight that is transported. As used in this part, ''Freight'' means revenue cargo other than passengers or mail.

(10) *Total revenue passengers in market (Code 110)*. The total number of revenue passengers enplaned in a market, boarding the aircraft for the first time. While passengers may be transported over several flight stages in a multisegment market, this data element (code 110) is an unduplicated count of passengers originating within the market.

(11) *Total revenue freight in market (kilograms) (Code 217)*. The amount of revenue freight cargo (kilograms) that is enplaned in a market, loaded on the aircraft for the first time.

(12) *Available capacity-payload* (*Code 270*). The available capacity is collected in kilograms. This figure shall reflect the available load (see load, available in 14 CFR part 241 Section 03) or total available capacity for passengers, mail and freight applicable to the aircraft with which each flight stage is performed.

(13) *Available seats* (*Code 310*). The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310.

[53 FR 46294, Nov. 16, 1988 and 53 FR 52404, Dec. 28, 1988, as amended at 54 FR 7183, Feb. 17, 1989; 60 FR 66722, Dec. 26, 1995; 62 FR 6718, Feb. 13, 1997]

§ 217.6 Extension of filing time.

(a) If circumstances prevent the filing of a Schedule T–100(f) report on or before the due date prescribed in section 22 of part 241 of this chapter and the Appendix to § 217.10 of this part, a request for an extension must be filed with the Director, Office of Airline Information.

(b) The extension request must be received at the address provided in § 217.10 at least 3 days in advance of the due date, and must set forth reasons to justify granting an extension, and the date when the report can be filed. If a request is denied, the air carrier must submit the required report within 5 days of its receipt of the denial of extension.

[53 FR 46294, Nov. 16, 1988, as amended at 60 FR 66722, Dec. 26, 1995]

§ 217.7 Certification.

The certification for BTS Form 41 Schedule T–100(f) shall be signed by an officer of the air carrier with the requisite authority over the collection of data and preparation of reports to ensure the validity and accuracy of the reported data.

[53 FR 46294, Nov. 16, 1988, as amended at 60 FR 66722, Dec. 26, 1995]

§ 217.8 Reporting procedures.

Reporting guidelines and procedures for Schedule T–100(f) are prescribed in the Appendix to § 217.10 of this part.

§ 217.9 Waivers from reporting requirements.

(a) A waiver from any reporting requirement contained in Schedule T–100(f) may be granted by the Department upon its own initiative, or upon the submission of a written request of the air carrier to the Director, Office of Airline Information, when such a waiver is in the public interest.

(b) Each request for waiver must demonstrate that: Existing peculiarities or unusual circumstances warrant a departure from the prescribed procedure or technique; a specifically defined alternative procedure or technique will result in substantially equivalent or more accurate portrayal of the operations reported; and the application of such alternative procedure will not adversely affect the uniformity in reporting applicable to all air carriers.

[53 FR 46294, Nov. 16, 1988, as amended at 60 FR 66722, Dec. 26, 1995]

§ 217.10 Instructions.

(a) Foreign air carriers shall submit Form 41 Schedule T–100(f) on either floppy discs produced on microcomputers or on other ADP media, such as magnetic tape, or hardcopy reports.

(b) The detailed instructions for preparing Schedule T–100(f) are contained in the Appendix to this section. Blank copies of Schedule T–100(f) are available from the Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

APPENDIX TO SECTION 217.10 OF 14 CFR PART 217—INSTRUCTIONS TO FOREIGN AIR CARRIERS FOR REPORTING TRAFFIC DATA ON FORM 41 SCHEDULE T–100(F)

(a) General instructions.

(1) Description. Form 41 Schedule T–100(f) provides flight stage data covering both passenger/cargo and all cargo operations in scheduled and nonscheduled services. The schedule is used to report all flights which serve points in the United States or its territories as defined in this part.

(2) Applicability. Each foreign air carrier holding a 402 permit, or exemption authority, and operating aircraft with seating configurations of more than sixty seats and/or available capacity (payload of passengers and cargo) of more than 18,000 pounds shall file Form 41 Schedule T–100(f). Reference to 402 is to section 402 of the Federal Aviation Act of 1958, as amended (FAAct).

(3) Address for filing reports: Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(4) Filing period. Form 41 Schedule T–100(f) shall be filed monthly and is due at the Department thirty (30) days following the end of the reporting month to which the data are applicable.

(5) Number of copies. A single set of legible Form 41 Schedule T–100(f) data and certification shall be submitted.

(6) Foreign air carrier certification. Each foreign air carrier shall submit a certification statement (illustrated at the end of this Appendix) as an integral part of each monthly Schedule T–100(f), as prescribed in § 217.5 of this part.

(7) Alternative filing on Automatic Data Processing (ADP) media. Foreign air carriers are encouraged to use ADP equipment to reduce the manual effort of preparing Schedule T–100(f). Foreign air carriers may use the floppy disk medium. ADP submission requirements for floppy discs are prescribed in paragraph (f).

(b) Preparation of Form 41 Schedule T–100(f):

(1) Explanation of nonstop segments and on-flight markets. There are two basic categories of data, one pertaining to nonstop segments and the other pertaining to on-flight markets. For example, the routing (A–B–C–D) consists of three nonstop segment records A–B, B–C, and C–D, and six on-flight market records A–B, A–C, A–D, B–C, B–D, and C–D.

(2) Guidelines for reporting a nonstop segment. A nonstop segment is reported when one or both points are in the United States or its territories. These data shall be merged with that for all of the other reportable nonstop operations over the same segment. Nonstop segment data must be summarized by aircraft type, under paragraph (h)(1), and class of service, paragraph (g)(1)(v).

(3) Rules for determining a reportable on-flight market. On-flight markets are reportable when one or both points are within the U.S., with the following exceptions: (i) Do not report third country to U.S. markets resulting from flight itineraries which serve a third country prior to a homeland point in flights passing through the homeland bound for the U.S.; and (ii) do not report U.S. to third country markets resulting from itineraries serving third country points subsequent to a homeland point in flights outbound from the U.S. and passing through the homeland. In reporting data pertaining to these two exceptions, the traffic moving to or from the U.S. relating to the applicable prior or subsequent third countries (referred to as ''behind'' or ''beyond'' traffic) is to be combined with the applicable foreign homeland gateway point, just as though the traffic were actually enplaned or deplaned at the homeland gateway, without disclosure of the actual prior or subsequent points. Applicable flights are illustrated in examples (6) and (7) under paragraph (c).

(c) Examples of flights. Following are some typical flight itineraries that show the reportable nonstop segment and on-flight market entries. The carrier's homeland is the key factor in determining which on-flight markets are reportable.

(1) SQ flight # 11 LAX—NRT—SIN. This is an example of a flight with an intermediate foreign country. It is not necessary to report anything on the NRT—SIN leg.

SQ—Singapore Airlines
LAX—Los Angeles, USA
NRT—Tokyo-Narita, Japan
SIN—Singapore, Singapore

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an X)					By aircraft type—				Sum of all aircraft types—	
Origin	Destination	F	G	L	P	Q	B–1—Aircraft type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1–Total revenue passengers in market	C–2—Total revenue freight in market (kg)
LAX	NRT	X	....	....	....	....	8161	12	2400	4800	400	500
LAX	SIN	X	....	....	....	....	.....	.....	.....	.....	2000	4300

(2) SQ flight #15 LAX— HNL— TPE— SIN. This is an example of two U.S. points, an intermediate third country, and a homeland point. Information is reportable on only the on-flight markets and nonstop segments that consist of one or both U.S. points.

SQ—Singapore Airlines
LAX—Los Angeles, USA
HNL—Honolulu, USA
TPE—Taipei, Taiwan
SIN—Singapore, Singapore

A–3—Airport code	A–4—Airport code	A–5—Service class (Mark an x)					By aircraft type—				Sum of all aircraft types—	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
LAX	HNL	X	....	....	....	....	8161	12	2700	5300	0	0
LAX	TPE	X	....	....	....	....	.....	.....	.....	.....	700	1300
LAX	SIN	X	....	....	....	....	.....	.....	.....	.....	2000	4000
HNL	TPE	X	....	....	....	....	8161	12	2200	6800	1200	800
HNL	SIN	X	....	....	....	....	.....	.....	.....	.....	1000	6000

(3) LB flight # 902 LPB-VVI-MAO-CCS-MIA. This flight serves two homeland points and two different foreign countries before terminating in the U.S. Nonstop segment information is required only for the nonstop segment involving a U.S. point. On-flight market information is required in 4 of the 10 markets, LPB-MIA and VVI-MIA, since these involve homeland and U.S. points; MAO-MIA is necessary to show traffic carried into the U.S., and CCS-MIA for the same reason, and also because in all cases where a nonstop segment entry is required, a corresponding on-flight market entry must also be reported.

LB—Lloyd Aero Boliviano
LPB—La Paz, Bolivia
VVI—Santa Cruz-Viru Viru, Bolivia
MAO—Manaus, Brazil
CCS—Caracas, Venezuela
MIA—Miami, USA

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type—				Sum of all aircraft types—	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
CCS	MIA	X	....	....	....	....	8161	31	6900	71000	0	0
LPB	MIA	X	....	....	....	....	.....	.....	.....	.....	1100	20000
VVI	MIA	X	....	....	....	....	.....	.....	.....	.....	4000	30000
MAO	MIA	X	....	....	....	....	.....	.....	.....	.....	1000	12000

(4) LY flight #005 TLV–AMS–ORD–LAX. This flight serves a single foreign intermediate point and two U.S. points after its homeland origination. The information on the TLV–AMS leg is not reportable.

LY—El Al Israel Airlines
TLV—Tel Aviv, Israel

AMS—Amsterdam, Netherlands
ORD—Chicago, USA
LAX—Los Angeles, USA

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type—				Sum of all aircraft types—	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
AMS	ORD	X	....	....	....	....	8161	1	350	10000	50	1500
TLV	ORD	X	....	....	....	....	.....	.....	.....	.....	150	4000
TLV	LAX	X	....	....	....	....	.....	.....	.....	.....	125	3000
ORD	LAX	X	....	....	....	....	8161	1	150	4500	0	0
AMS	LAX	X	....	....	....	....	.....	.....	.....	.....	25	1500

(5) QF flight #25 SYD—BNE—CNS—HNL—YVR. This flight serves three homeland points, a U.S. point, and a subsequent third country. Nonstop segment information is required on the respective legs into and out of the United States. All on-flight market entries involving the U.S. point HNL are also required. Data are not required on the homeland to homeland markets, or the homeland—third country markets.

QF—Qantas Airways (Australia)
SYD—Sydney, Australia
BNE—Brisbane, Australia
CNS—Cairns, Australia
HNL—Honolulu, USA
YVR—Vancouver, Canada

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type				Sum of all aircraft types	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue freight transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
CNS	HNL	X					8161	5	2200	41000	400	8000
SYD	HNL	X					.....	.....	.....	.....	600	10000
BNE	HNL	X					.....	.....	.....	.....	600	9000
HNL	YVR	X					8161	5	750	15700	150	1700

(6) JL flight #002 HKG—NRT—SFO. This flight originates in a third country prior to the homeland. No data is required on the HKG-NRT leg, but the HKG-SFO passengers and cargo shall be shown as enplanements in the NRT-SFO on-flight market entry. These volumes are included by definition in the passenger and cargo transported volumes of the NRT-SFO nonstop segment entry.

JL—Japan Air Lines
HKG—Hong Kong, Hong Kong
NRT—Tokyo-Narita, Japan
SFO—San Francisco, USA

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type				Sum of all aircraft types	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
NRT	SFO	X					8161	3	1200	18000	1200	18000

(7) JL flight #001 SFO–NRT–HKG. This flight is the reverse sequence of flight #002 above; it requires a nonstop segment entry covering SFO–NRT, and a single on-flight market entry also for SFO–NRT. In this case, the on flight traffic enplaned at SFO and destined for HKG, a beyond homeland point, shall be included in the SFO–NRT

entry; a separate SFO–HKG entry is not required.

JL—Japan Air Lines
SFO—San Francisco, USA
NRT—Tokyo-Narita, Japan
HKG—Hong Kong, Hong Kong

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type				Sum of all aircraft types	
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
SFO	NRT	X					8161	1	400	20000	400	20000

(8) BA flight #5 LHR–ANC–NRT–OSA. This example contains a single homeland point and a single U.S. point followed by two third country points. It is necessary to report the nonstop segments into and out of the U.S., and all three of the on-flight markets which have the U.S. point ANC as either an origin or destination.

BA—British Airways
LHR—London, England
ANC—Anchorage, USA
NRT—Tokyo-Narita, Japan
OSA—Osaka, Japan

A–3—Airport code	A–4—Airport code	A–5—Service class (mark an x)					By aircraft type			Sum of all aircraft types		
Origin	Destination	F	G	L	P	Q	B–1—Acft. type code	B–2—Revenue aircraft departures	B–3—Revenue passengers transported	B–4—Revenue freight transported (kg)	C–1—Total revenue passengers in market	C–2—Total revenue freight in market (kg)
LHR	ANC	X					8161	10	3000	50000	100	1000
ANC	NRT	X					8161	10	3150	55000	100	2500
ANC	OSA	X					.....	.....	.....	.....	150	1500

(d) Provisions to reduce paperwork:

(1) Nonstop Segment Entries. The flight stage data applicable to nonstop segment entries must be summarized to create totals by aircraft equipment type, within service class, within pairs-of-points.

(2) On-flight Market Entries. The applicable on-flight market entries shall be summarized to create totals by service class within pair-of-points.

(e) Preparation of hard copy Schedule T–100(f):

(1) Section A—Indicative and flight pattern information. A copy of Schedule T–100(f) is shown at the end of this Appendix. Section A defines the origin and destination points and the service class code to which the nonstop segment data in Section B and the on-flight market data in Section C are applicable. Section A information, along with the carrier code and report date, must be included on each schedule.

(2) Section B—Nonstop segment information. Section B of the schedule is used for reporting nonstop segment information by aircraft type. To reduce the number of schedules reported, space is provided for including data on multiple different aircraft types. Similarly, the on-flight market section has been included on a single Schedule T–100(f), along with the nonstop segment data, rather than on a separate schedule.

(3) Section C—On-flight market information. Section C of the schedule is used for reporting on-flight market data. There will always be an on-flight market that corresponds to the nonstop segment. Because the on-flight market data are reported at the service class level rather than by aircraft type, a specific flight may produce more on-flight markets than nonstop segments, (see examples in paragraph (c) of this Appendix), resulting in data reported in sections A and C only.

(f) ADP media reports:

(1) ADP report format. A foreign air carrier may, in accordance with the following guidelines, use personal computers (and in some cases mainframe or minicomputers) to report Schedule T–100(f) data.

(i) Reporting medium. ADP data submission of T–100(f) information must be on IBM compatible floppy disk, including diskettes, floppy disks, or flexible disks. The particular type of acceptable minidisk is 5¼ inch, double-sided/double density, with a capacity of approximately 360,000 characters of data (360K). Carriers using mainframe or

minicomputers shall download (transcribe) the data to the required floppy disk. Carriers wishing to use a different ADP procedure must obtain written approval to do so from the Director, OAI, under the waiver provisions in § 217.9 of this part. Requests for approval to use alternate methods must disclose the proposed data transmission methodology.

(ii) File characteristics. OAI files are reported in ASCII delimited format, sometimes called Data Interchange Format (DIF). This form of recording data provides for variable length fields (data elements) which, in the case of alphabetic data, are enclosed by quotation marks (‘‘) and separated by a comma (,); numeric data elements are recorded without editing symbols and separated by a comma. The data is identified by its juxtaposition within a given record. Each record submitted by an air carrier shall contain the specified number of data elements all of which must be juxtapositionally correct.

(iii) Schedule T–100(f) record layout. Each minidisk record shall consist of data fields for recording a maximum of eleven (11) elements. The order and description of the data fields are as follows:

(1). Carrier code: Alphanumeric
(2). Report date: Numeric
(3). Origin airport: Alphabetic
(4). Destination airport: Alphabetic
(5). Service class code: Alphabetic
(6). Aircraft type code: Numeric
(7). Aircraft departures performed: Numeric
(8). Revenue passengers transported: Numeric
(9). Revenue freight transported: Numeric
(10). Total revenue passengers in market: Numeric
(11). Total revenue freight in market: Numeric

(A) Fields numbered 1 through 11 must always be provided. Therefore, enter a zero (0) or space when there is no reportable data for a given element. See paragraph (g)(1) through (g)(3) for a detailed definition of each data element.

(B) The following are sample disk records:

	1	2	3	4	5	6	7	8	9	10	11
Sample No. 1	‘‘CCC’’	8701	‘‘JFK’’	‘‘LHR’’	‘‘F’’	8161	29	59	69	79	89
Sample No. 2	‘‘CCC’’	8701	‘‘JFK’’	‘‘LHR’’	‘‘F’’	6901	299	599	0	0	0
Sample No. 3	‘‘CCC’’	8701	‘‘JFK’’	‘‘LHR’’	‘‘G’’	7102	299	0	599	0	799
Sample No. 4	‘‘CCC’’	8701	‘‘JFK’’	‘‘LHR’’	‘‘F’’	0	0	0	0	699	799

Sample No. 1 represents a full record, using the applicable fields for reporting both the nonstop segment (6 through 9) and the on-flight market information (10 and 11). The service class is ‘‘F’’ indicating scheduled passenger/cargo service; the aircraft type code is 8161; the 816 indicates a Boeing 747–100, and the 1 in the units position indicates the standard ‘‘passengers-above and cargo-below’’ configuration.

Sample No. 2 contains nonstop segment information only. It is needed in this example to report the volumes transported on the same nonstop segment, but with a second aircraft type.

Sample No. 3 contains nonstop segment and on-flight market information for the same points, but for another service class (code letter ‘‘G’’ indicates all-cargo service). Also, the units position of aircraft type is a 2, indicating a cargo cabin. Field numbers 8 and 10 are for reporting passengers. In this case both contain a zero, indicating no passengers, while at the same time maintaining the required juxtaposition.

Sample No. 4 shows the reporting of only on-flight market information for a pair-of-points for which there is no corresponding nonstop segment information.

(2) External labeling requirements: Physical label. The following data must be clearly printed on a label affixed to the minidisk or its container.

Carrier Name
Carrier code (as prescribed by DOT, BTS, OAI)
File identification = ‘‘T–100(F) DATA’’
Report date (year, month to which data applies)

(3) Collating sequence, optional. If practical, the records should be sorted by origin and destination airport codes, service class, and aircraft type. However, the sequence is optional. Data may be submitted in any sequence including random.

(4) Summarization. See summarization rules as specified in paragraph (d)(1).

(g) Data element definitions:

(1) Service pattern information.

(i) Line A–1 Carrier code. Use the carrier code established by the Department. This code is provided to each carrier in the initial reporting letter from the Office of Airline Information (OAI). If there are any questions about these codes, contact the OAI Data Administration Division at the address in paragraph (a)(3) of this Appendix.

(ii) Line A–2 Report date. This is the year and month to which the data are applicable. For example, 8901 indicates the year 1989, month of January.

(iii) Line A–3 Origin airport code. This is the departure airport, where an aircraft begins a flight segment, and where the passengers originate in an on-flight market. Use the 3-letter code from the City/Airport Codes section of the *Official Airline Guide Worldwide Edition*. If no 3-letter code is available, OAI will assign one; the address is in paragraph (a)(3) of this Appendix.

(iv) Line A–4 Destination airport code. This is the arrival airport, where an aircraft stops on a flight segment, and where passengers deplane (get off the flight) after reaching their destination in a market. Use the 3-letter code from the source described in paragraph (g)(1)(iii) of this Appendix.

(v) Line A–5 Service class code. Select one of the following single letter codes which describes the type of service being reported on a given flight operation.

F = Scheduled Passenger/cargo Service
G = Scheduled All-cargo Service
L = Nonscheduled Civilian Passenger/Cargo Charter
P = Nonscheduled Civilian All-Cargo Charter
Q = Nonscheduled Services (Other than Charter)

(2) Nonstop segment information:

(i) Line B–1 Aircraft type code. Use the four digit numeric code prescribed in paragraph (h)(1) of this Appendix. If no aircraft type code is available, OAI will assign one. The address is in paragraph (a)(3) of this Appendix.

(ii) Line B–2 Aircraft departures performed. This is the total number of physical departures performed with a given aircraft type, within service class and pair-of-points.

(iii) Line B–3 Revenue passengers transported. This is the total number of revenue passengers transported on a given nonstop segment. It represents the total number of revenue passengers on board over the segment without regard to their actual point of enplanement.

(iv) Line B–4 Revenue freight transported. This item is the total weight in kilograms (kg) of the revenue freight transported on a given nonstop segment without regard to its actual point of enplanement.

(3) On-flight market information:

(i) Line C–1 Total revenue passengers in market. This item represents the total number of revenue passengers, within service class, that were enplaned at the origin airport and deplaned at the destination airport.

(ii) Line C–2 Total revenue freight in market. This item represents the total weight in kilograms (kg) of revenue freight enplaned at the origin and deplaned at the destination airport.

(h) [Reserved]

(i) Joint Service.

(1) The Department may authorize joint service operations between two direct air carriers. Examples of these joint service operations are:

Blocked-space agreements;
Part-charter agreements;
Code-sharing agreements;
Wet-lease agreements, and similar arrangements.

(2) Joint service operations shall be reported in Form 41 Schedules T–100 and T–100(f) within the following guidelines: (i) Blocked space, part-charters and code-sharing arrangements shall be reported by the carrier in operational control of the flight. The traffic moving under those agreements is reported the same as any other traffic on board the aircraft. (ii) Wet lease agreements shall be reported by the lessee as though the leased aircraft and crew were a part of the lessee's own fleet. (iii) If there are questions about reporting a joint service operation, contact the Director, Office of Aviation Information Management at the address in paragraph (a)(3) of this Appendix. (iv) The Department may require information pertaining to joint service operations in addition to that reported in Schedules T–100 and T–100(f) by U.S. and foreign air carriers. If additional information is needed, *ad hoc* reporting will be used by the Director, Office of Aviation Information Management (OAI), under authority delegated in § 385.27 (b) and (d) of this chapter. *Ad hoc* reporting requirements will be communicated to the applicable carriers by letter.

(j) Schedules.

SCHEDULE T-100(f) FOREIGN AIR CARRIER TRAFFIC DATA BY NONSTOP SEGMENT AND ON-FLIGHT MARKET	A-1. Air Carrier Name:_____Code_____ A-2. Report Date:(Year)_____ (Month) _____

A. SERVICE PATTERN								B. NONSTOP SEGMENT INFORMATION				C. ON-FLIGHT MARKET	
Line	A-3 Airport Code	A-4 Airport Code	A-5 Service Class (Mark an x)					B-1 Air-Craft Type Code	B-2 Revenue Aircraft Departures	B-3 Revenue Passengers Transported	B-4 Revenue Freight Transported (kg)	C-1 Total Revenue Passengers In Market	C-2 Total Revenue Freight In Market (kg)
No.	ORIGIN	DESTIN.	F	G	L	P	Q		--- By aircraft type ---			-- Sum of all aircraft types --	
1.													
2.													
3.													
4.													
5.													
6.													
7.													
8.													
9.													
10.													
11.													
12.													
13.													
14.													
15.													
16.													
17.													
18.													
19.													
20.													

RSPA Form 41 Schedule T-100(f)

FOREIGN AIR CARRIER TRAFFIC DATA
BY NONSTOP SEGMENT AND ON-FLIGHT MARKET
SCHEDULE T-100(f)

FOREIGN AIR CARRIER CERTIFICATION

Carrier name _____

Address _____

_____

_____

_____

Carrier code _____

Report date (Year/Month) _____

I, the undersigned,

Title _____

Signature _____ Date _____

Print or type name _____

do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 217 and 241. I affirm that, to the best of my knowledge and belief, this is a true, correct and complete report.

RSPA Form 41 Certification for Schedule T-100(f)

[53 FR 46294, Nov. 16, 1988, as amended at 54 FR 7183, Feb. 17, 1989; 60 FR 66722, Dec. 26, 1995]

§ 217.11 Reporting compliance.

(a) Failure to file reports required by this part will subject an air carrier to civil and criminal penalties prescribed in sections 901 and 902 of the Federal Aviation Act of 1958, as amended.

(b) Title 18 U.S.C. 1001, Crimes and Criminal Procedure, makes it a criminal offense subject to a maximum fine of $10,000 or imprisonment for not more than 5 years, or both, to knowingly and willfully make, or cause to be made, any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSON OF AIRCRAFT WITH CREW

Sec.
218.1 Definitions.
218.2 Applicability.
218.3 Prohibition against unauthorized operations employing aircraft leased with crew.
218.4 Condition upon authority of lessee.
218.5 Application for disclaimer of jurisdiction.
218.6 Issuance of order disclaiming jurisdiction.
218.7 Presumption.

AUTHORITY: Secs. 204(a), 402, Pub. L. 85–726, as amended, 72 Stat. 743, 757 (49 U.S.C. 1324, 1372).

SOURCE: ER–716, 36 FR 23148, Dec. 4, 1971, unless otherwise noted.

§218.1 Definitions.

For the purpose of this part the term *lease* shall mean an agreement under which an aircraft is furnished by one party to the agreement to the other party, irrespective of whether the agreement constitutes a true lease, charter arrangement, or some other arrangement.

§218.2 Applicability.

This part applies to foreign air carriers and other persons not citizens of the United States which, as lessors or lessees, enter into agreements providing for the lease of aircraft with crew to a foreign air carrier for use in foreign air transportation. For purposes of section 402 of the Act, the person who has operational control and safety responsibility is deemed to be the carrier, and is required to have appropriate operating authority.

[ER–716, 36 FR 23148, Dec. 4, 1971, as amended by ER–1250, 46 FR 47770, Sept. 30, 1981]

§218.3 Prohibition against unauthorized operations employing aircraft leased with crew.

(a) No foreign air carrier, or other person not a citizen of the United States, shall lease an aircraft with crew to a foreign air carrier for use by the latter in performing foreign air transportation unless either:

(1) The lessor holds a foreign air carrier permit issued under section 402 of the Act or an approved registration issued under part 294 of this chapter, and any statement of authorization required by part 212 of this chapter; or

(2) The Board has issued an exemption under section 416 of the Act specifically authorizing the lessor to engage in the foreign air transportation to be performed under the lease; or

(3) The Board has issued an order under §218.6 disclaiming jurisdiction over the matter.

(b) For purposes of this part, an aircraft shall be considered to be leased with crew if:

(1) The pilot in command or a majority of the crew of the aircraft, other than cabin attendants:

(i) Is to be furnished by the lessor;

(ii) Is employed by the lessor;

(iii) Continues in the employ of the lessor in the operation of services other than those provided for in the agreement between the parties; or

(iv) Has been employed by the lessor prior to the lease, and the employment of whom by the lessee is coextensive with the period or periods for which the aircraft is available to the lessee under the lease; or

(2) The aircraft is operated under operations specifications issued to the lessor by the Federal Aviation Administration.

[ER–716, 36 FR 23148, Dec. 4, 1971, as amended by ER–1250, 46 FR 47770, Sept. 30, 1981; ER–1260, 46 FR 52598, Oct. 27, 1981]

§218.4 Condition upon authority of lessee.

In any case where a foreign air carrier leases from another foreign air carrier or other person not a citizen of the United States an aircraft with crew for use in performing foreign air transportation, it shall be a condition upon the authority of the lessee to perform such foreign air transportation that compliance be achieved with the requirements of this part.

§218.5 Application for disclaimer of jurisdiction.

The parties to a lease with crew as described in §218.3(b) may apply to the Board for an order disclaiming jurisdiction over the matter. The application

shall be filed jointly by both parties to the lease, and shall generally conform to the procedural requirements of part 302, subpart A, of this chapter. It shall be served upon any air carrier providing services over all or any part of the route upon which air transportation services will be provided pursuant to the agreement. The application should set forth in detail all evidence and other factors relied upon to demonstrate that true operational control and safety responsibility for the air transportation services to be provided are in the hands of the lessee rather than the lessor. A copy of the agreement and all amendments thereof, as well as a summary interpretation of its pertinent provisions, shall be included with the applications. Any interested person may file an answer to the application within 7 days after service hereof. Until the Board has acted upon the application, no operations in foreign transportation shall be performed pursuant to the agreement.

§ 218.6 Issuance of order disclaiming jurisdiction.

If the Board finds that true operational control and safety responsibility will be vested in the lessee and not in the lessor (i.e., that the lease transaction is in substance a true lease of aircraft rather than a charter or series of charters), and that the performance of the operations provided for in such lease will not result in the lessor's being engaged in foreign air transportation, it will issue an order disclaiming jurisdiction over the matter. Otherwise the application for disclaimer of jurisdiction will be denied.

§ 218.7 Presumption.

Whether under a particular lease agreement the lessor of the aircraft is engaged in foreign air transportation is a question of fact to be determined in the light of all the facts and circumstances. However, in circumstances where the lessor furnishes both the aircraft and the crew, there is a presumption that true operational control and safety responsibility are exercised by the lessor, and that the agreement constitutes a charter arrangement under which the lessor is engaged in foreign air transportation. The burden shall rest upon the applicants for disclaimer of jurisdiction in each instance to demonstrate by an appropriate factual showing that the operation contemplated will not constitute foreign air transportation by the lessor.

PART 221—TARIFFS

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AUTHORITY: 49 U.S.C. 40101, 40109, 40113, 46101, 46102, chapter 411, chapter 413, chapter 415 and chapter 417, subchapter I.

SOURCE: 64 FR 40657, July 27, 1999, unless otherwise noted.

Subpart A—General

§ 221.1 Applicability of this part.

All tariffs and amendments to tariffs of air carriers and foreign air carriers filed with the Department pursuant to chapter 415 of the statute shall be constructed, published, filed, posted and kept open for public inspection in accordance with the regulations in this part and orders of the Department.

§ 221.2 Carrier's duty.

(a) *Must file tariffs.* (1) Except as provided in paragraph (d) of this section, every air carrier and every foreign air carrier shall file with the Department, and provide and keep open to public inspection, tariffs showing all fares, and charges for foreign air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier, when through service and through rates shall have been established, and showing to the extent required by regulations and orders of the Department, all classifications, rules, regulations, practices, and services in connection with such foreign air transportation.

(2) Tariffs shall be filed, and provided in such form and manner, and shall contain such information as the Department shall by regulation or order prescribe. Any tariff so filed which is not consistent with chapter 415 of the statute and such regulations and orders may be rejected. Any tariff so rejected shall be void, and may not be used.

(b) *Must observe tariffs.* No air carrier or foreign air carrier shall charge or demand or collect or receive a greater or less or different compensation for foreign air transportation or for any service in connection therewith, than the fares and charges specified in its currently effective tariffs; and no air carrier or foreign air carrier shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Department to be specified in such tariffs, except those specified in such tariffs.

(c) *No relief from violations.* Nothing contained in this part shall be construed as relieving any air carrier or foreign air carrier from liability for violations of the statute, nor shall the filing of a tariff, or amendment thereto, relieve any air carrier or foreign air carrier from such violations or from violations of regulations issued under the statute.

(d) *Exemption authority.* Air carriers and foreign air carriers, both direct and indirect, are exempted from the requirement of section 41504 of the statute and any requirement of this chapter to file, and shall not file with the Department, tariffs for operations under the following provisions:

(1) Part 291, Domestic Cargo Transportation;

(2) Part 296, Indirect Air Transportation of Property;

(3) Part 297, Foreign Air Freight Forwarders and Foreign Cooperative Shippers Association;

(4) Part 298, Exemption for Air Taxi Operations, except to the extent noted in § 298.11(b);

(5) Part 380, Public Charters;

(6) Part 207, Charter Trips and Special Services;

(7) Part 208, Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation;

(8) Part 212, Charter Trips by Foreign Air Carriers;

(9) Part 292, International Cargo Transportation, except as provided in part 292.

(10) Part 293 International Passenger Transportation, except as provided in part 293.

§ 221.3 Definitions.

As used in this part, terms shall be defined as follows:

Add-on means an amount published for use only in combination with other fares for the construction of through fares. It is also referred to as ''proportional fare'' and ''arbitrary fare''.

Add-on tariff means a tariff which contains add-on fares.

Area No. 1 means all of the North and South American Continents and the islands adjacent thereto; Greenland; Bermuda; the West Indies and the islands of the Caribbean Sea; and the Hawaiian Islands (including Midway and Palmyra).

Area No. 2 means all of Europe (including that part of the former Union of the Soviet Socialist Republics in Europe) and the islands adjacent thereto; Iceland; the Azores; all of Africa and the islands adjacent thereto; Ascension Island; and that part of Asia lying west of and including Iran.

Area No. 3 means all of Asia and the islands adjacent thereto except that portion included in Area No. 2; all of the East Indies, Australia, New Zealand, and the islands adjacent thereto; and the islands of the Pacific Ocean except those included in Area No. 1.

Bundled normal economy fare means the lowest one-way fare available for unrestricted, on-demand service in any city-pair market.

CRT means a video display terminal that uses a cathode ray tube as the image medium.

Capacity controlled fare means a fare for which a carrier limits the number of seats available for sale.

Carrier means an air carrier or foreign air carrier subject to section 41504 of 49 U.S.C. subtitle VII.

Charge means the amount charged for baggage, in excess of the free allowance, accompanying or checked by a passenger or for any other service ancillary to the passenger's carriage.

Conditions of carriage means those rules of general applicability that define the rights and obligations of the carrier(s) and any other party to the contract of carriage with respect to the transportation services provided.

Contract of carriage means those fares, rules, and other provisions applicable to the foreign air transportation of passengers or their baggage, as defined in the statute.

Department means the Department of Transportation.

Direct-service market means an international market where the carrier provides service either on a nonstop or single-flight-number basis, including change-of-gauge.

Electronic tariff means an international passenger fares or rules tariff or a special tariff permission application transmitted to the Department by means of an electronic medium, and containing fares for the transportation of persons and their baggage, and including such associated data as arbitraries, footnotes, routings, and fare class explanations.

Fare means the amount per passenger or group of persons stated in the applicable tariff for the air transportation thereof and includes baggage unless the context otherwise requires.

Field means a specific area of a record used for a particular category of data.

Filer means an air carrier, foreign air carrier, or tariff publishing agent of such a carrier filing tariffs on its behalf in conformity with this subpart.

Item means a small subdivision of a tariff and identified by a number, a letter, or other definite method for the purpose of facilitating reference and amendment.

Joint fare means a fare that applies to transportation over the joint lines or routes of two or more carriers and which is made and published by arrangement or agreement between such carriers evidenced by concurrence or power of attorney.

Joint tariff means a tariff that contains joint fares.

Local fare means a fare that applies to transportation over the lines or routes of one carrier only.

Local tariff means a tariff that contains local fares.

Machine-readable data means encoded computer data, normally in a binary format, which can be read electronically by another computer with the requisite software without any human interpretation.

On-line tariff database means the remotely accessible, on-line version, maintained by the filer, of:

(1) The electronically filed tariff data submitted to the Department pursuant to this part and Department orders, and

(2) The Departmental approvals, disapprovals, and other actions, as well as any Departmental notation concerning such approvals, disapprovals, or other actions, that subpart R of this part requires the filer to maintain in its database.

Original tariff refers to the tariff as it was originally filed exclusive of any supplements, revised records or additional records.

Passenger means any person who purchases, or who contacts a ticket office or travel agent for the purpose of purchasing, or considering the purchase of, foreign air transportation.

Passenger tariff means a tariff containing fares, charges, or governing provisions applicable to the foreign air transportation of persons and their baggage.

Publish means to display tariff material in either electronic or paper media.

Record means an electronic tariff data set that contains information describing one (1) tariff price or charge, or information describing one (1) related element associated with that tariff price or charge.

SFFL means the Standard Foreign Fare Level as established by the Department of Transportation under 49 U.S.C. 41509.

Statute means subtitle VII of Title 49, United States Code.

Statutory notice means the number of days required for tariff filings in § 221.160(a).

Tariff publication means a tariff, a supplement to a tariff, or an original or revised record of a tariff, including an index of tariffs and an adoption notice (§ 221.161).

Through fare means the total fare from point of origin to destination. It may be a local fare, a joint fare, or combination of separately established fares.

Ticket office means a station, office or other location where tickets are sold or similar documents are issued, that is under the charge of a person employed exclusively by the carrier, or by it jointly with another person.

Unbundled normal economy fare means the lowest one-way fare available for on-demand service in any city-pair market which is restricted in some way, *e.g.*, by limits set and/or charges imposed for enroute stopovers or transfers, exclusive of capacity control.

United States means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the Territorial waters and the overlying air space thereof.

Warsaw Convention means the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000.

§ 221.4 English language.

All tariffs and other documents and material filed with the Department pursuant to this part shall be in the English language.

§ 221.5 Unauthorized air transportation.

Tariff publications shall not contain fares or charges, or their governing provisions, applicable to foreign air transportation which the issuing or participating carriers are not authorized by the Department to perform, except where the Department expressly requests or authorizes tariff publications to be filed prior to the Department's granting authority to perform the foreign air transportation covered by such tariff publications. Any tariff publication filed pursuant to such express request or authorization which is not consistent with chapter 415 and this part may be rejected; any tariff publication so rejected shall be void.

Subpart B—Who is Authorized To Issue and File Tariffs

§ 221.10 Carrier.

(a) *Local or joint tariffs.* A carrier may issue and file, in its own name, tariff publications which contain:

(1) Local fares of such carrier only, and provisions governing such local fares, and/or

(2) Joint fares which apply jointly via such issuing carrier in connection with other carriers (participating in the tariff publications under authority of their concurrences given to the issuing

carrier as provided in § 221.140) and provisions governing such joint fares. Provisions for account of an individual participating carrier may be published to govern such joint fares provided § 221.40(a)(9) is complied with. A carrier shall not issue and file tariff publications containing local fares of other carriers, joint rates or fares in which the issuing carrier does not participate, or provisions governing such local or joint fares.

(3) Rules and regulations governing foreign air transportation to the extent provided by this part and/or Department order. Rules and regulations may be published in separate governing tariffs, as provided in subpart G.

(b) *Issuing officer*. An officer or designated employee of the issuing carrier shall be shown as the issuing officer of a tariff publication issued by a carrier, and such issuing officer shall file the tariff publication with the Department on behalf of the issuing carrier and all carriers participating in the tariff publication.

§ 221.11 Agent.

An agent may issue and file, in his or its own name, tariff publications naming local fares and/or joint fares, and provisions governing such fares, and rules and regulations governing foreign air transportation to the extent provided by this part and/or Department order, for account of carriers participating in such tariff publications, under authority of their powers of attorney given to such issuing agent as provided in § 221.150. The issuing agent shall file such tariff publications with the Department on behalf of all carriers participating therein. Only one issuing agent may act in issuing and filing each such tariff publication.

Subpart C—Specifications of Tariff Publications

§ 221.20 Specifications applicable to tariff publications.

(a) *Numerical order*. All items in a tariff shall be arranged in numerical or alphabetical order. Each item shall bear a separate item designation and the same designation shall not be assigned to more than one item.

(b) *Carrier's name*. Wherever the name of a carrier appears in a tariff publication, such name shall be shown in full exactly as it appears in the carrier's certificate of public convenience and necessity, foreign air carrier permit, letter of registration, or whatever other form of operating authority of the Department to engage in air transportation is held by the carrier, or such other name which has specifically been authorized by order of the Department. A carrier's name may be abbreviated, provided the abbreviation is explained in the tariff.

(c) *Agent's name and title*. Wherever the name of an agent appears in tariff publications, such name shall be shown in full exactly as it appears in the powers of attorney given to such agent by the participating carriers and the title ''Agent'' or ''Alternate Agent'' (as the case may be) shall be shown immediately in connection with the name.

(d) *Statement of prices*. All fares and charges shall be clearly and explicitly stated and shall be arranged in a simple and systematic manner. Complicated plans and ambiguous or indefinite terms shall not be used. So far as practicable, the fares and charges shall be subdivided into items or similar units, and an identifying number shall be assigned to each item or unit to facilitate reference thereto.

(e) *Statement of rules*. The rules and regulations of each tariff shall be clear, explicit and definite, and except as otherwise provided in this part, shall contain:

(1) Such explanatory statements regarding the fares, charges, rules or other provisions contained in the tariff as may be necessary to remove all doubt as to their application.

(2) All of the terms, conditions, or other provisions which affect the fares or charges for air transportation named in the tariff.

(3) All provisions and charges which in any way increase or decrease the amount to be paid by any passenger, or which in any way increase or decrease the value of the services rendered to the passenger.

(f) *Separate rules tariff*. If desired, rules and regulations may be published

in separate governing tariffs to the extent authorized and in the manner required by subpart G.

(g) *Rules of limited application.* A rule affecting only a particular fare or other provision in the tariff shall be specifically referred to in connection with such fare or other provision, and such rule shall indicate that it is applicable only in connection with such fare or other provision. Such rule shall not be published in a separate governing rules tariff.

(h) *Conflicting or duplicating rules prohibited.* The publication of rules or regulations which duplicate or conflict with other rules or regulations published in the same or any other tariff for account of the same carrier or carriers and applicable to or in connection with the same transportation is prohibited.

(i) Each tariff shall include:

(1) A prominent D.O.T. or other number identifying the tariff in the sequence of tariffs published by the carrier or issuing agent;

(2) The name of the issuing carrier or agent;

(3) The cancellation of any tariffs superseded by the tariff;

(4) A description of the tariff contents, including geographic coverage;

(5) Identification by number of any governing tariffs;

(6) The date on which the tariff is issued;

(7) The date on which the tariff provisions will become effective; and

(8) the expiration date, if applicable to the entire tariff.

Subpart D—Manner of Filing Tariffs

§ 221.30 Passenger fares and charges.

(a) Fares tariffs, including associated data, shall be filed electronically in conformity with subpart R. Associated data includes arbitraries, footnotes, routing numbers and fare class explanations. See § 221.202(b)(8).

(b) Upon application by a carrier, the Department's Office of International Aviation shall have the authority to waive the electronic filing requirement in this paragraph and in Subpart R in whole or in part, for a period up to one year, and to permit, under such terms and conditions as may be necessary to carry out the purposes of this part, the applicant carrier to file fare tariffs in a paper format. Such waivers shall only be considered where electronic filing, compared to paper filing, is impractical and will produce a significant economic hardship for the carrier due to the limited nature of the carrier's operations subject to the requirements of this part, or other unusual circumstances. Paper filings pursuant to this paragraph shall normally conform to the requirements of § 221.195 and other applicable requirements of this part.

§ 221.31 Rules and regulations governing passenger fares and services.

(a) Tariff rules and regulations governing passenger fares and services other than those subject to § 221.30 may be filed electronically in conformity with subpart R. Such filings shall conform to criteria approved by the Department's Office of International Aviation as provided in § 221.180 and shall contain at a minimum the information required by § 221.202(b)(9).

(b) Applications for special tariff permission may be filed electronically, as provided in § 221.212.

(c) Tariff publications and applications for special tariff permission covered by paragraphs (a) and (b) of this section may be filed in a paper format, subject to the requirements of this part and Department orders.

Subpart E—Contents of Tariff

§ 221.40 Specific requirements.

(a) In addition to the general requirements in § 221.20, the rules and regulations of each tariff shall contain:

(1) *Aircraft and seating.* For individually ticketed passenger service, the name of each type of aircraft used in rendering such service by manufacturer model designation and a description of the seating configuration (or configurations if there are variations) of each type of aircraft. Where fares are provided for different classes or types of passenger service (that is, first class, coach, day coach, night coach, tourist, economy or whatever other class or type of service is provided

under the tariff), the tariff shall specify the type of aircraft and the seating configuration used on such aircraft for each class or type of passenger service. When two or more classes or types of passenger service are performed in a single aircraft, the seating configuration for each type or class shall be stated and described.

(2) *Rule numbers.* Each rule or regulation shall have a separate designation. The same designation shall not be assigned to more than one rule in the tariff.

(3) *Penalties.* Where a rule provides a charge in the nature of a penalty, the rule shall state the exact conditions under which such charge will be imposed.

(4) *Vague or indefinite provisions.* Rules and regulations shall not contain indefinite statements to the effect that traffic of any nature will be ''taken only by special arrangements'', or that services will be performed or penalties imposed ''at carrier's option'', or that the carrier ''reserves the right'' to act or to refrain from acting in a specified manner, or other provisions of like import; instead, the rules shall state definitely what the carrier will or will not do under the exact conditions stated in the rules.

(5) *Personal liability rules.* Except as provided in this part, no provision of the Department's regulations issued under this part or elsewhere shall be construed to require the filing of any tariff rules stating any limitation on, or condition relating to, the carrier's liability for personal injury or death. No subsequent regulation issued by the Department shall be construed to supersede or modify this rule of construction except to the extent that such regulation shall do so in express terms.

(6) *Notice of limitation of liability for death or injury under the Warsaw Convention.* Notwithstanding the provisions of paragraph (a)(5) of this section, each air carrier and foreign air carrier shall publish in its tariffs a provision stating whether it avails itself of the limitation on liability to passengers as provided in Article 22(1) of the Warsaw Convention or whether it has elected to agree to a higher limit of liability by a tariff provision. Unless the carrier elects to assume unlimited liability, its tariffs shall contain a statement as to the applicability and effect of the Warsaw Convention, including the amount of the liability limit in dollars. Where applicable, a statement advising passengers of the amount of any higher limit of liability assumed by the carrier shall be added.

(7) *Extension of credit.* Air carriers and foreign air carriers shall not file tariffs that set forth charges, rules, regulations, or practices relating to the extension of credit for payment of charges applicable to air transportation.

(8) *Individual carrier provisions governing joint fares.* Provisions governing joint fares may be published for account of an individual carrier participating in such joint fares provided that the tariff clearly indicates how such individual carrier's provisions apply to the through transportation over the applicable joint routes comprised of such carrier and other carriers who either do not maintain such provisions or who maintain different provisions on the same subject matter.

(9) *Passenger property which cannot lawfully be carried in the aircraft cabin.* Each air carrier shall set forth in its tariffs governing the transportation of persons, including passengers' baggage, charges, rules, and regulations providing that such air carrier receiving as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of any Federal law or regulation, shall assume liability to such person, at a reasonable charge and subject to reasonable terms and conditions, within the amount declared to the air carrier by such person, for the full actual loss or damage to such property caused by such air carrier.

(b) [Reserved]

§ 221.41 Routing.

(a) *Required routing.* The route or routes over which each fare applies shall be stated in the tariff in such manner that the following information can be definitely ascertained from the tariff:

(1) The carrier or carriers performing the transportation,

(2) The point or points of interchange between carriers if the route is a joint route (via two or more carriers),

(3) The intermediate points served on the carrier's or carriers' routes applicable between the origin and destination of the fare and the order in which such intermediate points are served.

(b) *Individually stated routings—Method of publication.* The routing required by paragraph (a) of this section shall be shown directly in connection with each fare or charge for transportation, or in a routing portion of the tariff (following the fare portion of the tariff), or in a governing routing tariff. When shown in the routing portion of the tariff or in a governing routing tariff, the fare from each point of origin to each point of destination shall bear a routing number and the corresponding routing numbers with their respective explanations of the applicable routings shall be arranged in numerical order in the routing portion of the tariff or in the governing routing tariff.

Subpart F—Requirements Applicable to All Statements of Fares and Charges

§ 221.50 Currency.

(a) *Statement in United States currency required.* All fares and charges shall be stated in cents or dollars of the United States except as provided in paragraph (b) of this section.

(b) *Statements in both United States and foreign currencies permitted.* Fares and charges applying between points in the United States, on the one hand, and points in foreign countries, on the other hand, or applying between points in foreign countries, may also be stated in the currencies of foreign countries in addition to being stated in United States currency as required by paragraph (a) of this section: Provided, that:

(1) The fares and charges stated in currencies of countries other than the United States are substantially equivalent in value to the respective fares and charges stated in cents or dollars of the United States.

(2) Each record containing fares and charges shall clearly indicate the respective currencies in which the fares and charges thereon are stated, and

(3) The fares and charges stated in cents or dollars of the United States are published separately from those stated in currencies of other countries. This shall be done in a systematic manner and the fares and charges in the respective currencies shall be published in separate records.

§ 221.51 Territorial application.

(a) *Specific points of origin and destination.* Except as otherwise provided in this part, the specific points of origin and destination from and to which the fares apply shall be specifically named directly in connection with the respective fares.

(b) *Directional application.* A tariff shall specifically indicate directly in connection with the fares therein whether they apply ''from'' and ''to'' or ''between'' the points named. Where the fares apply in one direction, the terms ''From'' and ''To'' shall be shown in connection with the point of origin and point of destination, respectively, and, where the fares apply in both directions between the points, the terms ''Between'' and ''And'' shall be shown in connection with the respective points.

§ 221.52 Airport to airport application, accessorial services.

Tariffs shall specify whether or not the fares therein include services in addition to airport-to-airport transportation.

§ 221.53 Proportional fares.

(a) *Definite application.* Add-on fares shall be specifically designated as ''add-on'' fares on each page where they appear.

(b) A tariff may provide that fares from (or to) particular points shall be determined by the addition of add-ons to, or the deduction of add-ons from, fares therein which apply from (or to) a base point. Provisions for the addition or deduction of such add-ons shall be shown either directly in connection with the fare applying to or from the base point or in a separate provision which shall specifically name the base point. The tariff shall clearly and definitely state the manner in which such add-ons shall be applied.

(c) *Restrictions upon beyond points or connecting carriers.* If an add-on fare is intended for use only on traffic originating at and/or destined to particular beyond points or is to apply only in connection with particular connecting carriers, such application shall be clearly and explicitly stated directly in connection with such add-on fare.

§ 221.54 Fares stated in percentages of other fares; other relationships prohibited.

(a) Fares for foreign air transportation of persons or property shall not be stated in the form of percentages, multiples, fractions, or other relationships to other fares except to the extent authorized in paragraphs (b), (c), and (d) of this section with respect to passenger fares and baggage charges.

(b) A basis of fares for refund purposes may be stated, by rule, in the form of percentages of other fares.

(c) Transportation rates for the portion of passengers' baggage in excess of the baggage allowance under the applicable fares may be stated, by rule, as percentages of fares.

(d) Children's, infants' and senior citizen's fares, may be stated, by rule, as percentages of other fares published specifically in dollars and cents (hereinafter referred to as base fares): Provided, that:

(1) Fares stated as percentages of base fares shall apply from and to the same points, via the same routes, and for the same class of service and same type of aircraft to which the applicable base fares apply, and shall apply to all such base fares in a fares tariff.

(2) Fares shall not be stated as percentages of base fares for the purpose of establishing fares applying from and to points, or via routes, or on types of aircraft, or for classes of service different from the points, routes, types of aircraft, or classes of service to which the base fares are applicable.

§ 221.55 Conflicting or duplicating fares prohibited.

The publication of fares or charges of a carrier which duplicate or conflict with the fares of the same carrier published in the same or any other tariff for application over the same route or routes is hereby prohibited.

§ 221.56 Applicable fare when no through local or joint fares.

Where no applicable local or joint fare is provided from point of origin to point of destination over the route of movement, whichever combination of applicable fares provided over the route of movement produces the lowest charge shall be applicable, except that a carrier may provide explicitly that a fare cannot be used in any combination or in a combination on particular traffic or under specified conditions, provided another combination is available.

Subpart G—Governing Tariffs

§ 221.60 When reference to governing tariffs permitted.

(a) *Reference to other tariffs prohibited except as authorized.* A tariff shall not refer to nor provide that it is governed by any other tariff, document, or publication, or any part thereof, except as specifically authorized by this part.

(b) *Reference by fare tariff to governing tariffs.* A fare tariff may be made subject to a governing tariff or governing tariffs authorized by this subpart: Provided, that reference to such governing tariffs is published in the fare tariff in the manner required by § 221.20(h).

(c) *Participation in governing tariffs.* A fare tariff may refer to a separate governing tariff authorized by this subpart only when all carriers participating in such fare tariff are also shown as participating carriers in the governing tariff: Provided, that:

(1) If such reference to a separate governing tariff does not apply for account of all participating carriers and is restricted to apply only in connection with local or joint fares applying over routes consisting of only particular carriers, only the carriers for whom such reference is published are required to be shown as participating carriers in the governing tariff to which such qualified reference is made.

(2) [Reserved]

(d) *Maximum number of governing tariffs.* A single fare tariff shall not make reference to conflicting governing tariffs.

§ 221.61 Rules and regulations governing foreign air transportation.

Instead of being included in the fares tariffs, the rules and regulations governing foreign air transportation required to be filed by §§ 221.20 and 221.30 and/or Department order which do not govern the applicability of particular fares may be filed in separate governing tariffs, conforming to this subpart. Governing rules tariffs shall contain an index of rules.

§ 221.62 Explosives and other dangerous or restricted articles.

Carriers may publish rules and regulations governing the transportation of explosives and other dangerous or restricted articles in separate governing tariffs, conforming to this subpart, instead of being included in the fares tariffs or in the governing rules tariff authorized by § 221.61. This separate governing tariff shall contain no other rules or governing provisions.

§ 221.63 Other types of governing tariffs.

Subject to approval of the Department, carriers may publish other types of governing tariffs not specified in this subpart, such as routing guides.

Subpart H—Amendment of Tariffs

§ 221.70 Who may amend tariffs.

A tariff shall be amended only by the carrier or agent who issued the tariff (except as otherwise authorized in subparts P and Q).

§ 221.71 Requirement of clarity and specificity.

Amendments to tariffs shall identify with specificity and clarity the material being amended and the changes being made. Amendments to paper tariffs shall be accomplished by reissuing each page upon which a change occurs with the change made and identified by uniform amendment symbols. Each revised page shall identify and cancel the previously effective page, show the effective date of the previous page, and show the intended effective date of the revised page. Amendments in electronic format shall conform to the requirements of § 221.202 and other applicable provisions of subpart R.

§ 221.72 Reinstating canceled or expired tariff provisions.

Any fares, rules, or other tariff provisions which have been canceled or which have expired may be reinstated only by republishing such provisions and posting and filing the tariff publications (containing such republished provisions) on lawful notice in the form and manner required by this part.

Subpart I—Suspension of Tariff Provisions by Department

§ 221.80 Effect of suspension by Department.

(a) *Suspended matter not to be used.* A fare, charge, or other tariff provision which is suspended by the Department, under authority of chapter 415 of the statute, shall not be used during the period of suspension specified by the Department's order.

(b) *Suspended matter not to be changed.* A fare, charge, or other tariff provision which is suspended by the Department shall not be changed in any respect or withdrawn or the effective date thereof further deferred except by authority of an order or special tariff permission of the Department.

(c) *Suspension continues former matter in effect.* If a tariff publication containing matter suspended by the Department directs the cancellation of a tariff or any portion thereof, which contains fares, charges, or other tariff provisions sought to be amended by the suspended matter, such cancellation is automatically suspended for the same period insofar as it purports to cancel any tariff provisions sought to be amended by the suspended matter.

(d) *Matter continued in effect not to be changed.* A fare, charge, or other tariff provision which is continued in effect as a result of a suspension by the Department shall not be changed during the period of suspension unless the change is authorized by order or special tariff permission of the Department, except that such matter may be reissued without change during the period of suspension.

§ 221.81 Suspension supplement.

(a) *Suspension supplement.* Upon receipt of an order of the Department

suspending any tariff publication in part or in its entirety, the carrier or agent who issued such tariff publication shall immediately issue and file with the Department a consecutively numbered supplement for the purpose of announcing such suspension.

(b) The suspension supplement shall not contain an effective date and it shall contain the suspension notice required by paragraph (c) of this section.

(c) *Suspension notice.* The suspension supplement shall contain a prominent notice of suspension which shall:

(1) Indicate what particular fares, charges, or other tariff provisions are under suspension,

(2) State the date to which such tariff matter is suspended,

(3) State the Department's docket number and order number which suspended such tariff matter, and

(4) Give specific reference to the tariffs (specifying their D.O.T. or other identifying numbers), original or revised records and paragraphs or provisions which contain the fares, charges, or other tariff provisions continued in effect.

§ 221.82 Reissue of matter continued in effect by suspension to be canceled upon termination of suspension.

When tariff provisions continued in effect by a suspension are reissued during the period of such suspension, the termination of the suspension and the coming into effect of the suspended matter will not accomplish the cancellation of such reissued matter. In such circumstances, prompt action shall be taken by the issuing agent or carrier to cancel such reissued provisions upon the termination of the suspension in order that they will not conflict with the provisions formerly under suspension.

§ 221.83 Tariff must be amended to make suspended matter effective.

(a) When the Department vacates an order which suspended certain tariff matter in full or in part, such matter will not become effective until the termination of the suspension period unless the issuing agent or carrier amends the pertinent tariffs in the manner prescribed in this subpart (except as provided in paragraph (b) of this section).

(b) If the Department vacates its suspension order prior to the original published effective date of the tariff provisions whose suspension is vacated, such provisions will become effective on their published effective date.

§ 221.84 Cancellation of suspended matter subsequent to date to which suspended.

(a) *Endeavor to cancel prior to expiration of suspension period.* When an order of the Department requires the cancellation of tariff provisions which were suspended by the Department and such cancellation is required to be made effective on or before a date which is after the date to which such tariff provisions were suspended, the issuing carrier or agent shall, if possible, make the cancellation effective prior to the date to which such tariff provisions were suspended.

(b) *When necessary to republish matter continued in effect by suspension.* If suspended tariff provisions become effective upon expiration of their suspension period and thereby accomplish the cancellation of the tariff provisions continued in effect by the suspension, the issuing agent or carrier shall republish and reestablish such canceled tariff provisions effective simultaneously with the cancellation of the suspended provisions in compliance with the Department's order. The tariff amendments which reestablish such canceled tariff provisions shall bear reference to this subpart and the Department's order.

Subpart J—Filing Tariff Publications With Department

§ 221.90 Required notice.

(a) *Statutory notice required.* Unless otherwise authorized by the Department or specified in a bilateral agreement between the United States and a foreign country, all tariff filings shall be made on the following schedule, whether or not they effect any changes:

(1) At least 30 days before they are to become effective, for tariffs stating a passenger fare within the zone created by section 41509(e) of the statute or

stating a rule that affects only such a fare;

(2) At least 25 days before they are to become effective, for matching tariffs that are to become effective on the same date as the tariff to be matched and that meet competition as described in § 221.94(c)(1)(v); and

(3) At least 60 days before they are to become effective, for all other tariffs.

(b) *Computing number of days' notice.* A tariff publication shall be deemed to be filed only upon its actual receipt by the Department, and the first day of any required period of notice shall be the day of actual receipt by the Department.

(c) *Issued date.* All tariff publications must be received by the Department on or before the designated issued date.

§ 221.91 Delivering tariff publications to Department.

Tariff publications will be received for filing only by delivery thereof to the Department electronically, through normal mail channels, or by delivery thereof during established business hours directly to that office of the Department charged with the responsibility of processing tariffs. No tariff publication will be accepted by the Department unless it is delivered free from all charges, including claims for postage.

§ 221.92 Number of copies required.

Two copies of each paper tariff, tariff revision and adoption notice to be filed shall be sent to the Office of International Aviation, Department of Transportation, Washington, DC 20428. All such copies shall be included in one package and shall be accompanied by a letter of tariff transmittal.

§ 221.93 Concurrences or powers of attorney not previously filed to accompany tariff transmittal.

When a tariff is filed on behalf of a carrier participating therein under authority of its concurrence or power of attorney, such concurrence or power of attorney shall, if not previously filed with the Department, be transmitted at the same time such tariff is submitted for filing.

§ 221.94 Explanation and data supporting tariff changes and new matter in tariffs.

When a tariff is filed with the Department which contains new or changed local or joint fares or charges for foreign air transportation, or new or changed classifications, rules, regulations, or practices affecting such fares or charges, or the value of the service thereunder, the issuing air carrier, foreign air carrier, or agent shall submit with the filing of such tariff:

(a) An explanation of the new or changed matter and the reasons for the filing, including (if applicable) the basis of rate making employed. Where a tariff is filed pursuant to an intercarrier agreement approved by the Department, the explanation shall identify such agreement by DOT Docket number, DOT order of approval number, IATA resolution number, or if none is designated, then by other definite identification. Where a tariff is filed on behalf of a foreign air carrier pursuant to a Government order, a copy of such order shall be submitted with the tariff.

(b) Appropriate Economic data and/or information in support of the new or changed matter.

(c) *Exceptions.* (1) The requirement for data and/or information in paragraph (b) of this section will not apply to tariff publications containing new or changed matter which are filed:

(i) In response to Department orders or specific policy pronouncements of the Department directly related to such new or changed matter;

(ii) Pursuant to an intercarrier agreement approved by the Department setting forth the fares, charges (or specific formulas therefor) or other matter: Provided that the changes are submitted with the number of the DOT order of approval and fully comply with any conditions set forth in that order;

(iii) To the extent fares for scheduled passenger service are within a statutory or Department-established zone of fare flexibility; and

(iv) To meet competition: Provided, that

(A) Changed matter will be deemed to have been filed to meet competition only when it effects decreases in fares

or charges and/or increases the value of service so that the level of the fares or charges and the services provided will be substantially similar to the level of fares or charges and the services of a competing carrier or carriers.

(B) New matter will be deemed to have been filed to meet competition only when it establishes or affects a fare or charge and a service which will be substantially similar to the fares or charges and the services of a competing carrier or carriers.

(C) When new or changed matter is filed to meet competition over a portion of the filing air carrier's system and is simultaneously made applicable to the balance of the system, such matter, insofar as it applies over the balance of the system, will be deemed to be within the exception in this paragraph (c)(1)(iv) of this section only if such carrier submits an explanation as to the necessity of maintaining uniformity over its entire system with respect to such new or changed matter.

(D) In any case where new or changed matter is filed to meet competition, the filing carrier or agent must supply, as part of the filing justification, the complete tariff references which will serve to identify the competing tariff matter which the tariff purports to meet. In such case the justification or attachment shall state whether the new or changed matter is identical to the competing tariff matter which it purports to meet or whether it approximates the competing tariff matter. If the new or changed matter is not identical, the transmittal letter or attachment shall contain a statement explaining, in reasonable detail, the basis for concluding that the tariff publication being filed is substantially similar to the competing tariff matter.

(2) [Reserved]

Subpart K—Availability of Tariff Publications for Public Inspection

§ 221.100 Public notice of tariff information.

Carriers must make tariff information available to the general public, and in so doing must comply with either:

(a) Sections 221.101, 221.102, 221.103, 221.104, 221.105, and 221.106, or

(b) Sections 221.105, 221.106 and 221.107 of this subpart.

§ 221.101 Inspection at stations, offices, or locations other than principal or general office.

(a) Each carrier shall make available for public inspection at each of its stations, offices, or other locations at which tickets for passenger transportation are sold and which is in charge of a person employed exclusively by the carrier, or by it jointly with another person, all tariffs applicable to passenger traffic from or to the point where such station, office, or location is situated, including tariffs covering any terminal services, charges, or practices whatsoever, which apply to passenger traffic from or to such point.

(b) A carrier will be deemed to have complied with the requirement that it ''post'' tariffs, if it maintains at each station, office, or location a file in complete form of all tariffs required to be posted; and in the case of tariffs involving passenger fares, rules, charges or practices, notice to the passenger as required in § 221.105.

(c) Tariffs shall be posted by each carrier party thereto no later than the filed date designated thereon except that in the case of carrier stations, offices or locations situated outside the United States, its territories and possessions, the time shall be not later than five days after the filed date, and except that a tariff which the Department has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

§ 221.102 Accessibility of tariffs to the public.

Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

§ 221.103 Notice of tariff terms.

Each carrier shall cause to be displayed continuously in a conspicuous

public place at each station, office, or location at which tariffs are required to be posted, a notice printed in large type reading as follows:

Public Inspection of Tariffs

All the currently effective passenger tariffs to which this company is a party and all passenger tariff publications which have been issued but are not yet effective are on file in this office, so far as they apply to traffic from or to. (Here name the point.) These tariffs may be inspected by any person upon request and without the assignment of any reason for such inspection. The employees of this company on duty in this office will lend assistance in securing information from the tariffs.

In addition, a complete file of all tariffs of this company, with indexes thereof, is maintained and kept available for public inspection at. (Here indicate the place or places where complete tariff files are maintained, including the street address, and where appropriate, the room number.)

§ 221.105 Special notice of limited liability for death or injury under the Warsaw Convention.

(a)(1) In addition to the other requirements of this subpart, each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention and whose place of departure or place of destination is in the United States, the following statement in writing:

Advice to International Passengers on Limitations of Liability

Passengers embarking upon a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to their entire journey including the portion entirely within the countries of departure and destination. The Convention governs and in most cases limits the liability of carriers to passengers for death or personal injury to approximately $10,000.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention. For further information please consult your airline or insurance company representative.

(2) Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on:

(i) Each ticket;

(ii) A piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or

(iii) The ticket envelope.

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall also cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers whose transportation may be governed by the Warsaw Convention and whose place of departure or destination may be in the United States, a sign which shall have printed thereon the statement prescribed in paragraph (a) of this section: Provided, however, That an air carrier, except an air taxi operator subject to part 298 of this subchapter, or foreign air carrier which provides a higher limitation of liability than that set forth in the Warsaw Convention and has signed a counterpart of the agreement among carriers providing for such higher limit, which agreement was approved by the Civil Aeronautics Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the alternate form of notice set forth in the proviso to § 221.106(a) of this chapter in full compliance with the posting requirements of this paragraph. And provided further, That an air taxi operator subject to part 298 of this subchapter, which provides a higher limitation of liability than that set forth in the Warsaw Convention and has signed a counterpart of the agreement among carriers providing for such higher limit, which agreement was approved by the Civil Aeronautics Board by Order E–

23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the following notice in the manner prescribed by this paragraph in full compliance with the posting requirements of this paragraph. Such statements shall be printed in bold faced type at least one-fourth of an inch high.

Advice to International Passengers on Limitation of Liability

Passengers traveling to or from a foreign country are advised that airline liability for death or personal injury and loss or damage to baggage may be limited by the Warsaw Convention and tariff provisions. See the notice with your ticket or contact your airline ticket office or travel agent for further information.

§ 221.106 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a)(1) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations on liability for loss of, damage to, or delay in delivery of baggage shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to persons or accept baggage for checking, a sign which shall have printed thereon the following statement:

Notice of Limited Liability for Baggage

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply for valuables. Consult your carrier for details.

(2) Provided, however, That an air carrier or foreign air carrier which provides a higher limitation of liability for death or personal injury than that set forth in the Warsaw Convention and has signed a counterpart of the agreement approved by the Civil Aeronautics Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the following notice in full compliance with the posting requirements of this paragraph and of § 221.105(b):

Advice to Passengers on Limitations of Liability

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

For most international travel (including domestic portions of international journeys) liability for loss, delay or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply to valuable articles.

See the notice with your tickets or consult your airline or travel agent for further information.

(3) Provided, however, That carriers may include in the notice the parenthetical phrase ''($20.00 per kilo)'' after the phrase ''$9.07 per pound'' in referring to the baggage liability limitation for most international travel. Such statements shall be printed in bold-face type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readable to the traveling public.

(b)(1) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on or with each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10 point type:

Notice of Baggage Liability Limitations

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared in advance and additional charges are paid. Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

(2) Provided, however, That carriers may include in their ticket notice the parenthetical phrase ''($20.00 per kilo)'' after the phrase ''$9.07 per pound'' in referring to the baggage liability limitation for most international travel.

(c) It shall be the responsibility of each carrier to insure that travel agents authorized to sell air transportation for such carrier comply with the notice provisions of paragraphs (a) and (b) of this section.

(d) Any air carrier or foreign air carrier subject to the provisions of this section which wishes to use a notice of limited liability for baggage of its own wording, but containing the substance of the language prescribed in paragraphs (a) and (b) of this section may substitute a notice of its own wording upon approval by the Department.

(e) The requirements as to time and method of delivery of the notice (including the size of type) specified in paragraphs (a) and (b) of this section and the requirement with respect to travel agents specified in paragraph (c) of this section may be waived by the Department upon application and showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

(f) Applications for relief under paragraphs (d) and (e) of this section shall be filed with the Department's Office of International Aviation not later than 15 days before the date on which such relief is requested to become effective.

(g) Notwithstanding any other provisions of this section, no air taxi operator subject to part 298 of this subchapter shall be required to give the notices prescribed in this section, either in its capacity as an air carrier or in its capacity as an agent for an air carrier or foreign air carrier.

§ 221.107 Notice of contract terms.

(a) *Terms incorporated in the contract of carriage.* (1) A ticket, or other written instrument that embodies the contract of carriage for foreign air transportation shall contain or be accompanied by notice to the passenger as required in paragraphs (b) and (d) of this section.

(2) Each carrier shall make the full text of all terms that are incorporated in a contract of carriage readily available for public inspection at each airport or other ticket sales office of the carrier: Provided, That the medium, *i.e.*, printed or electronic, in which the incorporated terms and conditions are made available to the consumer shall be at the discretion of the carrier.

(3) Each carrier shall display continuously in a conspicuous public place at each airport or other ticket sales office of the carrier a notice printed in large type reading as follows:

Explanation of Contract Terms

All passenger (and/or cargo as applicable) contract terms incorporated into the contract of carriage to which this company is a party are available in this office. These provisions may be inspected by any person upon request and for any reason. The employees of this office will lend assistance in securing information, and explaining any terms.

In addition, a file of all tariffs of this company, with indexes thereof, from which incorporated contract terms may be obtained is maintained and kept available for public inspection at. (Here indicate the place or places where tariff files are maintained, including the street address and, where appropriate, the room number.)

(4) Each carrier shall provide to the passenger a complete copy of the text of any/all terms and conditions applicable to the contract of carriage, free of charge, immediately, if feasible, or otherwise promptly by mail or other delivery service, upon request at any airport or other ticket sales office of the carrier. In addition, all other locations where the carrier's tickets may be issued shall have available at all times, free of charge, information sufficient to enable the passenger to request a copy of such term(s).

(b) *Notice of incorporated terms.* Each carrier and ticket agent shall include on or with a ticket or other written instrument given to the passenger, that embodies the contract of carriage, a conspicuous notice that:

(1) The contract of carriage may incorporate terms and conditions by reference; passengers may inspect the full text of each applicable incorporated term at any of the carrier's airport locations or other ticket sales offices of the carrier; and passengers, shippers and consignees have the right to receive, upon request at any airport or other ticket sales office of the carrier, a free copy of the full text of any/all such terms by mail or other delivery service;

(2) The incorporated terms may include, among others, the terms shown in paragraphs (b)(2) (i) through (iv) of this section. Passengers may obtain a concise and immediate explanation of the terms shown in paragraphs (b)(2) (i) through (iv) of this section from any location where the carrier's tickets are sold.

(i) Limits on the carrier's liability for personal injury or death of passengers (subject to § 221.105), and for loss, damage, or delay of goods and baggage, including fragile or perishable goods.

(ii) Claim restrictions, including time periods within which passengers must file a claim or bring an action against the carrier for its acts or omissions or those of its agents.

(iii) Rules about re-confirmations or reservations, check-in times, and refusal to carry.

(iv) Rights of the carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate carrier or aircraft, and rerouting.

(c) *Explanation of incorporated terms.* Each carrier shall ensure that any passenger can obtain from any location where its tickets are sold or any similar documents are issued, a concise and immediate explanation of any term incorporated concerning the subjects listed in paragraph (b)(2) or identified in paragraph (d) of this section.

(d) *Direct notice of certain terms.* A passenger must receive conspicuous written notice, on or with the ticket, or other similar document, of the salient features of any terms that restrict refunds of the price of the transportation, impose monetary penalties on customers, or permit a carrier to raise the price or impose more restrictive conditions of contract after issuance of the ticket.

§ 221.108 Transmission of tariff filings to subscribers.

(a) Each carrier required to file tariffs in accordance with this part shall make available to any person so requesting a subscription service as described in paragraph (b) of this section for its passenger tariffs issued by it or by a publishing agent on its behalf.

(b) Under the required subscription service one copy of each new tariff publication, including the justification required by § 221.94, must be transmitted to each subscriber thereto by first-class mail (or other equivalent means agreed upon by the subscriber) not later than one day following the time the copies for official filing are transmitted to the Department. The subscription service described in this section shall not preclude the offering of additional types of subscription services by carriers or their agents.

(c) The carriers or their publishing agents at their option may establish a charge for providing the required subscription service to subscribers: Provided, That the charge may not exceed a reasonable estimate of the added cost of providing the service.

Subpart L—Rejection of Tariff Publications

§ 221.110 Department's authority to reject.

The Department may reject any tariff which is not consistent with section 41504 of the statute, with the regulations in this part, or with Department orders.

§ 221.111 Notification of rejection.

When a tariff is rejected, the issuing carrier or agent thereof will be notified electronically or in writing that the tariff is rejected and of the reason for such rejection.

§ 221.112 Rejected tariff is void and must not be used.

A tariff rejected by the Department is void and is without any force or effect whatsoever. Such rejected tariff must not be used.

Subpart M—Special Tariff Permission To File on Less Than Statutory Notice

§ 221.120 Grounds for approving or denying Special Tariff Permission applications.

(a) *General authority.* The Department may permit changes in fares, charges or other tariff provisions on less than

the statutory notice required by section 41505 of the statute.

(b) *Grounds for approval.* The following facts and circumstances constitute some of the grounds for approving applications for Special Tariff Permission in the absence of other facts and circumstances warranting denial:

(1) *Clerical or typographical errors.* Clerical or typographical errors in tariffs constitute grounds for approving applications for Special Tariff Permission to file on less than statutory notice the tariff changes necessary to correct such errors. Each application for Special Tariff Permission based on such grounds shall plainly specify the errors and contain a complete statement of all the attending facts and circumstances, and such application shall be presented to the Department with reasonable promptness after issuance of the defective tariff.

(2) *Rejection caused by clerical or typographical errors or unintelligibility.* Rejection of a tariff caused by clerical or typographical errors constitute grounds for approving applications for Special Tariff Permission to file on less than statutory notice, effective not earlier than the original effective dates in the rejected tariff, all changes contained in the rejected tariff but with the errors corrected. Each application for the grant of Special Tariff Permission based on such grounds shall plainly specify the errors and contain a complete statement of all the attending facts and circumstances, and such application shall be filed with the Department within five days after receipt of the Department's notice of rejection.

(3) *Newly authorized transportation.* The fact that the Department has newly authorized a carrier to perform foreign air transportation constitutes grounds for approving applications for Special Tariff Permission to file on less than statutory notice the fares, rates, and other tariff provisions covering such newly authorized transportation.

(4) The fact that a passenger fare is within a statutory or Department-established zone of fare flexibility constitutes grounds for approving an application for Special Tariff Permission to file a tariff stating that fare and any rules affecting them exclusively, on less than statutory notice. The Department's policy on approving such applications is set forth in § 399.35 of this chapter.

(5) *Lowered fares and charges.* The prospective lowering of fares or charges to the traveling public constitutes grounds for approving an application for Special Tariff Permission to file on less than statutory notice a tariff stating the lowered fares or charges and any rules affecting them exclusively. However, the Department will not approve the application if the proposed tariff raises significant questions of lawfulness, as set forth in § 399.35 of this chapter.

(c) *Filing notice required by formal order.* When a formal order of the Department requires the filing of tariff matter on a stated number of days' notice, an application for Special Tariff Permission to file on less notice will not be approved. In any such instance a petition for modification of the order should be filed in the formal docket.

§ 221.121 How to prepare and file applications for Special Tariff Permission.

(a) *Form.* Each application for Special Tariff Permission to file a tariff on less than statutory notice shall conform to the requirements of § 221.212 if filed electronically.

(b) *Number of paper copies and place of filing.* For paper format applications, the original and one copy of each such application for Special Tariff Permission, including all exhibits thereto and amendments thereof, shall be sent to the Office of International Aviation, Department of Transportation, Washington, DC 20590.

(c) *Who may make application.* Applications for Special Tariff Permission to file fares, or other tariff provisions on less than statutory notice shall be made only by the issuing carrier or agent authorized to issue and file the proposed tariff. Such application by the issuing carrier or agent will constitute application on behalf of all carriers participating in the proposed fares, or other tariff provisions.

(d) *When notice is required.* Notice in the manner set forth in paragraph (e) of this section is required when a carrier files an application for Special Tariff Permission:

(1) To offer passenger fares that would be outside a Department-established zone of price flexibility or, in markets for which the Department has not established such a zone, outside the statutory zone of price flexibility; or

(2) To file any price increase or rule change that the carrier believes is likely to be controversial.

(e) *Form of notice.* When notice of filing of a Special Tariff Permission application affecting passenger fares is required by paragraph (d) of this section, the carrier shall, when it files the application, give immediate telegraphic notice or other notice approved by the Office of International Aviation, to all certificated and foreign route carriers authorized to provide nonstop or one-stop service in the markets involved, and to civic parties that would be substantially affected. The application shall include a list of the parties notified.

§ 221.122 Special Tariff Permission to be used in its entirety as granted.

Each Special Tariff Permission to file fares, or other tariff provisions on less than statutory notice shall be used in its entirety as granted. If it is not desired to use the permission as granted, and lesser or more extensive or different permission is desired, a new application for Special Tariff Permission conforming with § 221.121 in all respects and referring to the previous permission shall be filed.

§ 221.123 Re-use of Special Tariff Permission when tariff is rejected.

If a tariff containing matter issued under Special Tariff Permission is rejected, the same Special Tariff Permission may be used in a tariff issued in lieu of such rejected tariff provided that such re-use is not precluded by the terms of the Special Tariff Permission, and is made within the time limit thereof or within seven days after the date of the Department's notice of rejection, whichever is later, but in no event later than fifteen days after the expiration of the time limit specified in the Special Tariff Permission.

Subpart N—Waiver of Tariff Regulations

§ 221.130 Applications for waiver of tariff regulations.

Applications for waiver or modification of any of the requirements of this part 221 or for modification of chapter 415 of the statute with respect to the filing and posting of tariffs shall be made by the issuing carrier or issuing agent.

§ 221.131 Form of application for waivers.

Applications for waivers shall be in the form of a letter addressed to the Office of International Aviation, Department of Transportation Washington, DC 20590, and shall:

(a) Specify (by section and paragraph) the particular regulation which the applicant desires the Department to waive.

(b) Show in detail how the proposed provisions will be shown in the tariff under authority of such waiver if granted (submitting exhibits of the proposed provision where necessary to clearly show this information).

(c) Set forth all facts and circumstances on which the applicant relies as warranting the Department's granting the authority requested. No tariff or other documents shall be filed pursuant to such application prior to the Department's granting the authority requested.

Subpart O—Giving and Revoking Concurrences to Carriers

§ 221.140 Method of giving concurrence.

(a) A concurrence prepared in a manner acceptable to the Office of International Aviation shall be used by a carrier to give authority to another carrier to issue and file with the Department tariffs which contain joint fares or charges, including provisions governing such fares or charges, applying to, from, or via points served by the carrier giving the concurrence. A concurrence shall not be used as authority to file joint fares or charges in

which the carrier to whom the concurrence is given does not participate, and it shall not be used as authority to file local fares or charges.

(b) *Number of copies.* Each concurrence shall be prepared in triplicate. The original of each concurrence shall be filed with the Department, the duplicate thereof shall be given to the carrier in whose favor the concurrence is issued, and the third copy shall be retained by the carrier who issued the concurrence.

(c) *Conflicting authority to be avoided.* Care should be taken to avoid giving authority to two or more carriers which, if used, would result in conflicting or duplicate tariff provisions.

§ 221.141 Method of revoking concurrence.

(a) A concurrence may be revoked by filing with the Department a Notice of Revocation of Concurrence prepared in a form acceptable to the Office of International Aviation.

(b) *Sixty days' notice required.* Such Notice of Revocation of Concurrence shall be filed on not less than sixty days' notice to the Department. A Notice of Revocation of Concurrence will be deemed to be filed only upon its actual receipt by the Department, and the period of notice shall commence to run only from such actual receipt.

(c) *Number of copies.* Each Notice of Revocation of Concurrence shall be prepared in triplicate. The original thereof shall be filed with the Department and, at the same time that the original is transmitted to the Department, the duplicate thereof shall be sent to the carrier to whom the concurrence was given. The third copy shall be retained by the carrier issuing such notice.

(d) Amendment of tariffs when concurrence revoked. When a concurrence is revoked, a corresponding amendment of the tariff or tariffs affected shall be made by the issuing carrier of such tariffs, on not less than statutory notice, to become effective not later than the effective date stated in the Notice of Revocation of Concurrence. In the event of failure to so amend the tariff or tariffs, the provisions therein shall remain applicable until lawfully canceled.

§ 221.142 Method of withdrawing portion of authority conferred by concurrence.

If a carrier desires to issue a concurrence conferring less authority than a previous concurrence given to the same carrier, the new concurrence shall not direct the cancellation of such previous concurrence. In such circumstances, such previous concurrence shall be revoked by issuing and filing a Notice of Revocation of Concurrence in a form acceptable to the Office of International Aviation. Such revocation notice shall include reference to the new concurrence.

Subpart P—Giving and Revoking Powers of Attorney to Agents

§ 221.150 Method of giving power of attorney.

(a) *Prescribed form of power of attorney.* A power of attorney prepared in accordance with a form acceptable to the Office of International Aviation shall be used by a carrier to give authority to an agent and (in the case of the agent being an individual) such agent's alternate to issue and file with the Department tariffs which contain local or joint fares or charges, including provisions governing such fares or charges, applicable via and for account of such carrier. Agents may be only natural persons or corporations (other than incorporated associations of air carriers). The authority conferred in a power of attorney may not be delegated to any other person.

(b) *Designation of tariff issuing person by corporate agent.* When a corporation has been appointed as agent it shall forward to the Department a certified excerpt of the minutes of the meeting of its Board of Directors designating by name and title the person responsible for issuing tariffs and filing them with the Department. Only one such person may be designated by a corporate agent, and the title of such designee shall not contain the word ''Agent''. When such a designee is replaced the Department shall be immediately notified in like manner of his successor. An officer or employee of an incorporated tariff-publishing agent may not be authorized to act as tariff agent in his/her individual capacity. Every tariff issued

by a corporate agent shall be issued in its name as agent.

(c) *Number of copies.* Each power of attorney shall be prepared in triplicate. The original of each power of attorney shall be filed with the Department, the duplicate thereof shall be given to the agent in whose favor the power of attorney is issued, and the third copy shall be retained by the carrier who issued the power of attorney.

(d) *Conflicting authority prohibited.* In giving powers of attorney, carriers shall not give authority to two or more agents which, if used, would result in conflicting or duplicate tariff provisions.

§ 221.151 Method of revoking power of attorney.

(a) A power of attorney may be revoked only by filing with the Department in the manner specified in this section a Notice of Revocation of Power of Attorney in a form acceptable to the Office of International Aviation.

(b) *Sixty days' notice required.* Such Notice of Revocation of Power of Attorney shall be filed on not less than sixty days' notice to the Department. A Notice of Revocation of Power of Attorney will be deemed to be filed only upon its actual receipt by the Department, and the period of notice shall commence to run only from such actual receipt.

(c) *Number of copies.* Each Notice of Revocation of Power of Attorney shall be prepared in triplicate. The original thereof shall be filed with the Department and, at the same time that the original is transmitted to the Department, the duplicate thereof shall be sent to the agent in whose favor the power of attorney was issued (except, if the alternate agent has taken over the tariffs, the duplicate of the Notice of Revocation of Power of Attorney shall be sent to the alternate agent). The third copy of the notice shall be retained by the carrier.

(d) *Amendment of tariffs when power of attorney is revoked.* When a power of attorney is revoked, a corresponding amendment of the tariff or tariffs affected shall be made by the issuing agent of such tariffs, on not less than statutory notice, to become effective not later than the effective date stated in the Notice of Revocation of Power of Attorney. In the event of failure to so amend the tariff or tariffs, the provisions therein shall remain applicable until lawfully canceled.

§ 221.152 Method of withdrawing portion of authority conferred by power of attorney.

If a carrier desires to issue a power of attorney conferring less authority than a previous power of attorney issued in favor of the same agent, the new power of attorney shall not direct the cancellation of such previous power of attorney. In such circumstances, such previous power of attorney shall be revoked by issuing and filing a Notice of Revocation of Power of Attorney in a form acceptable to the Office of International Aviation. Such revocation notice shall include reference to the new power of attorney.

Subpart Q—Adoption Publications Required To Show Change in Carrier's Name or Transfer of Operating Control

§ 221.160 Adoption notice.

(a) When the name of a carrier is changed or when its operating control is transferred to another carrier (including another company which has not previously been a carrier), the carrier which will thereafter operate the properties shall immediately issue, file with the Department, and post for public inspection, an adoption notice in a form and containing such information as is approved by the Office of International Aviation. (The carrier under its former name or the carrier from whom the operating control is transferred shall be referred to in this subpart as the ''former carrier'', and the carrier under its new name or the carrier, company, or fiduciary to whom the operating control is transferred shall be referred to in this subpart as the ''adopting carrier''.)

(b) The adoption notice shall be prepared, filed, and posted as a tariff. The adoption notice shall be issued and filed by the adopting carrier and not by an agent.

(c) *Copies to be sent to agents and other carriers.* At the same time that the adoption notice is transmitted to the

Department for filing, the adopting carrier shall send copies of such adoption notice to each agent and carrier to whom the former carrier has given a power of attorney or concurrence. (See § 221.163.)

§ 221.161 Notice of adoption to be filed in former carrier's tariffs.

At the same time that the adoption notice is issued, posted, and filed pursuant to § 221.160, the adopting carrier shall issue, post and file with the Department a notice in each effective tariff issued by the former carrier providing specific notice of the adoption in a manner authorized by the Office of International Aviation and which shall contain no matter other than that authorized.

§ 221.162 Receiver shall file adoption notices.

A receiver shall, immediately upon assuming control of a carrier, issue and file with the Department an adoption notices as prescribed by §§ 221.160 and 221.161 and shall comply with the requirements of this subpart.

§ 221.163 Agents' and other carriers' tariffs shall reflect adoption.

If the former carrier is shown as a participating carrier under concurrence in tariffs issued by other carriers or is shown as a participating carrier under power of attorney in tariffs issued by agents, the issuing carriers and agents of such tariffs shall, upon receipt of the adoption notice, promptly file on statutory notice the following amendments to their respective tariffs:

(a) Cancel the name of the former carrier from the list of participating carriers.

(b) Add the adopting carrier (in alphabetical order) to the list of participating carriers. If the adopting carrier already participates in such tariff, reference to the substitution notice shall be added in connection with such carrier's name in the list of participating carriers.

§ 221.164 Concurrences or powers of attorney to be reissued.

(a) Adopting carrier shall reissue adopted concurrences and powers of attorney. Within a period of 120 days after the date on which the change in name or transfer of operating control occurs, the adopting carrier shall reissue all effective powers of attorney and concurrences of the former carrier by issuing and filing new powers of attorney and concurrences, in the adopting carrier's name, which shall direct the cancellation of the respective powers of attorney and concurrences of the former carrier. The adopting carrier shall consecutively number its powers of attorney and concurrences in its own series of power of attorney numbers and concurrence numbers (commencing with No. 1 in each series if it had not previously filed any such instruments with the Department), except that a receiver or other fiduciary shall consecutively number its powers of attorney or concurrences in the series of the former carrier. The cancellation reference shall show that the canceled power of attorney or concurrence was issued by the former carrier.

(b) If such new powers of attorney or concurrences confer less authority than the powers of attorney or concurrences which they are to supersede, the new issues shall not direct the cancellation of the former issues; in such instances, the provisions of §§ 221.142 and 221.152 shall be observed. Concurrences and powers of attorney which will not be replaced by new issues shall be revoked in the form and manner and upon the notice required by §§ 221.141 and 221.151.

(c) *Reissue of other carriers' concurrences issued in favor of former carrier.* Each carrier which has given a concurrence to a carrier whose tariffs are subsequently adopted shall reissue the concurrence in favor of the adopting carrier. If the carrier which issued the concurrence to the former carrier desires to revoke it or desires to replace it with a concurrence conferring less authority, the provisions of §§ 221.141 and 221.142 shall be observed.

§ 221.165 Cessation of operations without successor.

If a carrier ceases operations without having a successor, it shall:

(a) File a notice in each tariff of its own issue and cancel such tariff in its entirety.

(b) Revoke all powers of attorney and concurrences which it has issued.

Subpart R—Electronically Filed Tariffs

§ 221.170 Applicability of the subpart.

(a) Every air carrier and foreign air carrier shall file its international passenger fares tariffs consistent with the provisions of this subpart, and part 221 generally. Additionally, any air carrier and any foreign air carrier may file its international passenger rules tariffs electronically in machine-readable form as an alternative to the filing of printed paper tariffs as provided for elsewhere in part 221. This subpart applies to all carriers and tariff publishing agents and may be used by either if the carrier or agent complies with the provisions of subpart R. Any carrier or agent that files electronically under this subpart must transmit to the Department the remainder of the tariff in a form consistent with part 221, Subparts A through Q, on the same day that the electronic tariff would be deemed received under § 221.190(b).

(b) To the extent that subpart R is inconsistent with the remainder of part 221, subpart R shall govern the filing of electronic tariffs. In all other respects, part 221 remains in full force and effect.

§ 221.180 Requirements for electronic filing of tariffs.

(a) No carrier or filing agent shall file an electronic tariff unless, prior to filing, it has signed a maintenance agreement or agreements, furnished by the Department of Transportation, for the maintenance and security of the on-line tariff database.

(b) No carrier or agent shall file an electronic tariff unless, prior to filing, it has submitted to the Department's Office of International Aviation, Pricing and Multilateral Affairs Division, and received approval of, an application containing the following commitments:

(1) The filer shall file tariffs electronically only in such format as shall be agreed to by the filer and the Department. (The filer shall include with its application a proposed format of tariff. The filer shall also submit to the Department all information necessary for the Department to determine that the proposed format will accommodate the data elements set forth in § 221.202.)

(2) The filer shall provide, maintain and install in the Public Reference Room at the Department (as may be required from time to time) one or more CRT devices and printers connected to its on-line tariff database. The filer shall be responsible for the transportation, installation, and maintenance of this equipment and shall agree to indemnify and hold harmless the Department and the U.S. Government from any claims or liabilities resulting from defects in the equipment, its installation or maintenance.

(3) The filer shall provide public access to its on-line tariff database, at Departmental headquarters, during normal business hours.

(4) The access required at Departmental headquarters by this subpart shall be provided at no cost to the public or the Department.

(5) The filer shall provide the Department access to its on-line tariff database 24 hours a day, 7 days a week, except, that the filer may bring its computer down between 6:00 a.m. and 6:00 p.m. Eastern Standard Time or Eastern Daylight Saving Time, as the case may be, on Sundays, when necessary, for maintenance or for operational reasons.

(6) The filer shall ensure that the Department shall have the sole ability to approve or disapprove electronically any tariff filed with the Department and the ability to note, record and retain electronically the reasons for approval or disapproval. The carrier or agent shall not make any changes in data or delete data after it has been transmitted electronically, regardless of whether it is approved, disapproved, or withdrawn. The filer shall be required to make data fields available to the Department in any record which is part of the on-line tariff database.

(7) The filer shall maintain all fares and rules filed with the Department and all Departmental approvals, disapprovals and other actions, as well as all Departmental notations concerning such approvals, disapprovals or other actions, in the on-line tariff database

for a period of two (2) years after the fare or rule becomes inactive. After this period of time, the carrier or agent shall provide the Department, free of charge, with a copy of the inactive data on a machine-readable tape or other mutually acceptable electronic medium.

(8) The filer shall ensure that its on-line tariff database is secure against destruction or alteration (except as authorized by the Department), and against tampering.

(9) Should the filer terminate its business or cease filing tariffs, it shall provide to the Department on a machine-readable tape or any other mutually acceptable electronic medium, contemporaneously with the cessation of such business, a complete copy of its on-line tariff database.

(10) The filer shall furnish to the Department, on a daily basis, on a machine-readable tape or any other mutually acceptable electronic medium, all transactions made to its on-line tariff database.

(11) The filer shall afford any authorized Departmental official full, free, and uninhibited access to its facilities, databases, documentation, records, and application programs, including support functions, environmental security, and accounting data, for the purpose of ensuring continued effectiveness of safeguards against threats and hazards to the security or integrity of its electronic tariffs, as defined in this subpart.

(12) The filer must provide a field in the Government Filing File for the signature of the approving U.S. Government Official through the use of a Personal Identification Number (PIN).

(13) The filer shall provide a leased dedicated data conditioned circuit with sufficient capacity (not less than 28.8K baud rate) to handle electronic data transmissions to the Department. Further, the filer must provide for a secondary or a redundancy circuit in the event of the failure of the dedicated circuit. The secondary or redundancy circuit must be equal to or greater than 14.4K baud rate. In the event of a failure of the primary circuit the filer must notify the Chief of the Pricing and Multilateral Affairs Division of the Department's Office of International Aviation, as soon as possible, after the failure of the primary circuit, but not later than two hours after failure, and must provide the name of the contact person at the telephone company who has the responsibility for dealing with the problem.

(c) Each time a filer's on-line tariff database is accessed by any user during the sign-on function the following statement shall appear:

> The information contained in this system is for informational purposes only, and is a representation of tariff data that has been formally submitted to the Department of Transportation in accordance with applicable law or a bilateral treaty to which the U.S. Government is a party.

§ 221.190 Time for filing and computation of time periods.

(a) A tariff, or revision thereto, or a special tariff permission application may be electronically filed with the Department immediately upon compliance with § 221.180, and anytime thereafter, subject to § 221.400. The actual date and time of filing shall be noted with each filing.

(b) For the purpose of determining the date that a tariff, or revision thereto, filed pursuant to this subpart, shall be deemed received by the Department:

(1) For all electronic tariffs, or revisions thereto, filed before 5:30 p.m. local time in Washington, DC, on Federal business days, such date shall be the actual date of filing.

(2) For all electronic tariffs, or revisions thereto, filed after 5:30 p.m. local time in Washington, DC, on Federal business days, and for all electronic tariffs, or revisions thereto, filed on days that are not Federal business days, such date shall be the next Federal business day.

§ 221.195 Requirement for filing printed material.

(a) Any tariff, or revision thereto, filed in paper format which accompanies, governs, or otherwise affects, a tariff filed electronically, must be received by the Department on the same date that a tariff or revision thereto, is filed electronically with the Department under § 221.190(b). Further, such paper tariff, or revision thereto, shall

be filed in accordance with the requirements of subparts A through Q of part 221. No tariff or revision thereto, filed electronically under this subpart, shall contain an effective date which is at variance with the effective date of the supporting paper tariff, except as authorized by the Department.

(b) Any printed justifications, or other information accompanying a tariff, or revision thereto, filed electronically under this subpart, must be received by the Department on the same date as any tariff, or revision thereto, filed electronically.

(c) If a filer submits a filing which fails to comply with paragraph (a) of this section, or if the filer fails to submit the information in conformity with paragraph (b) of this section, the filing will be subject to rejection, denial, or disapproval, as applicable.

§ 221.200 Content and explanation of abbreviations, reference marks and symbols.

(a) *Content*. The format to be used for any electronic tariff must be that agreed to in advance as provided for in § 221.180, and must include those data elements set forth in § 221.202. Those portions that are filed in paper form shall comply in all respects with part 221, subparts A through Q.

(b) *Explanation of abbreviations, reference marks and symbols*. Abbreviations, reference marks and symbols which are used in the tariff shall be explained in each tariff.

(1) The following symbols shall be used:

R—Reduction
I—Increase
N—New Matter
X—Canceled Matter
C—Change in Footnotes, Routings, Rules or Zones
E—Denotes change in Effective Date only.

(2) Other symbols may be used only when an explanation is provided in each tariff and such symbols are consistent throughout all the electronically filed tariffs from that time forward.

§ 221.201 Statement of filing with foreign governments to be shown in air carrier's tariff filings.

(a) Every electronic tariff filed by or on behalf of an air carrier that contains fares which, by international convention or agreement entered into between any other country and the United States, are required to be filed with that country, shall include the following statement:

The rates, fares, charges, classifications, rules, regulations, practices, and services provided herein have been filed in each country in which filing is required by treaty, convention, or agreement entered into between that country and the United States, in accordance with the provisions of the applicable treaty, convention, or agreement.

(b) The statement referenced in § 221.201(a) may be included with each filing advice by the inclusion of a symbol which is properly explained.

(c) The required symbol may be omitted from an electronic tariff or portion thereof if the tariff publication that has been filed with any other country pursuant to its tariff regulations bears a tariff filing designation of that country in addition to the D.O.T. number appearing on the tariff.

§ 221.202 The filing of tariffs and amendments to tariffs.

All electronic tariffs and amendments filed under this subpart, including those for which authority is sought to effect changes on less than bilateral/statutory notice under § 221.212, shall contain the following data elements:

(a) A Filing Advice Status File—which shall include:

(1) Filing date and time;
(2) Filing advice number;
(3) Reference to carrier;
(4) Reference to geographic area;
(5) Effective date of amendment or tariff;
(6) A place for government action to be recorded; and
(7) Reference to the Special Tariff Permission when applicable.

(b) A Government Filing File—which shall include:

(1) Filing advice number;
(2) Carrier reference;
(3) Filing date and time;

(4) Proposed effective date;

(5) Justification text; reference to geographic area and affected tariff number;

(6) Reference to the Special Tariff Permission when applicable;

(7) Government control data, including places for:

(i) Name of the government analyst, except that this data shall not be made public, notwithstanding any other provision in this or any other subpart;

(ii) Action taken and reasons therefor.

(iii) Remarks, except that internal Departmental data shall not be made public, notwithstanding any other provision in this or any other subpart;

(iv) Date action is taken; and

(v) Personal Identification Number; and

(8) Fares tariff, or proposed changes to the fares tariffs, including:

(i) Market;

(ii) Fare code;

(iii) One-way/roundtrip (O/R);

(iv) Fare Amount;

(v) Currency;

(vi) Footnote (FN);

(vii) Rule Number, provided that, if the rule number is in a tariff, reference shall be made to that tariff containing the rule;

(viii) Routing (RG) Number(s), provided that the abbreviation MPM (Maximum Permissible Routing) shall be considered a number for the purpose of this file;

(ix) Effective date and discontinue date if the record has been superseded;

(x) Percent of change from previous fares; and

(xi) Expiration date.

(9) Rules tariff, or proposed changes to the rules tariffs.

(i) Rules tariffs shall include:

(A) Title: General description of fare rule type and geographic area under the rule;

(B) Application: Specific description of fare class, geographic area, type of transportation (one way, round-trip, etc.);

(C) Period of Validity: Specific description of permissible travel dates and any restrictions on when travel is not permitted;

(D) Reservations/ticketing: Specific description of reservation and ticketing provisions, including any advance reservation/ticketing requirements, provisions for payment (including prepaid tickets), and charges for any changes;

(E) Capacity Control: Specific description of any limitation on the number of passengers, available seats, or tickets;

(F) Combinations: Specific description of permitted/restricted fare combinations;

(G) Length of Stay: Specific description of minimum/maximum number of days before the passenger may/must begin return travel;

(H) Stopovers: Specific description of permissible conditions, restrictions, or charges on stopovers;

(I) Routing: Specific description of routing provisions, including transfer provisions, whether on-line or interline;

(J) Discounts: Specific description of any limitations, special conditions, and discounts on status fares, e.g. children or infants, senior citizens, tour conductors, or travel agents, and any other discounts;

(K) Cancellation and Refunds: Specific description of any special conditions, charges, or credits due for cancellation or changes to reservations, or for request for refund of purchased tickets;

(L) Group Requirements: Specific description of group size, travel conditions, group eligibility, and documentation;

(M) Tour Requirements: Specific description of tour requirements, including minimum price, and any stay or accommodation provisions;

(N) Sales Restrictions: Specific description of any restrictions on the sale of tickets;

(O) Rerouting: Specific description of rerouting provisions, whether on-line or inter-line, including any applicable charges; and

(P) Miscellaneous provisions: Any other applicable conditions.

(ii) Rules tariffs shall not contain the phrase ''intentionally left blank''.

(10) Any material accepted by the Department for informational purposes only shall be clearly identified as ''for informational purposes only, not part

of official tariff'', in a manner acceptable to the Department.

(c) A Historical File—which shall include:

(1) Market;

(2) Fare code;

(3) One-way/roundtrip (O/R);

(4) Fare amount;

(5) Currency;

(6) Footnote (FN);

(7) Rule Number, provided that, if the rule number is in a tariff other than the fare tariff, reference shall be made to that tariff containing the rule;

(8) Rule text applicable to each fare at the time that the fare was in effect.

(9) Routing (RG) Number(s), provided that the abbreviation MPM (Maximum Permissible Routing) shall be considered a number for the purpose of this file;

(10) Effective Date;

(11) Discontinue Date;

(12) Government Action;

(13) Carrier;

(14) All inactive fares (two years);

(15) Any other fare data which is essential; and

(16) Any necessary cross reference to the Government Filing File for research or other purposes.

§ 221.203 Unique rule numbers required.

(a) Each ''bundled'' and ''unbundled'' normal economy fare applicable to foreign air transportation shall bear a unique rule number.

(b) The unique rule numbers for the fares specified in this section shall be set by mutual agreement between the filer and the Department prior to the implementation of any electronic filing system.

§ 221.204 Adoption of provisions of one carrier by another carrier.

When one carrier adopts the tariffs of another carrier, the effective and prospective fares of the adopted carrier shall be changed to reflect the name of the adopting carrier and the effective date of the adoption. Further, each adopted fare shall bear a notation which shall reflect the name of the adopted carrier and the effective date of the adoption, provided that any subsequent revision of an adopted fare may omit the notation.

§ 221.205 Justification and explanation for certain fares.

Any carrier or its agent must provide, as to any new or increased bundled or unbundled (whichever is lower) on-demand economy fare in a direct-service market, a comparison between, on the one hand, that proposed fare and, on the other hand, the ceiling fare allowed in that market based on the SFFL.

§ 221.206 Statement of fares.

All fares filed electronically in direct-service markets shall be filed as single factor fares.

§ 221.210 Suspension of tariffs.

(a) A fare, charge, rule or other tariff provision that is suspended by the Department pursuant to section 41509 of the statute shall be noted by the Department in the Government Filing File and the Historical File.

(b) When the Department vacates a tariff suspension, in full or in part, and after notification of the carrier by the Department, such event shall be noted by the carrier in the Government Filing File and the Historical File.

(c) When a tariff suspension is vacated or when the tariff becomes effective upon termination of the suspension period, the carrier or its agent shall refile the tariff showing the effective date.

§ 221.211 Cancellation of suspended matter.

When, pursuant to an order of the Department, the cancellation of rules, fares, charges, or other tariff provision is required, such action shall be made by the carrier by appropriate revisions to the tariff.

§ 221.212 Special tariff permission.

(a) When a filer submits an electronic tariff or an amendment to an electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and no related tariff material is involved, the submission shall bear a sequential filing advice number. The submission shall appear in the Government Filing File and the Filing Advice Status File, and shall be referenced in such a manner to clearly indicate that such

changes are sought to be made on less than bilateral/statutory notice.

(b) When a filer submits an electronic tariff or an amendment to the electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and it contains related paper under § 221.195, the paper submission must bear the same filing advice number as that used for the electronic submission. Such paper submission shall be in the form of a revised tariff page rather than as a separate request for Special Tariff Permission. All material being submitted on a paper tariff page as part of an electronic submission will clearly indicate the portion(s) of such tariff page that is being filed pursuant to, and in conjunction with, the electronic submission on less than bilateral/statutory notice.

(c) Departmental action on the Special Tariff Permission request shall be noted by the Department in the Government Filing File and the Filing Advice Status File.

(d) When the paper portion of a Special Tariff Permission that has been filed with the Department pursuant to paragraph (b) of this section is disapproved or other action is taken by the Department, such disapproval or other action will be reflected on the next consecutive revision of the affected tariff page(s) in the following manner:

(1) Example of disapproval statement:

The portion(s) of ____ Revised Page ____ filed under EFA No. ____ was/were disapproved by DOT.

(2) Example of other action:

The portion(s) ____ Revised Page ____ filed under EFA No. ____ was/were required to be amended by DOT.

(e) When the Department disapproves in whole or in part or otherwise takes an action against any submission filed under this part, the filer must take corrective action within two business days following the disapproval or notice of other action.

(f) All submissions under this section shall comply with the requirements of § 221.202.

§ 221.300 Discontinuation of electronic tariff system.

In the event that the electronic tariff system is discontinued, or the source of the data is changed, or a filer discontinues its business, all electronic data records prior to such date shall be provided immediately to the Department, free of charge, on a machine-readable tape or other mutually acceptable electronic medium.

§ 221.400 Filing of paper tariffs required.

(a) After approval of any application filed under § 221.180 of this subpart to allow a filer to file tariffs electronically, the filer in addition to filing electronically must continue to file printed tariffs as required by subparts A through Q of part 221 for a period of 90 days, or until such time as the Department shall deem such filing no longer to be necessary: Provided that during the period specified by this section the filed printed tariff shall continue to be the official tariff.

(b) Upon notification to the filer that it may commence to file its tariffs solely in an electronic mode, concurrently with the implementation of filing electronically the filer shall:

(1) Furnish the Department with a copy of all the existing effective and prospective records on a machine-readable tape or other mutually acceptable electronic medium accompanied by an affidavit attesting to the accuracy of such records; and

(2) Simultaneously cancel such records from the paper tariff in the manner prescribed by subparts A through Q of part 221.

§ 221.500 Transmission of electronic tariffs to subscribers.

(a) Each filer that files an electronic tariff under this subpart shall make available to any person so requesting, a subscription service meeting the terms of paragraph (b) of this section.

(b) Under the required subscription service, remote access shall be allowed to any subscriber to the on-line tariff database, including access to the justification required by § 221.205. The subscription service shall not preclude the offering of additional services by the filer or its agent.

(c) The filer at its option may establish a charge for providing the required subscription service to subscribers: Provided that the charge may not exceed a reasonable estimate of the added cost of providing the service.

(d) Each filer shall provide to any person upon request, a copy of the machine-readable data (raw tariff data) of all daily transactions made to its on-line tariff database. The terms and prices for such value-added service may be set by the filer: Provided that such terms and prices shall be non-discriminatory, *i.e.*, that they shall be substantially equivalent for all similarly-situated persons.

§ 221.550 Copies of tariffs made from filer's printer(s) located in Department's public reference room.

Copies of information contained in a filer's on-line tariff database may be obtained by any user at Departmental Headquarters from the printer or printers placed in Tariff Public Reference Room by the filer. The filer may assess a fee for copying, provided it is reasonable and that no administrative burden is placed on the Department to require the collection of the fee or to provide any service in connection therewith.

§ 221.600 Actions under assigned authority and petitions for review of staff action.

(a) When an electronically filed record which has been submitted to the Department under this subpart, is disapproved (rejected), or a special tariff permission is approved or denied, under authority assigned by the Department of Transportation's Regulations, 14 CFR 385.13, such actions shall be understood to include the following provisions:

(1) *Applicable to a record or records which is/are disapproved (rejected).* The record(s) disapproved (rejected) is/are void, without force or effect, and must not be used.

(2) *Applicable to a record or records which is/are disapproved (rejected), and to special tariff permissions which are approved or denied.* This action is taken under authority assigned by the Department of Transportation in its Organization Regulations, 14 CFR 385.13. Persons entitled to petition for review of this action pursuant to the Department's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of this action. This action shall become effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

(b) [Reserved]

PART 222—INTERMODAL CARGO SERVICES BY FOREIGN AIR CARRIERS

Sec.
222.1 Applicability.
222.2 Scope of permissible intermodal cargo services.
222.3 Application for Statement of Authorization.
222.4 Procedure on receipt of application for Statement of Authorization.
222.5 Cancellation or conditioning of a Statement of Authorization.

APPENDIX A TO PART 222—CAB FORM 222

AUTHORITY: Secs. 204, 402, Pub. L. 85–726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.

SOURCE: ER–1228, 46 FR 32556, June 24, 1981, unless otherwise noted.

§ 222.1 Applicability.

This part applies to all air transportation of property that includes both air movement by a direct foreign air carrier and surface transportation to or from any point within the United States (hereafter referred to as ''intermodal cargo services'').

§ 222.2 Scope of permissible intermodal cargo services.

(a) Under its foreign air carrier permit, a direct foreign air carrier may provide or control the surface portion of intermodal cargo services within a zone extending 35 miles from the boundary of the airport or city it is authorized to serve. A direct foreign air carrier shall not provide or control the surface portion of intermodal cargo services outside of this 35-mile zone unless authorized to do so by the Board in accordance with §§ 222.3, 222.4 and 222.5.

(b) A direct foreign air carrier shall be considered to control the surface portion of intermodal cargo services if it has or publicly represents that it has any responsibility for or control over

the movement of, or has any ownership, controlling or exclusive dealing relationship with, the carrier actually providing the surface transportation.

(c) Except as provided in paragraphs (a) and (b) of this section with respect to control by a direct foreign air carrier, any U.S. or foreign indirect air carrier, surface carrier or surface freight forwarder may provide the surface portion of intermodal cargo services without limitation as to geographic area within the United States.

(d) The Board may withdraw the authority of an indirect foreign air carrier to provide the surface portion of intermodal cargo services, or the authority of a direct foreign air carrier to offer intermodal cargo services pursuant to joint fares with other carriers providing the surface transportation, at any time, with or without hearing, if the Board finds it in the public interest.

§ 222.3 Application for Statement of Authorization.

(a) Application for a Statement of Authorization shall be filed with the Board's Regulatory Affairs Division, Bureau of International Aviation, in duplicate, on CAB Form 222 (obtainable from the Civil Aeronautics Board, Publications Services Division, Washington, D.C. 20428), attached as Appendix A. In most cases the Board will act upon applications for Statements of Authorization within 60 days.

(b) Persons objecting to an application for a Statement of Authorization shall file their objections with the Regulatory Affairs Division, Bureau of International Aviation, within 28 days of the filing date of the application. The Board will list the names and nationalities of all persons applying for Statements of Authorization in its Weekly Summary of Filings.

(c) An application shall include a copy of any bilateral agreement, memorandum of consultations, or diplomatic note or letter, in support of the authority requested. Documents that appear in official U.S. publications may be incorporated by reference.

(Approved by the Office of Management and Budget under control number 3024–0045)

[ER–1228, 46 FR 32556, June 24, 1981, as amended by ER–1348, 48 FR 31635, July 11, 1983]

§ 222.4 Procedure on receipt of application for Statement of Authorization.

(a) After review of an application form filed under § 222.3, the Board will take one or more of the following actions:

(1) Indicate by stamp on CAB Form 222 the effective date of the Statement of Authorization, and return to the carrier the duplicate copy of Form 222 as evidence of approval under this part;

(2) Request additional information from the applicant;

(3) Set the application for notice and hearing procedures;

(4) Disapprove the application or approve it subject to such terms, conditions, or limitations as may be required by the public interest; or

(5) Reject the application on the grounds that there is no agreement by the United States authorizing the proposed services.

(b) An order disapproving an application or subjecting it to conditions or limitations shall be transmitted to the President for stay or disapproval. If the President does not stay or disapprove the Board's order, it shall become effective on the 31st day after transmittal to the President, or within any longer time period established in the order.

§ 222.5 Cancellation or conditioning of a Statement of Authorization.

A Statement of Authorization may be canceled or made subject to additional terms, conditions, or limitations, at any time, with or without hearing, if the Board finds that it is in the public interest to do so. An order canceling or conditioning a Statement of Authorization shall be submitted to the President for stay or disapproval and shall become effective on the 31st day after transmittal or within any

longer time period established by the Board.

Appendix A

CAB Form 222 UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD FOREIGN AIR CARRIER APPLICATION FOR STATEMENT OF AUTHORIZATION FOR INTERMODAL CARGO SERVICES	DO NOT WRITE - FOR OFFICIAL USE ONLY
TO: CIVIL AERONAUTICS BOARD ATTENTION: Regulatory Affairs Division Bureau of International Aviation Washington, D.C. 20428	
Application is made for a Statement of Authorization to conduct intermodal cargo services under provisions of the applicants' foreign air carrier permit and Economic Regulation Part 222. ☐ Initial Application ☐ Change of Name/Address/Nationality ☐ Application for Removal of conditions	
1. Name of Applicant: Nationality:	4. Area in the United States to be served by surface transportation
2. Send Authorization to: (Name and Address)	
3. (a) estimated annual tonnage of cargo to be shipped by surface transportation: _____ (b) percentage of total air cargo to be shiped by surface transportation beyond 35-mile pick-up and delivery zone.	

CERTIFICATION

I certify that the information contained in this application, and in the attachments hereto, is complete and accurate to the best of my knowledge.

Signature: _____

Date: _____ Name: _____
(please type)

Place: _____ Title: _____
(see note)

NOTE: Application must be signed by a responsible officer, such as the President, Vice President, Secretary, or Treasurer of a corporation, or a partner or owner of other non-corporate applicants.

FOR CAB USE ONLY

Special conditions or limitations/reasons for disapproval/rejection/findings.

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Subpart A—General Provisions

Sec.
223.1 Definitions.
223.2 Exemption from section 401 of the Act.
223.3 Mandatory free transportation.
223.4 Transferability of passes.
223.5 Responsibility of agencies.
223.6 Carrier's rules.

Subpart B—Domestic Travel

223.11 Free and reduced-rate transportation permitted.

Subpart C—International Travel

223.21 Free and reduced-rate transportation authorized by statute or regulation.
223.22 Other persons to whom free and reduced-rate transportation may be furnished.
223.23 Applications for authority to carry other persons.
223.24 Transportation of empty mail bags.
223.25 List of affiliates.

AUTHORITY: Secs. 204, 403, 404, 405(j), 407, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 766, 771, 49 U.S.C. 1325, 1373, 1374, 1375, 1377, 1386, sec. 2 of the Postal Reorganization Act, 84 Stat. 767, 39 U.S.C. 5007.

SOURCE: ER–1371, 48 FR 57118, Dec. 28, 1983, unless otherwise noted.

Subpart A—General Provisions

§ 223.1 Definitions.

As used in this part, unless the context otherwise requires:

An *affiliate* of a carrier means a person:

(a) Who controls that carrier, or is controlled by that carrier or by another person who controls or is controlled by that carrier; and

(b) Whose principal business in purpose or in fact is:

(1) The holding of stock in one or more carriers;

(2) Transportation by air or the sale of tickets therefor;

(3) The operation of one or more airports, one or more of which are used by that carrier or by another carrier who controls or is controlled by that carrier or that is under common control with that carrier by another person; or

(4) Activities related to the transportation by air conducted by that carrier or by another carrier that controls or is controlled by that carrier or which is under common control with that carrier by another person.

Air carrier means the holder of a certificate of public convenience and necessity issued by the Board under section 401 of the Act authorizing the carriage of persons.

Attendant means any person required by a handicapped person in order to travel, whether or not that person's services are required while the handicapped passenger is in an aircraft.

Carrier means:

(a) An air carrier;

(b) An all-cargo air carrier operating under section 401 or section 418 of the Act;

(c) A foreign air carrier;

(d) An intrastate carrier;

(e) An air taxi (including a commuter air carrier) operating under parts 294 or 298 of this chapter; and

(f) Any person operating as a common carrier by air, or in the carriage of mail by air, or conducting transportation by air, in a foreign country.

Control, as used in this section, means the beneficial ownership of more than 40 percent of outstanding capital stock unless, ownership of more than 40 percent of outstanding capital stock unless, in a specific case, the Board determines under section 408 of the Act that control does not exist. Control may be direct or by or through one or more intermediate subsidiaries likewise controlled or controlling through beneficial ownership of more than 40 percent of outstanding voting capital stock.

Delivery flight means a flight from a point in the United States where a carrier has taken delivery of a newly manufactured aircraft to any point or points on its route system.

Foreign air carrier means the holder of a permit issued by the Board under section 402 of the Act authorizing the carriage of persons.

Free transportation means the carriage by an air carrier or foreign air carrier of any person or property (other than property owned by that carrier) in air transportation without compensation therefor.

Handicapped passenger means any person who has a physical or mental

impairment (other than drug addiction or alcoholism), that substantially limits one or more major life activities.

Inaugural flight means a flight on an aircraft type being introduced by a carrier for the first time on a route, even if that aircraft type has been used by that carrier on other routes or on that route by other carriers.

Pass means a written authorization, other than actual ticket stock, issued by a carrier for free or reduced-rate transportation of persons or property.

Reduced-rate transportation means the carriage by an air carrier or foreign air carrier of any person or property (other than property owned by such carrier) in air transportation for a compensation less than that specified in the tariffs of that carrier on file with the Board and otherwise applicable to such carriage.

Retired means:

(a) With respect to carrier directors, officers, and employees, persons receiving retirement benefits from any carrier;

(b) With respect to the general public, persons not regularly working at a full-time paying job, and not intending to do so in the future.

§ 223.2 Exemption from section 401 of the Act.

(a) Any all-cargo carrier is exempted from section 401 of the Act to the extent necessary to carry, for purposes of in-flight observation, technical representatives of companies that have been engaged in the manufacture, development, or testing of aircraft or aircraft equipment.

(b) Every carrier providing transportation under this section shall also comply with the applicable regulations of the Federal Aviation Administration such as regulations pertaining to admission of persons to the aircraft flight deck.

§ 223.3 Mandatory free transportation.

Every air carrier shall carry, without charge, on any aircraft that it operates, the following persons:

(a) Security guards who have been assigned to the duty of guarding such aircraft against unlawful seizure, sabotage or other unlawful interference, upon the exhibition of such credentials as may be prescribed by the Administrator of the Federal Aviation Administration;

(b) Safety inspectors of the National Transportation Safety Board or of the Federal Aviation Administration who have been assigned to the duty of inspecting during flight such aircraft or its equipment, route facilities, operational procedures, or airman competency upon the exhibition of credentials or a certificate from the agency involved in authorizing such transportation; and

(c) Postal employees on duty in charge of the mails or traveling to or from such duty, upon the exhibition of the credentials issued by the Postmaster General.

§ 223.4 Transferability of passes.

Any pass authorizing free or reduced-rate transportation issued by a carrier may be made transferable to the extent specified by the granting carrier.

§ 223.5 Responsibility of agencies.

The Federal Aviation Administration, National Transportation Safety Board, National Weather Service, and the Postal Service shall be responsible for the following:

(a) The issuance of any credentials or certificates to their personnel eligible for free or reduced-rate transportation under this part; and

(b) The promulgation of any internal rules that are necessary to obtain compliance by such personnel with this part.

§ 223.6 Carrier's rules.

(a) Each air carrier and foreign air carrier shall maintain at its principal office either a copy or all instructions to its employees and of all company rules governing its practice in connection with the issuance and interchange of free and reduced-rate transportation passes or a statement describing those practices.

(b) The rules or statement required by this section shall, at a minimum, include the following:

(1) The titles of its officials upon whose authorizations passes may be issued;

(2) The titles of other officials who are authorized by these officials to

countersign passes on their behalf, and the extent of the authority granted to them; and

(3) The titles of persons who are authorized to request passes from other carriers.

(c) The rules, instructions, or statement required by this section shall be furnished to the Board upon request or to a member of the public upon payment of a reasonable charge for this service.

(Approved by the Office of Management and Budget under control number 3024–0002)

Subpart B—Domestic Travel

§ 223.11 Free and reduced-rate transportation permitted.

Air carriers may charge any rate or fare for interstate and overseas air transportation.

Subpart C—International Travel

§ 223.21 Free and reduced-rate transportation authorized by statute or regulation.

(a) Any air carrier or foreign air carrier may provide free or reduced-rate foreign air transportation to any classes of persons specifically named in section 403(b) of the Act or free transportation to those named in §375.35 of this chapter.

(b) Air carriers and foreign air carriers may offer reduced fares for foreign air transportation to ministers of religion, the elderly, retired, and handicapped passengers, and to attendants required by handicapped passengers, but shall file tariffs for such fares. Carriers may establish reasonable tariff rules to assist in identifying those who qualify for reduced fares.

§ 223.22 Other persons to whom free and reduced-rate transportation may be furnished.

Air carriers and foreign air carriers are exempted from sections 403 and 404(b) of the Act and part 221 of this chapter to the extent necessary to provide free or reduced-rate foreign air transportation, including passes, to the following:

(a) Directors, officers, employees, and retirees and members of their immediate families, of any carrier or of any affiliate of such carrier, subject to the requirements of §223.25.

(b) Persons to whom the carrier is required to furnish such transportation by law or government directive or by a contract or agreement between the carrier and the government of any country served by the carrier. The Board may, without prior notice, direct the carrier to file a tariff covering such transportation if it finds that the law or government directive in question requires the provision of such transportation. This transportation may be provided only if:

(1) The contract or agreement is filed with the Board, and it is not disapproved by the Board; and

(2) The law or government directive does not require the furnishing of such transportation to the general public or any segment thereof.

(c) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purposes of in-flight observation, and subject to applicable regulations of the Federal Aviation Administration such as regulations pertaining to admission of persons to the aircraft flight deck.

(d) Any person in return for goods or services provided by such person whether the transportation is used by that person or any designee of such person;

(e) Persons engaged in promoting transportation and their immediate families, when such transportation is undertaken for a promotional purpose;

(f) Persons being transported on an inaugural flight or delivery flight of the carrier except that, in the case of delivery flights, this exemption extends only to free, and not reduced-rate, transportation;

(g) Any law-enforcement official, including any person who has the duty of guarding government officials traveling on official business against unlawful interference;

(h) As compensation to persons that file a complaint or claim against the carrier;

(i) Charitable organizations; and

(j) Any person in an aviation-related occupation when the transportation is

provided for the purpose of technical in-flight observation.

§ 223.23 Applications for authority to carry other persons.

(a) Any air carrier or foreign air carrier desiring special authorization to provide free or reduced-rate foreign air transportation to persons to whom the carrier would not otherwise be authorized to furnish such transportation under the previous provisions of this part may apply to the Board, by letter or other writing, for such authorization.

(b) The application shall include the following information:

(1) The identity of the persons to whom the transportation is to be furnished;

(2) The points between which the transportation is to be furnished;

(3) The approximate time of departure; and

(4) The carrier's reasons for desiring to furnish such transportation.

(c) No transportation for which approval is required shall be furnished by the carrier until that approval is received by the carrier.

(Approved by the Office of Management and Budget under control number 3024–0002)

§ 223.24 Transportation of empty mail bags.

Any carrier authorized to engage in foreign air transportation may transport in foreign air transportation empty air mail bags from any country to the country of origin of such bags, free of charge, on a voluntary space-available basis.

§ 223.25 List of affiliates.

(a) Each carrier shall maintain at its principal office a list containing all of that carrier's affiliates, showing the exact relationship of each affiliate to the carrier.

(b) No pass may be issued under § 223.22(a) to a director, officer, employee, or members of their immediate family, of any affiliate, unless that affiliate is on the list required by paragraph (a) of this section.

(c) The list required by paragraph (a) of this section shall be furnished to the Board upon request.

(Approved by the Office of Management and Budget under control number 3024–0002)

PART 232—TRANSPORTATION OF MAIL, REVIEW OF ORDERS OF POSTMASTER GENERAL

Sec.

232.1 Applications for review.
232.2 Answers to applications for review.
232.3 Replies to answers to applications for review.
232.4 Applications to postpone the effective date of an order of the Postmaster General; answers thereto.
232.5 Filing and service of applications, answers, and replies.

AUTHORITY: 49 U.S.C. Chapters 401, 419.

SOURCE: 41 FR 49479, Nov. 9, 1976, unless otherwise noted.

§ 232.1 Applications for review.

(a) Any person who would be aggrieved by an order of the Postmaster General issued under and within the meaning of section 41902 of the Statute may, within not more than 10 days after the issuance of such order, apply to the Department for a review thereof.

(b) An application for review filed under this part shall be made in writing and shall be conspicuously entitled Application for Review of Order of the Postmaster General under section 41902 of the Statute. Except as otherwise provided in paragraph (c) of this section, such application for review shall specify:

(1) The schedule affected and identity of the order complained of;

(2) The manner in which the applicant is or would be aggrieved by the order;

(3) The relief sought;

(4) The facts relied upon to establish that the public convenience and necessity require that such order be amended, revised, suspended, or canceled by the Department;

(5) An estimate of the total economic impact (including nonmail revenues) on the carrier of complying with the Postmaster General's order;

(6) A history of the flight or flights in question and any predecessor flights cooperated in the market at or about

the same hours, including when they were first operated and whether they have been operated continuously since that time: *Provided*, That this history need not extend beyond the last three years;

(7) A detailed statement of the reasons for the schedule change, including copies of any economic data considered by carrier management in reaching that determination;

(8) Any other schedule changes in the affected market which accompany the schedule change in question, or a statement to the effect that there are no such changes;

(9) Monthly load-factor data on the flight or flights in question for the most recent twelve-month period;

(10) Profit and loss data for the flight or flights in question for the most recent twelve-month period, provided that the data be submitted on a fully allocated cost by functional account number or by some other method in which costs are determined on a fully allocated basis and which is explained in complete detail; and

(11) A statement indicating whether the carrier is willing to seatload sack mail on the flight or flights in question.

(c) Where the application is for review of an order which does not involve disapproval, alteration, or amendment of a change or changes which a carrier sought to make in its own schedule(s), the application need not include items 6 through 11, inclusive, specified in paragraph (b) of this section.

[41 FR 49479, Nov. 9, 1976, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43524, Aug. 22, 1995]

§ 232.2 Answers to applications for review.

(a) Any interested person may, within not more than ten days after the filing of an application for review, serve and file with the Department an answer in opposition to, or in support of, such applications. Such answer shall set forth the economic data and other facts upon which it is based.

(b) An answer of the Postmaster General or U.S. Postal Service shall contain the following particular information, where applicable:

(1) The Postal Service's critical time frame for the movement of the mail in question together with a detailed explanation of the operational factors which support that estimate;

(2) The alternate air and surface services (including air taxi service) available in the market in question together with a statement of the costs of using such alternate services and, where appropriate, an explanation of why such services are unacceptable;

(3) An estimate of the average amount and expected actual density of mail which will be tendered to the carrier if the order in question is upheld;

(4) An estimate of the amount and type of containers which will be tendered to the carrier if the order in question is upheld;

(5) The volume (including density of mail, amount and types of containers) of mail historically carried on the flight or flights in question;

(6) An estimate of the volume (including density of mail, amount and types of containers) of mail historically carried on the flight or flights in question which could be accommodated on other flights serving the market without significant impairment of service under the mail delivery time standards of the Postal Service, together with an explanation of how that estimate was computed; and

(7) An estimate of the impact of the flight or flights in question on mail delivery time standards of the Postal Service, together with an explanation of how that estimate was computed.

[41 FR 49479, Nov. 9, 1976, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

§ 232.3 Replies to answers to applications for review.

Any interested person may, within not more than seven days after the filing of an answer to an application for review, serve and file with the Department a reply in opposition to, or in support of, such answer.

[41 FR 49479, Nov. 9, 1976, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

§ 232.4 Applications to postpone the effective date of an order of the Postmaster General; answers thereto.

(a) Any person who would be aggrieved by an order of the Postmaster

General within the meaning of section 41902 of the Statute may, within not more than four calendar days after the issuance of such order, apply to the Department for a postponement of the effective date of that order pending review: *Provided*, That if the final day of the four day period is a Saturday, Sunday, or holiday for the Department, the application may be filed with the Department no later than the end of the next day which is neither a Saturday, Sunday, or holiday.

(b) An application for postponement of the effective date filed under this part may be made in writing or by telegram, and shall be conspicuously entitled Application for Postponement of the Effective Date of Order of the Postmaster General Pending Review Under section 41902 of the Statute. Such application for postponement shall specify:

(1) The schedule affected and identity of the order complained of;

(2) The manner in which the applicant is or would be aggrieved by the order;

(3) The relief which will be sought;

(4) That the applicant intends to file a timely application for review of the order under § 232.1; and

(5) A summary of the justification and facts relied upon to establish that the stay should be granted.

(c) Any interested person may, within not more than four calendar days after the service of an application for postponement of the effective date, serve and file with the Department an answer in opposition to, or in support of, the application: *Provided*, That if the final day of the four day period is a Saturday, Sunday, or holiday for the Department, the application may be filed with the Department no later than the end of the next day which is neither a Saturday, Sunday, or holiday: *Provided further, however*, That the Department need not consider any answer filed later than eight calendar days after issuance of the Postmaster General's order.

[41 FR 49479, Nov. 9, 1976, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43524, Aug. 22, 1995]

§ 232.5 Filing and service of applications, answers, and replies.

(a) An application, answer or reply filed hereunder shall be deemed to have been filed on the date on which it is actually received by the Department at its offices in Washington, D.C.

(b) At the time a written or telegraphic application, answer, or reply is filed under this part, a copy thereof shall be served by personal service, registered mail, or telegraph upon the Postmaster General and upon the air carrier operating or ordered to operate the mail service in question. Except in the case of telegraphic delivery each copy so served shall be accompanied by a letter of transmittal stating that such service is being made pursuant to this section. In the case of telegraphic delivery the copy shall be accompanied by a telegraphic statement that service is being made pursuant to this section.

(c) The execution, number of copies, and verification of a written application, answer, or reply filed under this part, and the formal specifications of papers included in such application, answer, or reply shall be in accordance with the requirements of the Rules of Practice relating to applications generally (see part 302 of this chapter).

[41 FR 49479, Nov. 9, 1976, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

Sec.

234.1 Purpose.
234.2 Definitions.
234.3 Applicability.
234.4 Reporting of on-time performance.
234.5 Form of reports.
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234.8 Calculation of on-time performance codes.
234.9 Reporting of on-time performance codes.
234.10 Voluntary disclosure of on-time performance codes.
234.11 Disclosure to consumers.
234.12 Waivers.

AUTHORITY: 49 U.S.C. 329 and chapters 401, 417.

SOURCE: Amdt. No. 234–1, 52 FR 34071, Sept. 9, 1987, unless otherwise noted.

NOTE: The reporting requirements contained in this part have been approved by the

Office of Management and Budget under control number 2138–0041.

§ 234.1 Purpose.

The purpose of this part is to set forth required data that certain air carriers must submit to the Department and to computer reservations system vendors in computerized form, except as otherwise provided, so that information on air carriers' quality of service can be made available to consumers of air transportation. This part also requires that service quality data be disclosed directly to consumers.

§ 234.2 Definitions.

For the purpose of this part:

Cancelled flight means a flight operation that was not operated, but was listed in a carrier's computer reservation system within seven calendar days of the scheduled departure.

Discontinued flight means a flight dropped from a carrier's computer reservation system more than seven calendar days before its scheduled departure.

Diverted flight means a flight which is operated from the scheduled origin point to a point other than the scheduled destination point in the carrier's published schedule. For example, a carrier has a published schedule for a flight from A to B to C. If the carrier were to actually fly an A to C operation, the A to B segment is a diverted flight, and the B to C segment is a cancelled flight.

Extra-section flight means a flight conducted as an integral part of scheduled passenger service, that has not been provided for in published schedules and is required for transportation of traffic that cannot be accommodated on the regularly scheduled flight.

Flight means any nonstop scheduled passenger flight segment with a specific flight number scheduled to be operated pursuant to a published schedule within a specific origin-destination city pair, other than transborder or foreign air transportation. In the case of reporting to computer reservations system vendors, *flight* also means one-stop or multi-stop single plane scheduled operations that include any flight segments for which performance is reported pursuant to this part.

Late or *late flight* means a flight that arrives at the gate 15 minutes or more after its published arrival time.

Mishandled-baggage report means a report filed with a carrier by or on behalf of a passenger that claims loss, delay, damage or pilferage of baggage.

New flight means a flight added to a carrier's schedule to operate in a specific origin-destination city pair and not scheduled to depart within 30 minutes of any discontinued flight that was contained in the carrier's published schedules for the same city pair during the previous month.

On-time means a flight that arrives less than 15 mintues after its published arrival time.

On-time performance means the percentage of scheduled operations of a specific flight that an air carrier operates on-time during a month.

On-time performance code means a single character determined in accordance with the provisions of this part that reflects the monthly on-time performance of certain nonstop flights and single plane one-stop or multi-stop flights, the schedule and availability of which are listed in a computer reservation system (*CRS*) regulated by 14 CFR part 255.

Reportable flight means any nonstop flight, including a mechanically delayed flight, to or from any airport within the contiguous 48 states that accounts for at least 1 percent of domestic scheduled-passenger enplanements in the previous calendar year, as reported to the Department pursuant to part 241 of this title. Qualifying airports will be specified periodically in accounting and reporting directives issued by the Office of Airline Information.

Reporting carrier means an air carrier certificated under 49 U.S.C. 41102 that accounted for at least 1 percent of domestic scheduled-passenger revenues in the 12 months ending March 31 of each year, as reported to the Department pursuant to part 241 of this title. Reporting carriers will be identified periodically in accounting and reporting directives issued by the Office of Airline Information.

Wet-leased flight means a flight operated with a leased aircraft and crew.

[Amdt. 234–1, 52 FR 34071, Sept. 9, 1987, as amended by Docket No. 48524, 59 FR 49797, Sept. 30, 1994; 60 FR 66722, Dec. 26, 1995]

§ 234.3 Applicability.

This part applies to certain domestic scheduled passenger flights that are held out to the public by certificated air carriers that account for at least 1 percent of domestic scheduled passenger revenues. Certain provisions also apply to voluntary reporting to on-time performance by carriers.

§ 234.4 Reporting of on-time performance.

(a) Each reporting carrier shall file BTS Form 234 ''On-Time Flight Performance Report'' with the Office of Airline Information on a monthly basis, setting forth the information for each of its reportable flights held out in the *Official Airline Guide* (OAG), in the computer reservations systems (CRS), or in other schedule publications. The reportable flights include, but are not limited to, cancelled flights, mechanically cancelled flights, diverted flights, new flights and wet-leased flights. The report shall be made in the form and manner set forth in accounting and reporting directives issued by the Director, Office of Airline Statistics, and shall contain the following information:

(1) Carrier and flight number.

(2) Aircraft tail number.

(3) Origin and Destination airport codes.

(4) Published OAG departure and arrival times for each scheduled operation of the flight.

(5) CRS scheduled arrival and departure time for each scheduled operation of the flight.

(6) Actual departure and arrival time for each operation of the flight.

(7) Difference in minutes between OAG and CRS scheduled arrival times.

(8) Difference in minutes between OAG and CRS scheduled departure times.

(9) Actual wheels-off and wheels-on times for each operation of the flight.

(10) Date and day of week of scheduled flight operation.

(11) Scheduled elapsed time, according to CRS schedule.

(12) Actual elapsed time.

(13) Amount of departure delay, if any.

(14) Amount of arrival delay, if any.

(15) Amount of elapsed time difference, if any.

(b) When reporting the information specified in paragraph (a) of this section for a diverted flight, a reporting carrier shall use the *original* scheduled flight number and the *original* scheduled origin and destination airport codes.

(c) A reporting carrier shall report the information specified in paragraph (a) of this section for a new flight beginning with the first day of the new scheduled operation.

(d) A reporting carrier shall not report the information specified in paragraph (a) of this section for any discontinued or extra-section flight.

(e) Actual arrival, departure and elapsed times shall be measured by the times at which the aircraft arrived at and departed from the gate or passenger loading area.

(f) The published arrival time and departure time of a flight shall be, respectively, the scheduled arrival and departure times in effect on the date of the scheduled operation of the flight, as shown in the most recent *Official Airline Guide*, and in computer reservations systems. Each carrier shall designate a single computer reservations system in addition to the *Official Airline Guide* as the sources of scheduled arrival time and departure time data in its reports to the Department and shall report the scheduled arrival times and departure times listed in those sources for each flight. Scheduled elapsed times, amount of departure and/or arrival delay, and elapsed time difference shall be calculated using the scheduled times shown in the designated CRS source.

[Amdt. 234–1, 52 FR 34071, Sept. 9, 1987, as amended by Docket No. 48524, 59 FR 49797, Sept. 30, 1994; 60 FR 66722, Dec. 26, 1995]

§ 234.5 Form of reports.

Except where otherwise noted, all reports required by this part shall be filed within 15 days of the end of the month for which data are reported. The

reports must be submitted to the Office of Airline Information on ADP computer tape in the format specified in accounting and reporting directives issued by the Director of that office.

[Docket No. 48524, 59 FR 49798, Sept. 30, 1994, as amended at 60 FR 66722, Dec. 26, 1995]

§ 234.6 Baggage-handling statistics.

Each reporting carrier shall report monthly to the Department on a domestic system basis, excluding charter flights, the total number of passengers enplaned systemwide, and the total number of mishandled-baggage reports filed with the carrier. The information shall be submitted to the Department within 15 days of the end of the month to which the information applies and must be submitted with the transmittal letter accompanying the data for on-time performance in the form and manner set forth in accounting and reporting directives issued by the Director, Office of Airline Information.

[Docket No. 48524, 59 FR 49798, Sept. 30, 1994, as amended at 60 FR 66722, Dec. 26, 1995]

§234.7 Voluntary reporting.

(a) In addition to the data for each reportable flight required to be reported by this part, a reporting carrier may report to DOT for every other nonstop domestic flight that it schedules, the reportable flight data specified in this part.

(b) Any air carrier that is not a reporting carrier may file the data specified in this part for every reportable flight that it schedules, or for every nonstop domestic flight that it schedules.

(c) Voluntary reports containing information not required to be filed (1) must be submitted in the same form and manner, and at the same time, as reports containing data required to be filed, and (2) must be accompanied by a written statement describing in detail the information that is being voluntarily submitted. A carrier that files a voluntary report must continue to do so for a period of not less than 12 consecutive months.

§234.8 Calculation of on-time performance codes.

(a) Each reporting carrier shall calculate an on-time performance code in accordance with this section and as provided in more detail in accounting and reporting directives issued by the Director, Office of Airline Information. The calculations shall be performed for each reportable flight, except those scheduled to operate three times or less during a month. In addition, each reporting carrier shall assign an on-time performance code to each of its single plane one-stop or multi-stop flights, or portion thereof, that the carrier holds out to the public through a CRS, the last segment of which is a reportable flight.

(b) The on-time performance code shall be calculated as follows:

(1) Based on reportable flight data provided to the Department, calculate the percentage of on-time arrivals of each nonstop flight. Calculations shall not include discontinued or extra-section flights for which data are not reported to the Department.

(2) Based upon the on-time performance percentage calculated in paragraph (b)(1) of this section, assign a single digit code to each flight that reflects the percentile of on-time performance achieved by the flight, as set forth in the following table:

ON TIME PERFORMANCE

Code:	Percentage
9	90–100
8	80–89.9
7	70–79.9
6	60–69.9
5	50–59.9
4	40–49.9
3	30–39.9
2	20–29.9
1	10–19.9
0	0–9.9

(3) For a one-stop or multi-stop flight, or portion thereof, listed in a CRS, the performance code for the nonstop flight segment arriving at the destination listed in the CRS shall be used.

(4) In the case of a new flight, carriers shall assign a performance code consisting of the letter ''N.'' A flight

that is not a new flight shall be assigned the performance code calculated for the flight that it replaces, even if the two flights do not have the same flight number. In the case of a flight scheduled to operate three times or less during a month, carriers shall assign a performance code consisting of the letter ''U.''

(c) Carriers shall calculate on-time performance percentages and assign on-time performance codes on a monthly basis. This process shall be completed no later than the 15th day of each month, when the reports required by this part are due to the Department, and the codes shall reflect the previous month's operations.

[Amdt. No. 234–1, 52 FR 34071, Sept. 9, 1987, as amended by Amdt. No. 234–3, 52 FR 48397, Dec. 22, 1987; 53 FR 27677, July 22, 1988; Docket No. 48524, 59 FR 49798, Sept. 30, 1994; 60 FR 66722, Dec. 26, 1995]

§ 234.9 Reporting of on-time performance codes.

No later than the 15th day of each month, each reporting carrier shall deliver, or arrange to have delivered, to each system vendor, as defined in 14 CFR part 255, the on-time performance codes required to be determined above. Carriers may report the codes by insuring that they are included in basic schedule tapes provided to CRS vendors or by providing a separate tape that will permit the CRS vendors to match the performance codes with basic schedule tapes.

§ 234.10 Voluntary disclosure of on-time performance codes.

(a) Any air carrier may determine, in accordance with the provisions of § 234.8 of this part, the on-time performance codes for the flights for which it voluntarily provides flight information to the Department pursuant to § 234.7 of this part.

(b) A carrier may supply these additional on-time performance codes to system vendors at the same time and in the same manner as the required disclosures are made to system vendors, provided that voluntary disclosures must continue for a period of not less than 12 consecutive months, and must be supplied either

(1) For each of the carrier's reportable flights and each of its single plane one-stop or multi-stop flights, or portions thereof, that it holds out to the public through a CRS, the last segment of which is a reportable flight or

(2) For each of the carrier's domestic flights.

§ 234.11 Disclosure to consumers.

During the course of reservations or ticketing discussions or transactions, or inquiries about flights, between a carrier's employees and the public, the carrier shall disclose upon reasonable request the on-time performance code for any flight that has been assigned a code pursuant to this part.

§ 234.12 Waivers.

Any carrier may request a waiver from the reporting requirements of this part. Such a request, at the discretion of the Director, Bureau of Transportation Statistics may be granted for good cause shown. The requesting party shall state the basis for such a waiver.

[Docket No. 48524, 59 FR 49798, Sept. 30, 1994, as amended at 60 FR 66722, Dec. 26, 1995]

PART 240—INSPECTION OF ACCOUNTS AND PROPERTY

Sec.
240.1 Interpretation.
240.2 Obligation of air carriers, foreign air carriers, and ticket agents.

§ 240.1 Interpretation.

(a) In the exercise of the authority granted by section 407(e) of the Act, the authority of any special agent or auditor to inspect and examine lands, buildings, equipment, accounts, records, memorandums, papers or correspondence shall include the authority to make such notes and copies thereof as he deems appropriate.

(b) The term ''special agent'' and ''auditor'' are construed to mean any employee of the Bureau of Enforcement and any other employee of the Board specifically designated by it or by the Director, Office of Facilities and Operations.

(c) The issuance in the form set forth below of an identification card and credentials to any such employee shall be

construed to be an order and direction of the Board to such individual to inspect and examine lands, buildings, equipment, accounts, records, and memorandums in accordance with the authority conferred on the Board by the Act.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

Number _____
Expires _____

[photo]

Signature

This is to certify that_____, whose signature and photograph appear hereon is a duly designated _____

of the Civil Aeronautics Board and is authorized and directed to perform the duties of said office in accordance with the laws of the United States and regulations thereunder, and his authority will be respected accordingly.
By authority of the Civil Aeronautics Board.

Secretary

CIVIL AERONAUTICS BOARD

Name _____
Date Issued _____
Number _____
Height _____
Weight _____
Hair _____
Eyes _____
Date of Birth _____

The holder hereof is authorized to investigate violations of the Federal Aviation Act, as amended, collect evidence in cases in which the regulatory authority of the Civil Aeronautics Board is or may be involved and perform other duties imposed upon him by law.

Under the Federal Aviation Act and part 240 of the Economic Regulations of the Civil Aeronautics Board (14 CFR part 240), the duly accredited special agents and auditors of the Board are empowered at all times to obtain access to all lands, buildings and equipment of any air carrier or foreign air carrier and to inspect, examine, and make notes and copies of all accounts, records, memorandums, documents, papers and correspondence kept or required to be kept by any air carrier, foreign air carrier or ticket agent.

The issuance of these credentials to the holder hereof constitutes an order and direction on the part of the Civil Aeronautics Board to such individual to carry out these duties as aforesaid and as more fully described in part 240 of the Board's Economic Regulations.

Failure to honor these credentials will result in penalties as provided by law.

UNITED STATES OF AMERICA,
CIVIL AERONAUTICS BOARD,
WASHINGTON, D.C.

(Secs. 204, 407, 701, 72 Stat. 743; 49 U.S.C. 1324, 1377, 1441)

[ER–822, 38 FR 26601, Sept. 24, 1973, as amended by ER–914, 40 FR 27017, June 26, 1975; ER–941, 40 FR 58850, Dec. 19, 1975]

§ 240.2 Obligation of air carriers, foreign air carriers, and ticket agents.

Upon the demand of a special agent or auditor of the Board, and upon the presentation of the identification card and credentials issued to him in accordance with this part: (a) Any air carrier or foreign air carrier shall forthwith permit such special agent or auditor to inspect and examine all lands, buildings and equipment; (b) any air carrier, foreign air carrier or ticket agent shall forthwith permit such special agent or auditor to inspect and examine all accounts, records, memorandums, documents, papers and correspondence now or hereafter existing, and kept or required to be kept by the air carrier, foreign air carrier, or ticket agent, and shall permit such special agent or auditor to make such notes and copies thereof as he deems appropriate.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324))

[ER–914, 40 FR 27017, June 26, 1975]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR LARGE CERTIFICATED AIR CARRIERS

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AUTHORITY: 49 U.S.C. 329 and chapters 401, 411, 417.

SOURCE: ER–755, 37 FR 19726, Sept. 21, 1972, unless otherwise noted.

Section 01—Authority Under Which Accounting and Reporting Rules and Regulations are Prescribed and Administered

This Uniform System of Accounts and Reports for Large Certificated Air Carriers is issued, prescribed and administered under the following provisions of the Federal Aviation Act of 1958, as amended (72 Stat. 731, 49 U.S.C. 1301):

GENERAL POWERS

SEC. 204. (a) The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under, this Act.

FILING OF REPORTS

SEC. 407. (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

DISCLOSURE OF STOCK OWNERSHIP

SEC. 407. (b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names

of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself.

FORM OF ACCOUNTS

SEC. 407. (d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

INSPECTION OF ACCOUNTS AND PROPERTY

SEC. 407. (e) The Board shall at all times have access to all lands, buildings, and equipment of any carrier and to all accounts, records, and memoranda, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers; and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

CLASSIFICATION

SEC. 416. (a) The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Board finds necessary in the public interest.

SAFETY, ECONOMIC AND POSTAL OFFENSES

SEC. 901. (a)(1) Any person who violates (A) any provision of Title III, IV, V, VI, VII, or XII of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i), or any term, condition or limitation of any permit or certificate issued under Title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. If such violation is a continuing one, each day of such violation shall constitute a separate offense: *Provided*, That this subsection shall not apply to members of the Armed Forces of the United States, or those civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

(2) Any such civil penalty may be compromised by the Administrator in the case of violations of Titles III, V, VI, or XII, or any rule, regulation, or order issued thereunder, or by the Board in the case of violations of Titles IV or VII, or any rule, regulation or order issued thereunder, or under section 1002(i), or any term, condition, or limitation of any permit or certificate issued under Title IV, or by the Postmaster General in the case of regulations issued by him. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

SEC. 902. (e) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000.

REFUSAL TO TESTIFY

SEC. 902. (g) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so,

in obedience to the subpena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than $100 nor more than $5,000, or imprisonment for not more than one year, or both.

FILING OF COMPLAINTS AUTHORIZED

SEC. 1002. (a) Any person may file with the Administrator or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act, or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Administrator or the Board to investigate the matters complained of. Whenever the Administrator or the Board is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of his official duties, the Administrator or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Administrator or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

INVESTIGATIONS ON INITIATIVE OF ADMINISTRATOR OR BOARD

SEC. 1002. (b) The Administrator or Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Administrator or Board by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Administrator or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

ENTRY OR ORDERS FOR COMPLIANCE WITH ACT

SEC. 1002. (c) If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Administrator or the Board shall issue an appropriate order to compel such person to comply therewith. [ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1400, 50 FR 11, Jan. 2, 1985]

Section 02 [Reserved]

Section 03—Definitions for Purposes of This System of Accounts and Reports

Account, clearing. An account used as a medium for the temporary accumulation of costs that are redistributed to appropriate applicable accounts.

Acquisition, date of. The date on which the title to owned property or equipment (or the right to use or control the reassignment of leased property or equipment) passes to the air carrier.

Act. The Federal Aviation Act of 1958, as amended.

Addition, property. Additional equipment, land, structures, and other tangible property; extensions of fuel, water, and oil distribution equipment; additions to buildings and other structures; and additional safety devices applied to equipment not previously thus equipped. (See also *Modification.*)

Affiliated group. A combination of companies comprised of the air carrier, any person controlling the air carrier or under common control with the air carrier, and organizational divisions (as defined in sections 1–6) of and persons controlled by the air carrier.

Agency, cargo. Any person (other than the air carrier preforming the direct air transportation or one of its bona fide regular employees or an indirect air carrier lawfully engaged in air transportation under authority conferred by any applicable part of the Economic Regulations of the Department) who for compensation or profit: (1) Solicits, obtains, receives or furnishes directly or indirectly property or consolidated shipments of property for transportation upon the aircraft of an air carrier subject to this part, or (2) procures or arranges for air transportation of property upon aircraft of an air carrier subject to this part by charter, lease, or any other arrangement.

Agent, ticket. Any person (other than the air carrier performing the direct air transportation or one of its bona fide regular employees, or an air carrier which subcontracts the performance of charter air transportation which it has contracted to perform) who for compensation or profit: (1) Solicits, obtains, receives, or furnishes directly or indirectly passengers or groups of passengers for transportation upon the aircraft of an air carrier subject to this part, or (2) procures or arranges for air transportation of passengers or groups of passengers upon aircraft of an

air carrier subject to this part by charter, lease, or any other arrangement.

Agreement. Any oral or written agreement, contract, understanding, or arrangement, and any amendment, revision, modification, renewal, extension, cancellation or termination thereof.

Air carrier. Any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation.

Air carrier, charter. An air carrier holding a certificate issued under 49 U.S.C. 41102(a)(3).

Air carrier, large certificated. An air carrier holding a certificate issued under 49 U.S.C. 41102, as amended, that: (1) Operates aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds; or (2) conducts operations where one or both terminals of a flight stage are outside the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

Air carrier, surviving. An entity (air carrier) which, as the result of a business combination, has acquired the net assets, and carries on the operations of, one or more predecessor air carriers, and which may be newly organized at the time of the combination or may be one of the predecessor air carriers.

Aircraft. Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

Aircraft days assigned to service—carrier's equipment. The number of days that aircraft owned or acquired through rental or lease (but not interchange) are in the possession of the reporting air carrier and are available for service on the reporting carrier's routes plus the number of days such aircraft are in service on routes of others under interchange agreements. Includes days in overhaul, or temporarily out of service due to schedule cancellations. Excludes days that newly acquired aircraft are on hand but not available for productive use, days rented or leased to others (for other than interchange) and days in possession but formally withdrawn from air transportation service.

Aircraft days assigned to service— carrier routes—same as *aircraft days assigned to service-carrier's equipment* but excluding the number of days owned or rented equipment are in the possession of others under interchange agreements and including the number of days aircraft of others are in the possession of the air carrier under interchange agreements.

Aircraft, leased (*rented*). Aircraft obtained from (or furnished to) others under lease or rental arrangements. Leased and rented aircraft do not include those used under interchange agreements designed to provide oneplane service over the routes of the air carriers involved.

Aircraft type. A distinctive model as designated by the manufacturer.

Airport. A landing area regularly used by aircraft for receiving or discharging passengers or cargo.

Airport, alternate. An approved airport to which a flight may proceed if a landing at the airport to which the flight was dispatched becomes inadvisable.

Airport-to-airport distance. The great circle distance between airports, measured in statute miles in accordance with part 247 of this chapter.

Air transportation. The carriage by aircraft of persons, property, or mail.

Air transportation, charter. Air transportation authorized pursuant to section 401(d)(3).

Airworthiness (*or Airworthy*). When applied to a particular aircraft or component part, it denotes the ability of such aircraft or component part to perform its function satisfactorily through a range of operations determined by the Federal Aviation Administration.

Allocate. To assign an item or group of items of investment, revenue, or cost to an object, activity, process, or operation, in accordance with cost responsibilities, benefits received, or other measure of apportionment.

Allocation, bases of. Bases of distribution whereby revenues, expenses, and/or costs are equitably apportioned among revenue, expense, property and equipment, and other accounts.

Amortization. The gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies or over the period during which it is anticipated the benefit will be realized.

Asset, contingent. An asset the existence, value, or ownership of which depend upon the occurrence or nonoccurrence of a specific event or upon the performance or nonperformance of a specified act.

Associated company. A company in which the accounting air carrier holds 5 percent or more of the outstanding proprietary interest; or a company which holds 5 percent or more of the outstanding proprietary interest of the accounting air carrier; or a company that, directly or through one or more intermediaries, controls or is controlled by, or is under common control with the accounting air carrier. Companies owned or controlled jointly with other air carriers shall be regarded as associated companies for purposes of this system of accounts. (See also *Control*.)

Betterment. Any improvement to property or equipment through the substitution of superior parts for inferior parts retired, the object of which is to make such property more useful or of greater capacity than at the time of acquisition or installation. (See also *Modification*.)

BTS. The Bureau of Transportation Statistics.

Cargo. All traffic other than passengers.

Cargo transported. Cargo on board each flight stage.

Certificated point. A city, place or population center authorized to receive scheduled air service under a *Certificate of Public Convenience and Necessity* or under an exemption issued to an air carrier.

Certificate of Public Convenience and Necessity. A certificate issued to an air carrier under 49 U.S.C. 41102, by the Department of Transportation authorizing the carrier to engage in air transportation.

Company, predecessor. An air carrier whose net assets and operations have been taken over by one or more other air carriers.

Compensation (*of personnel*). Remuneration to air carrier employees for personal services. Includes salaries, wages, overtime pay, cost-of-living differentials, bonuses, etc., as distinguished from per diem allowances or reimbursement for expenses incurred by personnel for the benefit of the air carrier.

Continental United States. The 48 contiguous States and the District of Columbia.

Control (including the terms *Controlling, Controlled by*, and *Under common control*). The possession, directly or indirectly, of the power positively to direct, or cause the direction of or negate the direction of, the management and policies of a company, whether such power is through one or more intermediary companies or alone or in conjunction with or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated companies, contract, or any other direct or indirect means.

Controlling person. (See *Person Controlling an air carrier*)

Cost. The amount of cash (or its equivalent) actually paid for property, materials and supplies, and services, including that amount paid to put the property or materials and supplies in readiness for use. It includes such items as transportation charges, installation charges, and customs duties, less any cash or other discounts.

Cost, book. The amount at which an asset is recorded in an account without the deduction of amounts in related allowances or other accounts.

Cost, depreciated. The cost of property and equipment less the related allowances for depreciation.

Cost, removal. The cost of demolishing, dismantling, tearing down, or otherwise removing property and equipment, including the cost of related transportation and handling.

Debt, expense on. Expenses incurred by or for the air carrier in connection with the issuance and sale of evidences of debt (exclusive of the sale of reacquired securities), such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other commercial paper; specific costs of obtaining governmental authority for issuance and filing notices thereunder; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs.

Deferred taxes. Tax effects which are deferred for allocation to income tax expense of future periods.

Department. Department of Transportation.

Departures completed, percent scheduled. The percent of scheduled departures that were performed.

Departures completed, scheduled. The number of takeoffs performed at each airport pursuant to published schedules, exclusive of extra sections to scheduled departures.

Departure performed. A takeoff made at an airport.

Departure, scheduled. A takeoff scheduled at an airport, as set forth in published schedules.

Depreciation (*of depreciable property and equipment*). The loss in service value, not restored by current maintenance, incurred in the course of service from causes known to be in current operation, against which the carrier is not protected by insurance, and the effect of which can be forecast with reasonable accuracy. The causes of depreciation include wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and requirements of public authorities.

Discount (*of securities issued or assumed by the air carrier*). The excess of (1) the par or stated value of securities over (2) the then current money value of the consideration received from their sale less the amount included for dividends or for interest accrued.

DOT. Department of Transportation.

Equipment. Tangible property other than land, structures, and improvements.

Equity security. Any instrument representing ownership shares (for example, common, preferred, and other capital stock), or the right to acquire (for example, warrants, rights, and call options) or dispose of (for example, put options) ownership shares in an enterprise at fixed or determinable prices. The term does not encompass preferred stock that by its terms either must be redeemed by the issuing enterprise or is redeemable at the option of the investor, nor does it include treasury stock or convertible bonds.

Equivalent unit. A new unit substituted for an existing unit that is worn out, is damaged beyond repair, or has become inadequate in

service, the substituted unit having substantially no greater capacity than the unit for which substituted.

Estimated economic life of leased property. The estimated remaining period during which the property is expected to be economically usable by one or more users, with normal repairs and maintenance, for the purpose for which it was intended at the inception of the lease, without limitation by the lease term.

Expense, capital stock. Expenses incurred by or for the air carrier in connection with the initial issuance and sale of capital stock (exclusive of the sale of reacquired capital stock), such as fees and commissions paid to promoters, underwriters, brokers, and salesmen; fees for legal services; cost of soliciting subscriptions for capital stock; including fees, commissions, and advertising; specific costs of obtaining governmental authority for issuance and filing notices thereunder; fees and taxes for issuance of capital stock and listing on exchanges; and the cost of preparing, engraving, printing, issuing, and distributing prospectuses and stock certificates.

Flight, developmental. A flight for (1) the development of a new route either prior or subsequent to certification by the Department of Transportation; (2) the extension of an existing route; or (3) the integration of a new type of aircraft or service.

Flight, extra section. A flight, conducted as an integral part of scheduled service, that has not been provided for in published schedules and is required for transportation of traffic that cannot be accommodated on a regularly scheduled flight. Flights made in ferrying aircraft to meet schedules, or for similar operational reasons, are not extra sections and are classified as nonrevenue flights even if an occasional shipment, as a matter of special accommodation, is on board.

Flight, ferry. A flight for the purpose of returning an aircraft to base, equipment equalization, or moving an aircraft to and from a maintenance base.

Flight, paid positioning. A flight for the purpose of positioning an empty aircraft in connection with a charter flight for which a specific charge is set forth in a tariff or contract for application directly to the positioning miles operated. Such flights are considered revenue flights for Form 41 reporting purposes.

Flight, personnel training. A flight for the purpose of obtaining flying time for flight personnel or a flight in connection with a personnel training program.

Flight stage. The operation of an aircraft from takeoff to landing. For purposes of classifying flight stages as between ''domestic'', ''territorial'', and ''international'', technical stops are disregarded. (See Stops, technical.)

Freight. Property, other than mail, transported by air.

Generally accepted accounting principles (GAAP). The body of authoritative accounting knowledge governing the recording, presenting and disclosing of financial transactions, as incorporated in the pronouncements of the Financial Accounting Standards Board.

Group basis (in depreciation accounting). A plan under which (1) depreciation is based upon the application of a single depreciation rate to the total book cost of all property included in a given depreciable property and equipment account or class, despite differences in service life of individual items of property and equipment, (2) the full original cost, less any salvage realized, of an item of depreciable property or equipment retired is charged to the allowance for depreciation regardless of the age of the item, and (3) no gain or loss is recognized on the retirement of individual items of property or equipment.

Horsepower, maximum continuous for reciprocating engines. The brake horsepower developed in standard atmosphere at a specified altitude and under the maximum conditions of crankshaft rotational speed and engine manifold pressure, and approved for use during periods of unrestricted duration.

Horsepower, maximum continuous for turbine engines. The brake horsepower developed at specified altitudes, atmospheric temperatures, and flight speeds and under the maximum conditions of rotor shaft rotational speed and gas temperature, and approved for use during periods of unrestricted duration.

Thrust, maximum continuous for turbine engines. The jet thrust developed at specified altitudes, atmospheric temperatures, and flight speeds and under the maximum conditions of rotor shaft rotational speed and gas temperature, and approved for use during periods of unrestricted duration.

Hours, aircraft. The airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight.

Hours flown, revenue aircraft. The aircraft hours of flights performed in revenue service.

Hours in capitalized projects, aircraft. Aircraft hours applicable to ferrying newly acquired aircraft from the factory, to capitalized extension and development preoperating projects and to other costs which have been capitalized.

Hours per aircraft per day—carrier's equipment, revenue. Average hours of productive use per day in revenue service of reporting carrier's equipment determined by dividing (1) Aircraft days assigned to service—carrier's equipment into (2) Revenue aircraft hours minus Revenue hours on other carrier's interchange equipment plus Total hours by others on the carrier's interchange equipment.

Hours per aircraft per day—carrier's routes, revenue. Average hours of productive use per day in revenue service on reporting carrier's routes determined by dividing (1) Aircraft days assigned to service-carrier's routes into (2) Revenue aircraft hours.

Hours, ramp-to-ramp. The aircraft hours computed from the moment the aircraft first moves under it own power for purposes of flight, until it comes to rest at the next point of landing.

Improvement. An addition or alteration to land, a building, or a unit of equipment that results in a better piece of property, in the sense of greater durability, or in increased productivity or efficiency. (See also *Modification.*)

Income tax expense. The amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

Income taxes. Taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, State, and other taxes (including franchise taxes) based on income.

Insurance, self. The assumption by an air carrier of a risk of loss or liability arising from an accident or other contingent event.

Interchange agreement. An agreement under which aircraft of one air carrier are utilized to provide one-plane service over its own routes and the routes of other air carriers.

Interperiod tax allocation. The process of apportioning income taxes among periods.

Inventory, perpetual. A book inventory kept in continuous agreement with stock on hand by means of a detailed record.

Investor controlled company (*for purposes of applying the equity method of accounting*). Any business entity in which the accounting air carrier is able to exercise significant influence over operating and financial policies of the issuing company. Significant influence will be presumed, unless established to the contrary by waiver request, with ownership of 20 percent or more of the outstanding voting capital stock. Ability to exercise influence may be indicated in several ways, such as representation on the Board of Directors, participation in policy-making processes, material intercompany transactions, interchange of managerial personnel, or technological dependency. Investor controlled companies shall also be regarded as associated companies for purposes of this system of accounts (see also Associated company).

Item, delayed. An item relating to transactions that occurred during a prior accounting period and that requires further accounting treatment for a true statement of financial condition or operating results. It includes adjustments of errors in the operating revenue, operating expense, and other income accounts for prior periods.

Liability, contingent. A possible source of obligation of an air carrier dependent upon the fulfillment of conditions regarded as uncertain.

Load, available. Represents the maximum salable load. It is the allowable gross weight less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For passenger aircraft, the available load must not exceed the weight of the maximum number of passengers who can be accommodated in the seats installed in the aircraft plus the weight of the traffic that can be accommodated in the cargo space.

Load, average revenue. The average total revenue tons carried in revenue services, determined by dividing total revenue ton-miles by aircraft miles flown in revenue services.

Load, average revenue passenger. Average number of revenue passengers carried in passenger services, determined by dividing revenue passenger-miles by aircraft miles flown in revenue passenger services.

Load factor, over-all revenue. The percent that total revenue ton-miles (passenger plus nonpassenger) are of available ton-miles in revenue services.

Load factor, revenue passenger. The percent that revenue passenger-miles are of available seat-miles in revenue passenger services.

Load, minimum fuel. The minimum quantity of fuel with which an aircraft may be dispatched in accordance with the safety operating needs of the air carrier.

Load, salable. (See *Load, available.*)

Mail, nonpriority. All mail for which transportation by air is provided on a space available basis.

Mail, priority. All mail for which transportation by air is provided on a priority basis.

Mile. A statute mile (5,280 feet).

Miles completed, percent scheduled aircraft. The percent of scheduled aircraft miles which were performed.

Miles completed, scheduled aircraft. The aircraft miles performed on scheduled flights computed between only those scheduled points actually served.

Miles flown, aircraft. The miles (computed in airport-to-airport distances) for each flight stage actually completed, whether or not performed in accordance with the scheduled pattern. For this purpose, operation to a flag stop is a stage completed even though a landing is not actually made. In cases where the interairport distances are inapplicable, aircraft miles flown are determined by multiplying the normal crusing speed for the aircraft type by the airborne hours.

Miles flown, nonrevenue aircraft. The aircraft miles flown on nonrevenue flights, such as ferry (including empty backhauls to MAC one-way charters), personnel training, extension and development, and abortive revenue flights.

Miles, revenue aircraft. The aircraft miles flown in revenue service.

Miles, scheduled aircraft. The sum of the airport-to-airport distances of all flights scheduled to be performed over the air carrier's certificated routes pursuant to published flight schedules. Flights listed in the published schedules for operation only as extra sections, when traffic warrants, are excluded.

Modification. An alteration in a structure or unit of equipment that changes its design and is made to correct an error, increase production, improve efficiency of operation, or for some other reason.

Obsolescence. The process of becoming out of date due to progress of the arts and sciences, changed economic conditions, legislation, etc., which ultimately results in the retirement or other disposition of property.

Off-Line. Installations maintained or facilities used for other than scheduled certificated air services.

On-Line. Installations maintained or facilities used in conducting scheduled certificated air services.

Domestic. Flight stages with both terminals within the 50 States of the United States and the District of Columbia.

Territorial. Flight stages with both terminals within territory under U.S. jurisdiction where at least one of the terminals is not within a State or the District of Columbia.

International. Flight stages with one or both terminals outside of territory under U.S. jurisdiction.

Operations, systems. The over-all operations of an air carrier including all of the operating entities of an air carrier having multiple operations.

Passenger-mile. One passenger transported 1 mile. Passenger-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of passengers transported on that stage.

Passenger-mile, nonrevenue. One nonrevenue passenger transported one mile.

Passenger-mile, revenue. One revenue passenger transported one mile.

Passenger, nonrevenue. Person receiving air transportation from the air carrier for which remuneration is not received by the air carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged are not counted as passengers.

Passenger, revenue. Person receiving air transportation from the air carrier for which remuneration is received by the air carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged are not counted as passengers.

Passengers transported. Passengers on board each flight stage.

Person controlling an air carrier. Any person, as defined in 49 U.S.C. 40102, whom the Department has found, in any proceeding, to control an air carrier, or who holds, directly or indirectly, the legal or beneficial ownership of more than 50 percent of the outstanding voting capital stock or capital of an air carrier, and who does not make a proper showing to the Department that he or she does not control the carrier despite such stock ownership, shall be deemed to be a person controlling the carrier for the purpose of this part. A brokerage firm which holds record ownership of securities merely for the convenience of the customer beneficially owning the stock shall not be deemed a person controlling an air carrier.

Premium (*as applied to securities issued or assumed by the air carrier*). The excess of (1) the then current money value of the consideration received from their sale, less the amount included therein for dividends or interest accrued, over (2) their par or stated value.

Pretax accounting income. Income or loss for a period exclusive of related income tax expense.

Property (*as applied to traffic*). (See *Cargo*.)

Replacement. Substitution of new for existing facilities that are worn out, damaged beyond repair, or have become inadequate in service.

Residual value. The predetermined portion of the cost of a unit of property or equipment excluded from depreciation. It shall represent a fair and reasonable estimate of recoverable value as at the end of the service life over which the property or equipment is depreciated and shall give due consideration to the proceeds anticipated from disposition of the property or equipment and the extent to which costs attaching to property or equipment are otherwise recoverable through charges against income.

Retirement. The permanent withdrawal of assets from services of the corporate entity through sale, abandonment, demolition, or other disposal.

Retirement, date of. The date on which property or equipment is permanently withdrawn from services of the corporate entity.

Route, certificated. The route(s) over which an air carrier is authorized to provide air transportation by a Certificate of Public Convenience and Necessity issued by the Department of Transportation pursuant to section 401(d) (1) or (2) of the Act.

Salvage value. The amount received for property retired, less the expenses incurred in connection with the sale or in the preparation of the property for sale; or, if retained, the amount at which the material recovered is charged to materials and supplies or other appropriate account.

Seats available. Installed seats in an aircraft (including seats in lounges) exclusive of any seats not offered for sale to the public by

the carrier; provided that in no instance shall any seat sold be excluded from the count of available seats.

Seats, average available. The average number of seats available for passengers, determined by dividing available seat-miles by revenue aircraft miles flown in passenger service.

Seat-miles available, revenue. The aircraft miles flown on each flight stage multiplied by the number of seats available for revenue use on that stage.

Section 41103 cargo operations. The carriage, pursuant to 49 U.S.C. 41103, by aircraft of property and/or mail as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, or Puerto Rico, or the U.S. Virgin Islands, and a place in any other of those entities, or between places in the same State or other entity through the air-space over any place outside thereof, or between places within the District of Columbia, Puerto Rico, or the U.S. Virgin Islands. This includes commerce moving partly by aircraft and partly by other forms of transportation, as well as commerce moving wholly by aircraft.

Segment, service. A pair of points served or scheduled to be served by a single stage of at least one flight within any given time period.

Service, charter. Nonscheduled air transport service in which the party receiving transportation obtains exclusive use of an agreed upon portion of the total capacity of an aircraft with the remuneration paid by the party receiving transportation accruing directly to, and the responsibility for providing transportation is that of, the accounting air carrier.

Service, coach (tourist). Transport service specifically established for the carriage of passengers at special reduced passenger fares that are predicated on both the operation of specifically designated aircraft space and a reduction in the quality of service regularly and ordinarily provided.

Service, first class. Transport service established for the carriage of passengers moving at either standard fares or premium fares, or at reduced fares not predicated upon the operation of specifically allocated aircraft space, and for whom standard or premium quality services are provided.

Service life. The period between the date of installation of property or equipment and its date of retirement.

Service, mixed. Transport service for the carriage of both first-class and coach passengers on the same aircraft.

Service, nonpassenger. Transport service established for the carriage of traffic other than passengers.

Service, nonscheduled. Includes transport service between points not covered by Certificates of Public Convenience and Necessity issued by the Department of Transportation to the air carrier; services pursuant to the charter or hiring of aircraft; other revenue services not constituting an integral part of the services performed pursuant to published schedules; and related nonrevenue flights.

Service, passenger-cargo. Transport service established for the carriage of passengers which may also be used jointly for the transportation of cargo.

Service, scheduled. Transport service operated pursuant to published flight schedules, including extra sections and related nonrevenue flights.

Service, transport. The operation of facilities for the carriage of traffic by air.

Services, all. The total of scheduled and nonscheduled transport services.

Stop, flag. A point on an air carrier's operating system that is scheduled to be served only when traffic is to be picked up or discharged.

Stops, technical. Aircraft landing made for purposes other than enplaning or deplaning traffic. For purposes of identifying reporting entities, landings made for stopover passengers are regarded as technical stops.

Tariff, published. A publication containing fares and rates applicable to the transportation of persons or cargo and rules relating to or affecting such fares or rates of transportation, filed with the Department of Transportation.

Taxable income. The excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

Tax effects. Differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes, and (3) adjustments of prior periods (or of the opening balance of retained earnings) and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a ''tax effect'' as the term is used in this System of Accounts and Reports.

Ton. A short ton (2,000 pounds).

Ton-mile. One ton transported 1 mile. Ton-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of tons transported on that stage.

Ton-mile, nonrevenue. One ton of nonrevenue traffic transported 1 mile.

Ton-mile, passenger. One ton of passenger weight (including all baggage) transported 1 mile. (See also *Weight, passenger.*)

Ton-mile, revenue. One ton of revenue traffic transported 1 mile.

Ton-miles available, revenue. The aircraft miles flown on each flight stage multiplied by the ton capacity available for use on that stage.

Traffic, deplaned. A count of the number of passengers getting off and tons of cargo unloaded from an aircraft. For this purpose, passengers an cargo on aircraft leaving a carrier's system on interchange flights are considered as deplaning and the interchange point; and passengers and cargo moving from one operation to another operation of the same carrier, for which separate reports are required by the Department of Transportation, are considered as deplaning at the junction point.

Traffic, enplaned. A count of the number of passengers boarding and tons of cargo loaded on an aircraft. For this purpose, passengers and cargo on aircraft entering a carrier's system on interchange flights are considered as enplaning at the interchange point; and passengers and cargo moving from one operation to another operation of the same carrier, for which separate reports are required by the Department of Transportation, are considered as enplaning at the junction point.

Traffic, nonrevenue. Passengers and cargo transported by air for which no remuneration or token service charges are received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by 49 U.S.C. 41511(a) and 14 CFR part 223, as well as travel agents, cargo agents, and tour conductors traveling at reduced fares are also considered nonrevenue traffic.

Traffic office. A facility where air transportation is sold, and related processes of documentation and reservation confirmation are performed.

Traffic, revenue. Passengers and cargo transported by air for which remuneration is received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by 49 U.S.C. 41511(a) and 14 CFR part 223, travel agents, cargo agents, and tour conductors traveling at reduced fares, and other passengers and cargo carried for token service charges, are not considered as revenue traffic.

Transportation, free. The carriage of any person or cargo (other than cargo owned by the air carrier) without compensation.

Unit basis (in depreciation accounting). A plan under which depreciation expenses is accrued upon the basis of the book cost of the individual item of property in relation to the service life and salvage value of the particular item.

Value, service. The difference between the book cost and the residual value of property and equipment.

Weight, allowable gross. The maximum gross weight (of the aircraft and its contents) which an aircraft is licensed to carry into the air on each flight stage.

Weight, average available. The average capacity available for revenue traffic, determined by dividing available ton-miles by aircraft miles in revenue service.

Weight, empty. The weight of the airframe, engines, propellers, and fixed equipment of an aircraft. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

Weight, passenger. For the purposes of this part, a standard weight of 200 pounds per passenger (including all baggage) is used for all civil operations and classes of service. Other weights may be prescribed in specific instances upon the initiative of the Department of Transportation or upon a factually supported request by an air carrier.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by Amdt. 241–58, 54 FR 5590, Feb. 89, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Section 03, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Section 04—Air Carrier Groupings

(a) All large certificated air carriers are placed into three basic air carrier groupings based upon their level of operations and the nature of these operations. In order to determine the level of operations, total operating revenues for a twelve-month period are used. The following operating revenue ranges are used to establish air carrier groupings:

Carrier Group	Total Annual Operating Revenues
I	0–$100,000,000
II	$100,000,001–$1,000,000,000
III	$1,000,000,001 +

For reporting purposes, Group I air carriers are further divided into two subgroups: (1) Air carriers with total annual operating revenues from $20,000,000 to $100,000,000 and (2) Air carriers with total annual operating revenues below $20,000,000.

(b) Both the criteria for establishing air carrier groupings and the assignment of each air carrier to a specific group of carriers will be reviewed periodically by the Director, Office of Airline Information, to assure the maintenance of appropriate standards for the grouping of carriers. When an air carrier's level of operations passes the upper or lower

limit of its currently assigned carrier grouping, the carrier is not automatically transferred to a different group and a new level of reporting. The Office of Airline Statistics will issue an updated listing of the carrier groups on an annual basis. A carrier may petition for reconsideration of its assigned carrier grouping or request a waiver from the accounting and reporting requirements that are applicable to a particular group under the provisions of section 1–2 of this Uniform System of Accounts and Reports.

[Amdt. 241–60, 56 FR 12658, Mar. 27, 1991, as amended at 60 FR 66723, Dec. 26, 1995]

GENERAL ACCOUNTING PROVISIONS

Section 1—Introduction to System of Accounts and Reports

Sec. 1–1 Applicability of system of accounts and reports.

Each large certificated air carrier shall keep its books of account, records and memoranda and make reports to the BTS in accordance with this system of accounts and reports. The BTS reserves the right, however, under the provisions of sections 49 U.S.C. 41701 and 41708, to expand or otherwise modify the classes of carriers subject to this system of accounts and reports.

[ER–1400, 50 FR 11, Jan. 2, 1985, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–2 Waivers from this system of accounts and reports.

A waiver from any provision of this system of accounts or reports may be made by the BTS upon its own initiative or upon the submission of written request therefor from any air carrier, or group of air carriers, provided that such a waiver is in the public interest and each request for waiver expressly demonstrates that: existing peculiarities or unusual circumstances warrant a departure from a prescribed procedure or technique; a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal of operating results or financial condition, consistent with the principles embodied in the provisions of this system of accounts and reports; and the application of such alternative procedure will maintain or improve uniformity in substantive results as between air carriers.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–3 General description of system of accounts and reports.

(a) This system of accounts and reports is designed to permit limited contraction or expansion to reflect the varying needs and capacities of different air carriers without impairing basic accounting comparability as between air carriers. In its administration three air carrier groups, designated Group I, Group II, and Group III, respectively (see section 04), are established by the BTS. This grouping will be reviewed from time to time upon petition of individual air carriers or by initiative of the BTS with the view of a possible regrouping of the air carriers.

(b) Under the system of accounts prescribed, balance sheet elements are accounted for by all air carrier groups within a fixed uniform pattern of specific accounts. All profit and loss elements are accounted for within specific objective accounts established for each air carrier group resulting from dual classifications, designated for each air carrier group, which are descriptive of both basic areas of financial activity, or functional operation, and objective served. The profit and loss elements of the three air carrier groups can be reduced to broad objectives and general or functional classifications which are comparable for all air carrier groups. Both balance sheet and profit and loss accounts and account groupings are designed, in general, to embrace all activities, both air transport and other than air transport, in which the air carrier engages and provide for the separation of elements identifiable exclusively with other than air transport activities. Profit and loss elements which are recorded during the current accounting year are subclassified as between (1) those which relate to the current accounting year and adjustments of a recurrent nature applicable to prior accounting years, and (2) extraordinary items of material magnitude.

(c) In order to afford air carriers as much flexibility and freedom as possible in establishing ledger and subsidiary accounts to meet their individual needs, a minimum number of account subdivisions have been prescribed in this Uniform System of Accounts. It is intended, however, that each air carrier, in maintaining its accounting records, will provide subaccount and subsidiary account segregations of accounting elements which differ in nature of accounting characteristics, in a manner which will render individual elements readily discernible and traceable throughout the accounting system, and will provide for relating profit and loss elements to applicable balance sheet counterparts.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–4 System of accounts coding.

(a) A four digit control number is assigned for each balance sheet and profit and loss account. Each balance sheet account is numbered sequentially, within blocks, designating basic balance sheet classifications. The first two digits of the four digit code assigned to each profit and loss account denote a detailed area of financial activity or functional operation. The first two digits, thus assigned to each profit and loss account, are numbered sequentially within blocks, designating more general classifications of financial activity and functional operation. The second two digits assigned to profit and loss accounts denote objective classifications.

(b) A fifth digit, appended as a decimal, has been assigned for internal control by the BTS of prescribed subdivisions of the primary objective balance sheet and profit and loss classifications. A different fifth digit code number from that assigned by the BTS may be adopted for internal recordkeeping by the air carrier provided the prescribed subclassification of objective accounts is not impaired and the code number assigned by the BTS is employed in reporting to the BTS on Form 41 Reports.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–5 Records.

(a) The general books of account and all books, records, and memoranda which support in any way the entries therein shall be kept in such manner as to provide at any time full information relating to any account. The entries in each account shall be supported by such detailed information as will render certain the identification of all facts essential to a verification of the nature and character of each entry and its proper classification under the prescribed Uniform System of Accounts. Registers, or other appropriate records, shall be maintained of the history and nature of each note receivable and each note payable.

(b) The books and records referred to herein include not only accounting records in a limited technical sense, but all other records such as organization tables and charts, internal accounting manuals and revisions thereto, minute books, stock books, reports, cost distributions and other accounting work sheets, correspondence, memoranda, etc., which may constitute necessary links in developing the history of, or facts regarding, any accounting or financial transaction.

(c) All books, records and memoranda shall be preserved and filed in such manner as to readily permit the audit and examination thereof by representatives of the DOT. All books, records, and memoranda shall be housed or stored in such manner as to afford protection from loss, theft, or damage by fire, flood or otherwise and no such books and records shall be destroyed or otherwise disposed of, except in conformance with 14 CFR part 249 for the preservation of records.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the BTS are required to be made by sections 21(g) and for each separate corporate or organizational division of the air carrier. For purposes of this

Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational unit, shall be treated as a separately operated organizational division; except that provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

(b) As a general rule, any activity or group of activities comprising a transport-related service provided for in transport-related revenue and expense accounts 09 through 18 shall be considered a separate nontransport venture under circumstances in which either: (1) A separate corporate or legal entity has been established to perform such services, (2) the aggregate annual revenue rate, as determined in section 2–1(d), during either of the prior two years exceeds the greater of $1 million per annum or one percent of the air carrier's total annual transport revenues, or (3) the aggregate annual expense rate, as determined in section 2–1(d), during either of the prior two years exceeds the greater of $1 million or one percent of the carrier's total annual operating expenses: *Provided*, That revenues and expenses from in-flight sales, and interchange sales shall be considered related to air transportation and accounted for accordingly, regardless of the revenue or expense standard set forth above.

(c) The records for each required accounting entity shall be maintained with sufficient particularity to permit a determination that the requirements of section 2–1 have been complied with.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–841, 39 FR 11994, Apr. 2, 1974; ER–1022, 42 FR 46495, Sept. 15, 1977; ER–1027, 42 FR 60127, Nov. 25, 1977; 60 FR 66723, Dec. 26, 1995]

Sec. 1–7 Interpretation of accounts.

To the end that uniform accounting may be maintained, questions involving matters of accounting significance which are not clearly provided for should be submitted to the Director, Office of Airline Information, K–25, Bureau of Transportation Statistics, for explanation, interpretation, or resolution.

[Amdt. 241–58, 54 FR 5591, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 1–8 Address for reports and correspondence.

All reports required under this part and related correspondence shall be addressed to: Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

[Amdt. 241–58, 54 FR 5592, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

Section 2—General Accounting Policies

Sec. 2.1 Generally accepted accounting principles.

(a) The accounting provisions contained in this part are based on generally accepted accounting principles (GAAP). Persons subject to this part are authorized to implement, as prescribed by the Financial Accounting Standards Board, newly issued GAAP pronouncements until and unless the Director, Office of Airline Information (OAI), issues an Accounting Directive making an initial determination that implementation of a new pronouncement would adversely affect the Department's programs.

(b) The Director, OAI, shall review each newly issued GAAP pronouncement to determine its affect on the Department's regulatory programs. If adopting a specific change in GAAP would adversely affect the Department's programs, the Director will issue the results of the review in the form of an Accounting Directive. The directive will state the reasons why the particular change should not be incorporated in the uniform system of accounts and contain accounting guidance for maintaining the integrity of the Department's air carrier accounting provisions.

(c) Objections and comments relating to the Department's decision not to implement a change in generally accepted principles may be addressed to Director, Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW.,

Washington, DC 20590. If significant objections are raised urging adoption of a particular GAAP pronouncement, the Department will institute a rulemaking.

[Amdt. 241–58, 54 FR 5592, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 2–2 Basis of allocation between entities.

(a) The provisions of this section shall apply to each person controlling an air carrier, each person controlled by the air carrier, as well as each transport entity and organizational division of the air carrier for which separate records must be maintained pursuant to section 1–6.

(b) Each transaction shall be recorded and placed initially under accounting controls of the particular air transport entity or organizational division of the air carrier or member of an affiliated group to which directly traceable. If applicable to two or more accounting entities, a proration shall be made from the entity of original recording to other participating entities on such basis that the statements of financial condition and operating results of each entity are comparable to those of distinct legal entities. The allocations involved shall include all debits and credits associated with each entity.

(c) For purposes of this section, investments by the air carrier in resources or facilities used in common by the regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1–6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominately uses those investments. Where the entity of predominate use is a nontransport venture, the air carrier shall reflect the investment in account 1510.3, Advances to Associated Companies.

(d) For purposes of this Uniform System of Accounts and Reports, all revenues shall be assigned to or apportioned between accounting entities on bases which will fully recognize the services provided by each entity, and expenses, or costs, shall be apportioned between accounting entities on such bases as will result: (1) With respect to transport-related services, in the assignment thereto of proportionate direct overheads, as well as direct labor and materials, of the applicable expense functions prescribed by this system of accounts and reports, and (2) with respect to separate ventures, in the assignment thereto of proportional general and administrative overheads as well as the direct overheads, labor, and materials.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–841, 39 FR 11994, Apr. 2, 1974; ER–1401, 50 FR 238, Jan. 3, 1985. Redesignated and further amended by Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

Sec. 2–3 Distribution of revenues and expenses within entities.

(a) Revenues and expenses attributable to a single natural objective account or functional classification shall be assigned accordingly.

(b) Revenue and expense items which are common to two or more natural objective accounts shall be recorded in the objective accounts to which they predominantly relate.

(c) Expense items contributing to more than one function shall be charged to the general overhead functions to which applicable except that where only incidental contribution is made to more than a single function an item may be included in the function to which primarily related, provided such function is not distorted by including an aggregation of amounts applicable to other functions. When assignment of expense items on the basis of the primary activity to which related does not in the aggregate result in a fair presentation of the expenses applicable to each function, apportionment shall be made between functions based upon a study of the contribution to each function during a representative period.

[ER–755, 37 FR 19726, Sept. 21, 1972. Redesignated by Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

Sec. 2–4 Accounting period.

(a) The accounting year of each air carrier subject to this Uniform System of Accounts shall be the calendar year unless otherwise approved by the BTS.

(b) Each air carrier shall keep its financial accounts and records on a full accrual basis for each quarter so that all transactions, as nearly as may reasonably be ascertained, shall be fully reflected in the air carrier's books for the quarter in which revenues have been earned and the costs attaching to the revenues so earned in each quarter have been incurred independently of the incidence of sales or purchases and settlement with debtors or creditors.

(c) Expenditures incurred during the current accounting year which demonstrably benefit operations to be performed during subsequent accounting years to a significant extent shall be deferred and amortized to the period in which the related operations are performed when of sufficient magnitude to distort the accounting results of the year in which incurred.

(d) Expenditures charged directly or amortized to operations within one accounting year shall not be reversed in a subsequent accounting year and reamortized or charged directly against operations of subsequent years except that retroactive adjustments are permitted where necessary to conform with adjustments required by the DOT for ratemaking purposes.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1027, 42 FR 60127, Nov. 25, 1977; ER–1188, 45 FR 48870, July 22, 1980; 60 FR 66723, 66725, Dec. 26, 1995]

Sec. 2–5 Revenue and accounting practices.

(a) Revenue accounting practices shall conform to the provisions of account 2160, Air Traffic Liability.

(b) Each route air carrier shall physically verify the reliability of its passenger revenue accounting practice at least once each accounting year.

(c) For those carriers who use the yield or average-fare method to determine earned revenue, the analysis supporting the verification shall include:

(1) The cutoff date for the liability to be verified; such cutoff date shall be at the end of a calendar month.

(2) The number of months after the cutoff date during which documents were examined to verify the liability; the number of months after the cutoff date during which documents are examined shall not exceed the maximums set forth below:

Class of carrier	Maximum months [1]
TWA	18
Trunks (except TWA)	12
All other route air carriers	6

[1] Applies only to carriers on a yield or average-fare basis.

(3) The nature of the documents which were examined for purposes of the verification.

(4) The totals for each of the various types of documents examined, on actual or sampling basis.

(5) A description of the sampling technique and conversion to totals, if sampling was employed.

(6) The amount and basis for all estimates employed in the verification.

(7) The amount of resulting adjustments and the quarter in which such adjustments were, or are to be, made in the accounts.

(d) For those carriers who use the sales-lift match method to determine earned revenue, the analysis supporting the physical inventory verification shall include:

(1) The cutoff date for the liability to be verified; such cutoff date shall be at the end of a calendar month.

(2) A trial balance as of the cutoff date of all subaccounts supporting the Air Traffic Liability control account; the subsidiary trial balance must agree with the Air Traffic Liability control account or a reconciliation statement furnished.

(3) A statement to the effect that a sales listing of the value of all unmatched auditor coupons has been compiled and compared to the general ledger control figure; the statement required by this subparagraph shall indicate whether or not the value of the unmatched coupons is in agreement with the general ledger. If the sales listing is not in agreement with the Air Traffic Liability control account, the amount of such difference shall be shown on such statement.

[ER–948, 41 FR 12290, Mar. 25, 1976, as amended by ER–1401, 50 FR 238, Jan. 3, 1985. Redesignated at Amdt. 241–58, 54 FR 5592, Feb. 6, 1989; 60 FR 66725, Dec. 26, 1995]

BALANCE SHEET CLASSIFICATIONS

Section 3—Chart of Balance Sheet Accounts

[See footnotes at end of table]

Name of account	General classification	
Current assets:		
Cash		1010
Short-term investments		1100
Notes receivable		1200
Accounts receivable		1270
Allowance for uncollectible accounts		1290
Spare parts and supplies		1300
Allowance for obsolescence—Spare parts and supplies		1311
Prepaid items		1410
Other current assets		1420
Investments and special funds:		
Investments in associated companies		1510
Investments in investor controlled companies		1510.*1*
Investments in other associated companies		1510.*2*
Advances to associated companies		1510.*3*
Other investments and receivables		1530
Special funds		1550
Property and equipment		1600–1700
	Operating	Nonoperating
Airframes	1601	1701
Airframes	1601.*1*	1701.*1*
Unamortized airframe overhauls	1601.*2*	1701.*2*
Aircraft engines	1602	1702
Aircraft engines	1602.*1*	1702.*1*
Unamortized aircraft engine overhauls	1602.*2*	1702.*2*
Improvements to leased flight equipment	1607	1707
Flight equipment rotable parts and assemblies	1608	1708
Airframe parts and assemblies	[1] 1608.*1*	[1] 1708.*1*
Aircraft engine parts and assemblies	[1] 1608.*5*	[1] 1708.*5*
Other parts and assemblies	[1] 1608.*9*	[1] 1708.*9*
Flight equipment	1609	1709
Allowance for depreciation:		
Airframes	1611	1711
Aircraft engines	1612	1712
Improvements to leased flight equipment	1617	1717
Flight equipment rotable parts and assemblies	1618	1718
Flight equipment airworthiness allowance	[2] 1629	[2] 1729
Equipment	1630	1730
Furniture, fixtures and office equipment	1636	1736
Improvements to leased buildings and equipment	1639	1739

[See footnotes at end of table]

Name of account	General classification	
	General classification	
Buildings	1640	1740
Maintenance buildings and improvements	1640.*1*	1740.*1*
Other buildings and improvements	1640.*9*	1740.*9*
Ground property and equipment	1649	1749
Allowance for depreciation:		
Equipment	1650	1750
Improvements to leased buildings and equipment	1654	1754
Furniture, fixtures, and office equipment	1656	1756
Buildings	1660	1760
Maintenance buildings and improvements	1660.*1*	1760.*1*
Other buildings and improvements	1660.*9*	1760.*9*
Allowance for depreciation of flight equipment and ground property and equipment, and amortization of overhaul and airworthiness costs	1668	1768
Land	1679	1779
Equipment purchase deposits and advance payments	1685	1785
Construction work in progress	1689	1789
Leased property under capital leases	1695	1795
Capital leases—flight equipment	1695.*1*	1795.*1*
Capital leases—other property and equipment	1695.*2*	1795.*2*
Leased property under capital leases, accumulated amortization	1696	1796
Accumulated amortization—capitalized flight equipment	1696.*1*	1796.*1*
Accumulated amortization—capitalized other property and equipment	1696.*2*	1796.*2*
Property on operating-type lease to others and property held for lease		1797
Property on operating-type lease to others and property held for lease, accumulated depreciation		1798
Other assets:		
Long-term prepayments		1820
Unamortized developmental and preoperating costs		1830
Other assets and deferred charges		1890
Current liabilities:		
Current maturities of long-term debt		2000
Notes payable:		
Banks		2005
Other		2015
Trade accounts payable		2021
Accounts payable—other		2025
Current obligations under capital leases		2080
Accrued salaries, wages		2110
Accrued vacation liability		2120

[See footnotes at end of table]

Name of account	General classification	
Accrued interest		2125
Accrued taxes		2130
Dividends declared		2140
Air traffic liability		2160
Other current liabilities		2190
Noncurrent liabilities:		
Long-term debt		2210
Advances from associated companies		2240
Pension liability		2250
Noncurrent obligations under capital leases		2280
Other noncurrent liabilities		2290
Deferred credits:		
Deferred income taxes		2340
Deferred investment tax credits		2345
Other deferred credits		2390
Stockholders' equity:		
Preferred stock		2820
Common stock		2840
Additional capital invested		2890
Premium on capital stock		2890.*1*
Discount on capital stock		2890.*2*
Other capital stock transactions		2890.*3*
Retained earnings		2900
Subscribed and unissued stock	2860	
Treasury stock		2990

[1] Prescribed for group II and group III air carriers only.

[2] At the option of the air carrier, these accounts may be assigned Nos. 2629 and 2729, respectively, for accounting purposes.

Note: Digits to right of decimals and italicized codes established for BTS control purposes only.

[ER–1401, 50 FR 239, Jan. 3, 1985, as amended by Amdt. 248–58, 54 FR 5592, Feb. 6, 1989; 60 FR 66723, Dec. 26, 1995]

Section 4—General

(a) The balance sheet accounts are designed to show the financial condition of the air carrier as at a given date, reflecting the asset and liability balances carried forward subsequent to the closing or constructive closing of the air carrier's books of account.

(b) The balance sheet accounts prescribed in this system of accounts for each air carrier group are set forth in Section 3, Chart of Balance Sheet Accounts. The balance sheet elements to be included in each account are presented in section 6.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

Section 5 [Reserved]

Section 6—Objective Classification of Balance Sheet Elements

SOURCE: ER–980, 42 FR 29, Jan. 3, 1977, unless otherwise noted.

CURRENT ASSETS

1010 Cash.

(a) Record here all general and working funds available on demand as of the date of the balance sheet which are not formally restricted or earmarked for specific objectives. Funds deposited for special purposes which are to be satisfied within one year shall be included in account 1100 Short-term Investments and funds restricted as to general availability, which are not offset by current liabilities, shall be included in account 1550 Special Funds.

(b) Each air carrier shall subdivide this account in such manner that the balance can be readily segregated as between balances in United States currency and the balances in each foreign currency.

1100 Short-term Investments.

(a) Record here the cost of short-term investments such as special deposits and United States Government securities, any other temporary cash investments, and the allowance for unrealized gain or loss on current marketable equity securities.

(b) Special deposits for more than one year, not offset by current liabilities, shall not be included in this account but in account 1550 Special Funds.

(c) This account should be charged or credited for discount or premium on United States Government securities or other securities which should be amortized to profit and loss account 80 Interest Income.

1200 Notes Receivable.

(a) Record here current notes receivable including those from associated companies, company personnel, and all other sources.

(b) Balances of notes payable to associated companies shall not be offset against amounts carried in this account. Balances with associated companies which are not normally settled

currently shall not be included in this account but in balance sheet account 1510.3 Advances to Associated Companies.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 241, Jan. 3, 1985]

1270 Accounts Receivable.

(a) Record here current accounts receivable including those due from the United States Government, foreign governments, associated companies, company personnel, and other amounts due for the performance of air transportation.

(b) Amounts due from the United States Government shall be maintained in such fashion as will clearly and separately identify service mail pay receivables, subsidy receivables and other than mail transportation receivables.

(c) Amounts due for the performance of air transportation shall include gross amounts due whether settled through airline clearing houses or with individual carriers. Amounts payable collected as agent shall not be credited to this account, but should be included in account 2190 Other Current Liabilities.

(d) Balances payable to associated companies shall not be offset against amounts carried in this account. Balances with associated companies which are not normally settled currently shall not be included in this account but in balance sheet account 1510.3 Advances to Associated Companies.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 241, Jan. 3, 1985]

1290 Allowance for Uncollectible Accounts.

(a) Record here accruals for estimated losses from uncollectible accounts.

(b) All accounts against which allowances have been established shall be examined quarterly for the purpose of redetermining the basis of accruals to be applied to subsequent accounting periods and the reasonableness of allowances already provided.

1300 Spare parts and supplies.

(a) Record here the cost of:

(1) Flight equipment replacement parts of a type which ordinarily would be recurrently expended and replaced rather than repaired and reused;

(2) Unissued fuel inventories for use in the overall or system operations of the carrier. Adjustments of inventories for aircraft fuel due to retroactive price increases and decreases shall not be entered in this account but in profit and loss account 45, Aircraft Fuels and Oils; and

(3) Unissued and unapplied materials and supplies held in stock such as unissued shop materials, expendable tools, stationery and office supplies, passenger service supplies, and restaurant and food service supplies.

(b) Costs paid by the air carrier such as transportation charges and customs duties; excise, sales, use and other taxes; special insurance; and other charges applicable to the cost of spare parts and supplies shall be charged to this account when they can be definitely allocated to specific items or units of property. If such costs cannot be so allocated, or if of minor significance in relation to the cost of such property, such amounts may be charged to balance sheet account 1890 Other Assets and Deferred Charges and cleared either by a suitable ''loading charge'' as the parts are used or by current charges to appropriate expense or property accounts; so long as the method of application does not cause material distortion in operating expenses from one accounting period to another.

(c) Reusable spare parts and supplies recovered in connection with construction, maintenance, or retirement of property and equipment shall be included in this account at fair and reasonable values but in no case shall such values exceed original cost. Recoveries of normally reparable and reusable parts of a type for which losses in value may be covered on a practical basis through valuation allowance provisions shall be included in this account on an original cost basis. Scrap and nonusable parts, expensed from this account and recovered, shall be included at net amounts realizable therefrom with contra credit to the expense accounts initially charged.

(d) The cost of rotable parts and assemblies of material value included in

this account which ordinarily are repaired and reused and possess a service life approximating that of the primary property types to which related shall not be recorded in this account but in balance sheet account 1608 Flight Equipment Rotable Parts and Assemblies. For purposes of identifying rotable parts and assemblies of insignificant unit value which may be included in this account, a reasonable maximum unit value limitation may be established.

(e) Any losses sustained or gains realized upon the abandonment or other disposition of flight equipment expendable parts shall be taken up as capital gains or losses in the periods in which sustained or realized. (See balance sheet account 1311.)

(f) Items in this account shall be charged to appropriate expense accounts as issued for use. Profit and loss on sales of inventory items as a routine service to others shall be included in profit and loss accounts 14 General Service Sales—Associated Companies, or 16 General Service Sales—Outside, and the parts sold shall be removed from this accounts at full cost.

(g) Materials and supplies held in small supply and purchased currently may be charged to appropriate expense accounts when purchased.

(h) An allowance for inventory adjustment applicable to materials and supplies is prohibited. Items in this account shall be charged to appropriate expense accounts as issued for use.

(i) Subaccounts shall be established within this account for the separate recording of each class or type of spare parts and supplies.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 241, Jan. 3, 1985]

1311 Allowance for Obsolescence—Spare Parts and Supplies.

(a) Accruals shall be made to this account when allowances are established for losses in the value of expendable parts. The accruals to this account shall be made by charges to profit and loss account 73 Provisions for Obsolescence and Deterioration—Expendable Parts. Records shall be maintained with sufficient detail to permit association of the allowances with each class or type of expendable parts.

(b) The accruals to this account shall be based upon a predetermination by the air carrier of that portion of the total inventory of each class and type of expendable parts against which an allowance for loss is to be accrued. Expendable parts issued for use in operations shall be charged to operating expenses as issued and shall not be charged to this account. If at the end of any calendar year the amount of the allowance exceeds the product of the applicable inventory for the year determined consistently on a year-end or average basis, and the sum of the standard percentage accrual rates for all prior years including the current, the allowance shall be adjusted downward by the amount of the excess. Such adjustments shall be charged to this account and credited to profit and loss account 73 Provisions for Obsolescence and Deterioration—Expendable Parts.

(c) Where changing conditions necessitate a revision or adjustment in rates of accrual, such revision or adjustment shall be made applicable to current and subsequent accounting periods and shall not be applied retroactively to prior accounting periods. Following retirement of airframe or aircraft engine types to which related, any balance remaining in this account shall be offset against related balances carried in balance sheet account 1300 Spare Parts and Supplies and the net cleared to profit and loss accounts 88.5 Capital Gains and Losses—Operating Property or 88.6 Capital Gains and Losses—Other.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 241, Jan. 3, 1985]

1410 Prepaid Items.

Record here prepayments of obligations which if not paid in advance would require the expenditure of working capital within one year, such as prepaid rent, insurance, taxes, interest, etc. Unexpired insurance and miscellaneous prepayments applicable to periods extending beyond one year where significant in amount shall be charged to balance sheet account 1820 Long-Term Prepayments.

1420 Other Current Assets.

Record here current assets not provided for in balance sheet accounts 1010 to 1410, inclusive.

INVESTMENTS AND SPECIAL FUNDS

1510 Investments in Associated Companies.

(a) Record here net investments in associated companies.

(b) [Reserved]

(c) This account shall be subdivided by all air carrier groups as follows:

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1027, 42 FR 60128, Nov. 25, 1977; ER–1188, 45 FR 48870, July 22, 1980]

1510.1 Investments in Investor Controlled Companies.

Record here the cost of investments in investor controlled companies except that permanent impairment in the value of securities may be reflected through charges to profit and loss classification 8100, Nonoperating Income or Expense—Net. This account shall also include the equity in undistributed earnings or losses since acquisition. In the event dividends are declared by such companies, the air carrier shall credit this account for its share in dividends declared and debit balance sheet account 1270 Accounts Receivable. This account shall separately state: (a) The cost of such investments at date of acquisition and (b) the equity in undistributed earnings or losses since acquisition.

[Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

1510.2 Investments in Other Associated Companies.

Record here the cost of investments in associated companies other than investor controlled companies. Cost shall represent the amount paid at the date of acquisition without regard to subsequent changes in the net assets through earnings or losses of such associated companies. However, permanent impairment in the value of securities may be reflected through charges to profit and loss classification 8100, Nonoperating Income or Expense—Net.

[Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

1510.3 Advances to Associated Companies.

(a) Record here advances, loans, and other amounts not settled currently with investor controlled and other associated companies and nontransport divisions. Balances receivable from and payable to different associated companies and different nontransport divisions shall not be offset.

(b) In the case of nontransport divisions three subaccounts shall be maintained:

(1) Net investment;

(2) current net profit or loss; and

(3) current accounts receivable or payable between the air carrier and the nontransport division.

(c) Each nontransport division shall be accounted for separately in net amounts receivable which shall be included in this account or net amounts payable which shall be included in balance sheet account 2240 Advances from Associated Companies.

[ER–980, 42 FR 29, Jan. 3, 1977. Redesignated by ER–1401, 50 FR 241, Jan. 3, 1985]

1530 Other Investments and Receivables.

Record here notes and accounts receivable not due within one year, investments in securities issued by others, investments in leveraged leases, the noncurrent net investment in direct financing and sales-type leases, and the allowance for unrealized gain or loss on noncurrent marketable equity securities. Securities held as temporary cash investments shall not be included in this account but in balance sheet account 1100 Short-Term Investments. Investments in and receivables from associated companies which are not settled currently shall be included in balance sheet account 1510 Investments in Associated Companies.

[Amdt. 241–58, 54 FR 5592, Feb. 6, 1989]

1550 Special Funds.

Record here special funds not of a current nature and restricted as to general availability. Include items such as sinking funds, cash and securities posted with courts of law, employee's funds for purchase of capital stock, pension funds under the control of the

air carrier and equipment purchase funds.

OPERATING PROPERTY AND EQUIPMENT

''Operating Property and Equipment'' shall encompass items used in air transportation services and services related thereto.

1601 Airframes.

(a) Record here the total cost to the air carrier of airframes of all types and classes together with the full complement of instruments, appurtenances and fixtures comprising complete airframes including accessories necessary to the installation of engines and flight control and transmission systems, except as specifically provided otherwise in accounts 1602 and 1607. Also record here in separate subaccounts the costs of airframes overhauls accounted for on a deferral and amortization basis.

(b) Airframes designed to permit multiple payload configurations shall be recorded in this account at the total cost of the maximum complement of instruments, appurtenances, and fixtures used in the air carrier's operations.

(c) This account shall be subdivided as follows by all air carriers:

1601.1 Airframes.
1601.2 Unamortized Airframe Overhauls.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1602 Aircraft Engines.

(a) Record here the total cost to the air carrier of complete units of aircraft engines of all types and classes together with a full complement of accessories, appurtenances, parts and fixtures comprising fully assembled engines as delivered by the engine manufacturer ready for operation in test but without the accessories necessary to its installation in airframes. Also record here in separate subaccounts the costs of aircraft engine overhauls accounted for on a deferral and amortization basis.

(b) This account shall be subdivided as follows by all air carriers:

1602.1 Aircraft Engines.
1602.2 Unamortized Aircraft Engine Overhauls.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1607 Improvements to Leased Flight Equipment.

Record here the total cost incurred by the air carrier for modification, conversion or other improvements to leased flight equipment. Also record here, in separate subaccounts, the costs of airframe and aircraft engine overhauls of leased aircraft accounted for on a deferral and amortization basis.

[Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1608 Flight Equipment Rotable Parts and Assemblies.

(a) Record here the total cost to the air carrier of all spare instruments, parts, appurtenances and subassemblies related to the primary components of flight equipment units provided for in balance sheet accounts 1601 through 1607, inclusive. This account shall include all parts and assemblies of material value which are rotable in nature, are generally reserviced or repaired, are used repeatedly and possess a service life approximating that of the property type to which they relate. Items of an expendable nature which generally may not be repaired and reused, shall not be recorded in this account but in account 1300 Spare Parts and Supplies. Except for recurrent service sales, flight equipment parts recorded in this account shall not be charged to operating expenses as retired. Profit or loss on sales of parts as a routine service to others shall be included in profit and loss account 14 General Service Sales, and parts sold shall be removed from this account at full cost irrespective of any allowance for depreciation which has been provided.

(b) This account shall be subdivided as follows by Group II and Group III air carriers:

1608.1 Airframe Parts and Assemblies.
1608.5 Aircraft Engine Parts and Assemblies.
1608.9 Other Parts and Assemblies.

[ER–980, 42 FR 29, Jan. 3. 1977, as amended by Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1609 Flight Equipment.

This classification is established only for purposes of control by the BTS and shall reflect the total cost of property

and equipment of all types and classes used in the in-flight operations of aircraft.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended at 60 FR 66723, Dec. 26, 1995]

1629 Flight Equipment Airworthiness Allowances.

(a) Record here accumulated provisions for overhauls of flight equipment.

(b) Separate subaccounts shall be established for recording accumulated provisions related to each type of airframe and aircraft engine, respectively.

NOTE: At the option of the air carrier, the number ''2629'' may be assigned to this account for accounting purposes. However, for purposes of reporting on BTS Form 41, the balance in this account shall be reported under account ''1629.''

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5593, Feb. 6, 1989; 60 FR 66723, Dec. 26, 1995]

1630 Equipment.

Record here the total cost to the air carrier of ground equipment to include the following:

(a) Equipment assigned to aircraft or active line operations as opposed to items held in stock for servicing passengers such as broilers, bottleware, dishes, food boxes, thermos jugs, blankets, first aid kits, etc. Spare items shall be carried in balance sheet account 1300 Spare Parts and Supplies and shall be charged directly to expense upon withdrawal from stock for replacing original complements.

(b) Equipment used in restaurants and kitchens.

(c) Equipment of all types and classes used in enplaning and handling traffic and in handling aircraft while on ramps, including motorized vehicles used in ramp service. Classes of equipment used interchangeably between handling aircraft on ramps and in maintaining aircraft may be classified in accordance with normal predominant use.

(d) Nonairborne equipment of all types and classes used in meteorological and communication services which is not a part of buildings.

(e) Equipment of all types and classes including motorized vehicles used in engineering and drafting services and in maintaining, overhauling, repairing and testing other classes of property and equipment.

(f) Property and equipment of all types and classes used in ground and marine transportation services.

(g) Property and equipment of all types and classes used in storing and distributing fuel, oil and water, such as fueling trucks, tanks, pipelines, etc.

(h) All other ground equipment of all types and classes such as medical, photographic, employees' training equipment, and airport and airway lighting equipment.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1636 Furniture, Fixtures, and Office Equipment.

Record here the total cost to the air carrier of furniture, fixtures and office equipment of all types and classes wherever used or located.

[Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1639 Improvements to Leased Buildings and Equipment.

Record here the total cost to the air carrier incurred in connection with modification, conversion, or other improvements to leased buildings and equipment.

1640 Buildings.

Record here the total cost to the air carrier of owned buildings, structures and equipment and related improvements. Each air carrier shall maintain the following subaccounts in which the values fairly assignable to maintenance and other operations shall be separately recorded:

1640.9 Other Buildings and Improvements.
1640.1 Maintenance Buildings and Improvements.

[Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1649 Ground Property and Equipment.

This classification is established only for purposes of control by the BTS and shall reflect the total cost of property and equipment of all types and classes other than flight equipment, equipment purchase deposits and advance payments, land, and work in progress.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended at 60 FR 66723, Dec. 26, 1995]

1668 Allowance for Depreciation of Flight Equipment and Ground Property and Equipment and Amortization of Overhaul and Airworthiness Costs.

(a) Record in accounts 1611 and 1618, inclusive, and 1650 through 1660, inclusive, accruals for depreciation of flight equipment and ground property and equipment.

(b) As set forth in section 3, Chart of Balance Sheet Accounts, separate accounts shall be established for depreciation allowances to parallel balance sheet accounts 1601 through 1608 established for recording the cost of flight equipment and accounts 1630 through 1640 established for recording the cost of ground property and equipment.

(c) This account shall be used as a control account and shall reflect the total amounts recorded in balance sheet accounts 1611 through 1618 and 1650 through 1660 in addition to account 1629 Flight Equipment Airworthiness Allowance.

1679 Land.

Record here the initial cost and the cost of improving land.

[Amdt. 241–58, 54 FR 5593, Feb. 6, 1989]

1685 Equipment Purchase Deposits and Advance Payments.

Record here the amount of purchase deposits and advance payments made to acquire operating property and equipment under outstanding purchase commitments. Funds set aside but not deposited or used as advance payments should not be included in this account but in Account 1550 Special Funds.

1689 Construction Work in Progress.

(a) Record here all direct and indirect costs of the air carrier that are expended for constructing and readying property and equipment of all types and classes for installation in operations. The amount reported shall reflect all such expenses that are accumulated to the balance sheet date. Where properly includable in the property and equipment classification, record here also the accumulated costs for uncompleted overhauls of airframes, aircraft engines, or other material units of property.

(b) At the option of the air carrier this account may be used as a clearing account for recording the cost of property and equipment acquisitions prior to a distribution thereof to the appropriate property accounts, whether or not conditioning or modification is necessary before placing in service.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

1695 Leased Property Under Capital Leases.

(a) Record here the total costs to the air carrier for all property obtained under capital leases.

(b) This account shall be subdivided by all air carrier groups as follows:

1695.1 Capital Leases—Flight Equipment.
1696.2 Capital Leases—Other Property and Equipment.

[ER–1401, 50 FR 241, Jan. 3, 1985, as amended by Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

1696 Leased Property Under Capital Leases—Accumulated Amortization.

(a) Record here accruals for amortization of leased property obtained under capital leases.

(b) This account shall be subdivided by all air carrier groups as follows:

1696.1 Accumulated Amortization—Capitalized Flight Equipment.
1696.2 Accumulated Amortization—Capitalized Other Property and Equipment.

[ER–1401, 50 FR 241, Jan. 3, 1985, as amended by Amdt. 241–58, 54 FR 5594,]

NON-OPERATING PROPERTY AND EQUIPMENT

''Nonoperating Property and Equipment'' includes investments in property and equipment not separately accounted for within a nontransport division but assigned to other than air transportation and transport-related services, and property and equipment held for future use.

1700 Non-operating Property and Equipment.

The total cost to the air carrier of nonoperating property and equipment and related allowances for depreciation shall be recorded in balance sheet accounts 1701 through 1796 which, as set forth in section 3, Chart of Balance Sheet Accounts, parallel balance sheet

accounts 1601 through 1689, for recording the cost of operating property and equipment. In addition to these accounts, Account 1797 has been established for recording the cost of property on operating-type leases to others and property held for lease; any accumulated depreciation applicable to the assets contained in Account 1797 shall be recorded in Account 1798.

[ER–1013, 42 FR 37515, July 21, 1977]

1797 Property on Operating-type Lease to Others and Property Held for Lease.

Record here the total cost to the air carrier of property on operating-type lease to others and property held for lease.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

1798 Property on Operating-type Lease to Others and Property Held for Lease—Accumulated Depreciation.

Record here accruals for depreciation of property on operating-type leases to others and property held for lease.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

OTHER ASSETS

1820 Long-Term Prepayments.

Record here prepayments of obligations applicable to periods extending beyond one year such as payments on leased property and equipment and other payments and advances for rents, rights, or other privileges.

1830 Unamortized Developmental and Preoperating Costs.

(a) Record here costs accumulated and deferred by the air carrier pertaining to the development of new routes or extension of existing routes, preparation for operation of new routes subsequent to certification by the DOT, the integration of new types of aircraft or services, and other preparations for substantial alterations in operational characteristics.

(b) Costs chargeable to this account shall include items directly related to each specific developmental or preoperating project, such as travel and incidental expenses, legal expenses, flight crew training expenses, and regulatory proceedings expenses. Expenses which would be otherwise incurred in the normal air transport operations conducted by the air carrier during the current accounting period shall not be allocated to developmental or preoperating projects and charged to this account. Nor shall this account be credited for revenues from aircraft flights of a developmental or preoperating character the operating costs of which are charged to this account. Any such revenues shall be included in the profit and loss account for the respective type of revenue. This account shall include charges for only those costs associated with projects directed at obtaining new operating authority or expanding the physical capacity of the air carrier and shall not include costs incurred for the purpose of generating revenues through rate adjustment. Accordingly, costs associated with regulatory proceedings involving route awards or amendments, whether successful or unsuccessful to the carrier, shall be included in this account whereas costs associated with regulatory proceedings involving rate or other revenue generation matters shall be charged to appropriate expense accounts.

(c) Records shall be established for new routes or extensions of existing routes to record separately: (1) Costs incurred in acquiring or applying for the routes, including all costs incurred prior to certification by the DOT and inauguration of service by the air carrier, and (2) costs incurred after revenue operations begin over the new routes or extensions.

(d) Subclassifications shall be established to record for each developmental project the period covered and the purpose of each item of expense. Each air carrier shall classify the costs of all projects included in this account between: (1) Those related and contributing to the normal air transportation services currently conducted by the air carrier; (2) those related to services conducted by the air carrier which are extraneous to or are not otherwise related to the air transportation services currently conducted; and (3) those held in suspense pending status determination in terms of possible contribution to the air transportation services and

inauguration of the service or operation to which related.

(e) Amounts included in this account which contribute to or protect the position of the normal air transportation services currently conducted by the carrier shall be amortized to profit and loss account 74 Amortization, unless otherwise approved or directed by the DOT. Other amounts included in this account shall be amortized or charged to profit and loss account 89.9 Other Miscellaneous Nonoperating Debits.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended at 60 FR 66723, Dec. 26, 1995]

1890 Other Assets and Deferred Charges.

(a) Record here other assets and deferred charges not provided for elsewhere.

(b) Record here debits, the proper final disposition of which cannot be determined until additional information has been received. This account shall include the accumulated cost of labor, materials and outside services used in the process of manufacturing flight equipment expendable parts and materials and supplies for stock, the accumulated cost of jobs in process for others, projects to be charged to expense upon completion. This account shall also include unamortized debt expense, property acquisition adjustments and intangible assets.

(c) This account shall be charged with property loss and other costs related to casualties and credited with recoveries from purchased insurance and salvage. A debit or credit balance in this account related to property retired as a result of a casualty shall be recorded in profit and loss account 88.5 Capital Gains and Losses—Operating Property or 88.6 Capital Gains and Losses—Other; however, any balances related to property not retired or to other casualties shall be recorded in profit and loss account 58 Injuries, Loss and Damage. Proceeds from purchased insurance for property damage, received prior to repair of such damage, shall not be credited to this account but to balance sheet account 2390 Other Deferred Credits pending repair. The records for each major casualty shall be kept in such manner as to clearly disclose insurance recoveries and the total costs, which shall include charges for the depreciated cost of property damaged or destroyed, costs for clearing wrecks and damaged property and equipment, including salaries and wages for the repair thereof, and payments for damages to property of others. The cost of casualties shall not be charged directly against retained earnings or appropriations thereof, but shall be cleared through the applicable profit and loss accounts in accordance with the foregoing.

(d) Record here the unamortized debt expense related to the assumption by the air carrier of debt of all types and classes. Amounts recorded shall be amortized to profit and loss account 84 Amortization of Debt Discount, Premium and Expense.

(e) Unamortized debt expense shall not include the excess of the par value of debt securities over the cash value of consideration received. Instead, discounts shall be recorded in a subaccount of the related liability.

(f) Record here the cost of patents, copyrights and other intangible properties, rights and privileges acquired as a part of a business from other air carriers and other intangibles not provided for elsewhere. This account shall be subdivided to reflect the nature of each intangible asset included in this account.

(g) Record here the difference between the purchase price to the air carrier of property and equipment acquired as a part of a business from another air carrier through consolidation, merger, or reorganization, pursuant to a plan approved by the DOT, and the depreciated cost to the predecessor company at date of acquisition. Record here also such differences relating to purchases of property and equipment from associated companies unless other treatment is approved by the BTS. Separate subaccounts shall be established to record the amounts applicable to each such acquisition.

(h) Balances in this account relating to property acquisition adjustments shall be amortized by charges to profit and loss account 89.9 Other Miscellaneous Nonoperating Debits unless otherwise directed or approved by the BTS.

[ER–1401, 50 FR 242, Jan. 3, 1985, as amended at 60 FR 66723, Dec. 26, 1995]

CURRENT LIABILITIES

2000 Current Maturities of Long-term Debt.

Record here the face value or principal amount of debt securities issued or assumed by the air carrier which is payable within 12 months of the balance sheet date unless such debt is to refinance, or where payment is to be made from assets of a type not properly classifiable as current.

2005 Notes Payable—Banks.

Record here the face value of all notes, drafts, acceptances, or other similar evidences of indebtedness payable on demand or within one year to a bank or another financial institution with the exception of current maturities of long-term debt which should be included in account 2000.

2015 Notes Payable—Other.

Record here the face value of all notes, drafts, acceptances, or other similar evidences of indebtedness payable on demand or within one year to an associated company or party other than a financial institution.

2021 Trade Accounts Payable.

Record here all accounts payable within one year which accrued from generally recognized trade practices.

2025 Accounts Payable—Other.

Record here all accounts payable within one year which are not provided for in accounts 2000 to 2021, inclusive.

2080 Current Obligations Under Capital Leases.

Record here the total current liability applicable to property obtained under capital leases.

[ER–1013, 42 FR 37515, July 21, 1977; 42 FR 38555, July 29, 1977; Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2110 Accrued Salaries, Wages.

Record here amounts accrued for unpaid compensation to personnel, which have been charged to profit and loss or capitalized, as compensation for the period in which accrued.

2120 Accrued Vacation Liability.

(a) Record here accruals of liabilities for personnel vacations. All vacation policies, plans, or agreements whether oral or written shall be accounted for on an accrual basis whenever a lag exists between vacations earned and vacations taken, thereby resulting in a liability against the carrier under the applicable policy, plan or agreement.

(b) This account shall be credited and the applicable personnel compensation expense account concurrently charged with the cost of any lag between vacations accrued and vacations taken. Accruals may be based upon standard rates of lag, if such standard rates are verified by physical inventory and adjusted accordingly at least once each calendar year. Adjustments of balances in this account shall be cleared to applicable compensation expense accounts.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1027, 42 FR 60128, Nov. 25, 1977; ER–1188, 45 FR 48870, July 22, 1980; Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2125 Accrued Interest.

Record here interest payable within one year for all outstanding obligations.

2130 Accrued Taxes.

(a) Record here accruals for currently payable income and other forms of taxes which constitute a charge borne by the air carrier as opposed to those collected as an agent for others.

(b) Each air carrier shall disclose in the footnotes of its BTS Form 41 for each calendar quarter whether utilized credits are accounted for by the flow-through method or the deferred method. The method selected shall be consistently followed by the carrier.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

2140 Dividends Declared.

Record here in separate subdivisions for each class and series of capital stock, all dividends declared but unpaid on capital stock.

2160 Air Traffic Liability.

(a) Record here balances representing the value of unused transportation

sold. Transportation sold includes both sales for transportation to be provided by the air carrier and transportation to be provided by another air carrier.

(b) Earned revenue, determined by the yield or average fare method or by the sales-lift-match method, shall be consistently and periodically cleared by debit to this account, and by credit to the appropriate profit and loss revenue account. Amounts receivable for transportation to be provided by the air carrier shall be debited to balance sheet account 1270 Accounts Receivable.

(c) Carriers who determine earned revenue on a yield or average fare method may not accrue income during the accounting year in anticipation of a favorable annual physical inventory determination, nor for unused or unpresented tickets.

(d) Subaccounts to this account shall be established to record balances pertaining to passenger and cargo transportation sold, respectively, and separately to sales in scheduled and nonscheduled services.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 242, Jan. 3, 1985]

2190 Other Current Liabilities.

Record here current and accrued liabilities, including amounts payable collected as an agent, not provided for in accounts 2110 to 2160, inclusive.

NON–CURRENT LIABILITIES

2210 Long-Term Debt.

(a) Record here the face value of principal amount of debt securities issued or assumed by the air carrier and held by other than associated companies, which has not been retired or cancelled and is not payable within 12 months of the balance sheet date.

(b) In cases where debt coming due within 12 months is to be refunded, or where payment is to be made from assets of a type not properly classifiable as current, the amount payable shall not be removed from this account. In addition, this account shall include short-term debt obligations when both the intent to refinance the short-term obligations on a long-term basis is established and the ability to consummate this refinancing can be demonstrated.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2240 Advances from Associated Companies.

Record here net amounts due associated companies and nontransport divisions for notes, loans and advances which are not settled currently. Balances payable to and receivable from different associated companies shall not be offset.

2250 Pension Liability.

Record here the liability of the air carrier under employee pension plans, to which either or both employees and the air carrier contribute, if the plan is administered by the air carrier.

2280 Noncurrent Obligations under Capital Leases.

Record here the total noncurrent liability applicable to property obtained under capital leases.

[ER–1013, 42 FR 37515, July 21, 1977, as amended by Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2290 Other Noncurrent Liabilities.

Record here noncurrent liabilities not provided for in balance sheet accounts 2210 to 2280, inclusive, such as the liability for installments received on capital stock from company personnel who are not bound by legally enforceable subscription contracts, accruals for personnel dismissal liability, and accruals of other demonstrable miscellaneous noncurrent liabilities.

[ER–1401, 50 FR 242, Jan. 3, 1985]

DEFERRED CREDITS

2340 Deferred Income Taxes.

Record here credits and debits representing the net tax effect of material timing differences originating and reversing in the current accounting period, giving appropriate recognition to the portion of investment tax credits which would have been allowed if taxes were based on pretax accounting income by a reduction of the deferred tax provision.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2345 Deferred Investment Tax Credits.

Record here investment tax credits utilized as reduction of tax liabilities, when the carrier exercises the option to defer such credits for amortization over the service life of the related equipment.

[Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

2390 Other Deferred Credits.

Record here credits, not provided for elsewhere, the proper final disposition of which cannot be effected until additional information has been received.

STOCKHOLDERS' EQUITY

2820 Preferred Stock.

Record here in separate subdivisions for each class and series, the par or stated value of preferred capital stock issued or in the case of no-par stock without stated value, the full consideration received.

2840 Common Stock.

Record here in separate subdivisions for each class and series, the par or stated value of common stock issued or in case of no-par stock without stated value, the full consideration received.

2860 Subscribed and Unissued Stock.

Record here in separate subdivisions for each class and series, the par or stated value, or the subscription price in the case of stock without par or stated value, of legally enforceable subscriptions to the capital stock of the air carrier.

2890 Additional Capital Invested.

(a) Record herein separate subdivisions for each class and series, the difference between the price at which capital stock is sold and the par or stated value of the stock; gains or losses arising from the reacquisition and the resale or retirement of each class and series of capital stock; donations; the excess of retained earnings capitalized over par or stated value of capital stock issued; adjustments in capital resulting from reorganization or recapitalization; and proceeds attributable to detachable stock purchase warrants related to debt issues. This account shall also include balances of contributions to the business enterprise of individual proprietors or partners.

(b) Each air carrier shall maintain the following subaccounts:

2890.1 *Premium on capital stock*. Record here in separate subdivisions for each class and series of capital stock issued the excess of the cash value of consideration received over the par or stated value and accrued dividends of stock issued together with assessments against stockholders representing payments required in excess of par or stated value.

2890.2 *Discount on capital stock*. Record here in separate subdivisions for each class and series of capital stock issued, the excess of the par or stated value over the cash value of consideration received, less accrued dividends. Discounts applicable to a particular class and series of capital stock may be offset against premiums from the same class and series of capital stock. Discounts and premiums on different classes and series of capital stock shall not be offset. The air carrier may, at its option, record in this subaccount commissions and expenses incurred in the issuance of capital stock and may charge balance sheet account 2900 Retained Earnings to the extent capital stock expense may exceed any existing balance of paid-in capital over the par or stated value of capital stock.

2890.3 *Other Capital Stock Transactions*. Record here in separate subdivisions for each class and series, the balance of credits arising from the reacquisition and resale or cancellation of capital stock, credits arising from a reduction in the par or stated value of capital stock or the net balance of credits or debits resulting from other paid-in capital transactions such as proceeds attributable to detachable stock purchase warrants related to debt issues, not provided for elsewhere, which is identified with a particular class and series of capital stock.

2900 Retained Earnings.

(a) Record here the net income or loss from operations of the air carrier and dividends declared on capital stock.

(b) This account shall not be charged with dividends on treasury stock. If a dividend is not payable in cash, the values entered in this account shall be completely described.

(c) Delayed credits or charges to income shall not be entered in this account directly but in appropriate profit and loss accounts.

(d) Net income or loss accounted for during the current fiscal year shall not be entered in this account until the close of the fiscal year. Individual proprietorships or partnerships may clear

net income or loss accounted for during the year directly to balance sheet account 2890 Additional Capital Invested, or optionally, to this account for subsequent transfer to balance sheet account 2890 Additional Capital Invested.

(e) A separate subaccount to this account shall be maintained to record changes in the valuation of marketable equity securities included in noncurrent assets. Such changes shall be reflected in this subaccount to the extent the balance in this subaccount represents a net unrealized loss as of the current balance sheet date.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by ER–1401, 50 FR 242, Jan. 3, 1985]

2990 Treasury Stock.

(a) Record here the cost of capital stock issued by the air carrier reacquired by it and not retired or canceled.

(b) Separate records shall be established for each class and series of capital stock held in this account.

[ER–980, 42 FR 29, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

PROFIT AND LOSS CLASSIFICATION

Section 7—Chart of Profit and Loss Accounts

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
OPERATING REVENUES AND EXPENSES			
Transport revenues:			
01 Passenger:			
01.*1* Passenger—first class	31, 32	31, 32	31, 32.
01.*2* Passenger—coach	31, 32	31, 32	31, 32.
05 Mail:			
05.*1* Priority	31, 32	31, 32	31, 32.
05.*2* Nonpriority	31, 32	31, 32	31, 32.
05.*3* Foreign	31, 32	31, 32	31, 32.
06 Property:			
06.*1* Freight	31, 32	31, 32	31, 32.
06.*2* Excess passenger baggage	31, 32	31, 32	31, 32.
07 Charter:			
07.*1* Passenger	32	32	32.
07.*2* Property	32	32	32.
19 Air transport—other:			
19.*1* Reservation cancellation fees	31, 32	31, 32	31, 32.
19.*2* Miscellaneous operating revenues	31, 32	31, 32	31, 32.
08 Public service revenues (subsidy)	48	48	48.
Transport-related revenues and expenses:			
09 In-flight sales:			
09.*1* Liquor and food—gross revenues	48	48	48.
09.*2* Movies and stereo—gross revenues	48	48	48.
09.*3* Other—gross revenues	48	48	48.
09.*4* Liquor and food—depreciation expense	71	71	71.
09.*5* Liquor and food—other expense	71	71	71.
09.*6* Movies and stereo—depreciation expense	71	71	71.
09.*7* Movies and stereo—other expense	71	71	71.
09.*8* Other—depreciation expense	71	71	71.
09.*9* Other—expense	71	71	71.
10 Restaurant and food service (ground):			
10.*1* Gross revenues	48	48	48.
10.*2* Depreciation expense	71	71	71.
10.*3* Other expenses	71	71	71.
11 Rents:			
11.*1* Gross revenues	48	48	48.
11.*2* Depreciation expense	71	71	71.
11.*3* Other expenses	71	71	71.
12 Limousine service:			
12.*1* Gross revenues	48	48	48.
12.*2* Depreciation expense	71	71	71.
12.*3* Other expenses	71	71	71.
13 Interchange sales:			
13.*1* Associated companies—gross revenues	48	48	48.
13.*2* Outside—gross revenues	48	48	48.
13.*3* Associated companies—depreciation expense	71	71	71.
13.*4* Associated companies—other expense	71	71	71.

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
13.5 Outside—depreciation expense	71	71	71.
13.6 Outside—other expense	71	71	71.
14 General service sales:			
14.1 Associated companies—gross revenues	48	48	48.
14.2 Outside—gross revenues	48	48	48.
14.3 Associated companies—depreciation expense	71	71	71.
14.4 Associated companies—other expense	71	71	71.
14.5 Outside—depreciation expense	71	71	71.
14.6 Outside—other expense	71	71	71.
16 Substitute (replacement) service:			
16.1 Gross revenues	48	48	48.
16.2 Expense	71	71	71.
17 Air cargo service:			
17.1 Gross revenues	48	48	48.
17.2 Depreciation expense	71	71	71.
17.3 Other expense	71	71	71.
18 Other transport related items:			
18.1 Gross revenues	48	48	48.
18.2 Depreciation expense	71	71	71.
18.3 Other expense	71	71	71.
19 Other operating revenues:			
19.1 Reservations cancellation fees	31, 32	31, 32	31, 32.
19.9 Miscellaneous operating revenues	31, 32, 41	31, 32, 41	31, 32, 41.
Transport expenses:			
21 General management personnel	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
23 Pilots and copilots	51	51	51.
24 Other flight personnel	51, 69	51, 55	51, 55.
25 Maintenance labor:			
25.1 Labor—airframes and other flight equipment		52	52.
25.2 Labor—aircraft engines		52	52.
25.6 Labor—flight equipment	52		
25.9 Labor—ground property and equipment	52, 53	52, 53	52, 53.
26 Aircraft and traffic handling personnel	69		
26.1 General aircraft and traffic handling personnel		64, 67	61, 62, 63, 65.
26.2 Aircraft control personnel		64	61.
26.3 Passenger handling personnel		64, 67	62, 65.
26.4 Cargo handling personnel		64, 67	62, 65.
28 Trainees, instructors and unallocated shop labor:			
28.1 Trainees and instructors	51, 53, 69	51, 53, 55, 64,67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
28.2 Unallocated shop labor	53	53	53.
30 Communications personnel	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
31 Recordkeeping and statistical personnel	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
32 Lawyers and law clerks	69	68	68.
33 Traffic solicitors	69	67	65.
34 Purchasing personnel	53, 69	53, 68	53, 68.
35 Other personnel	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
36 Personnel expenses	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
37 Communications purchased	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
38 Light, heat, power, and water	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
39 Traffic commissions	69		
39.1 Commissions—passenger		67	65.
39.2 Commissions—property		67	65.
40 Legal fees and expenses	69	68	68.

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
41 Professional and technical fees and expenses	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68
43 General services purchased:			
43.*1* Airframe and other flight equipment repairs		52	52
43.*2* Aircraft engine repairs	52	52	
43.*6* Flight equipment repairs	52		
43.*7* Aircraft interchange charges	51, 52	51, 52	51, 52
43.*8* General interchange service charges	52, 69	52, 55, 64, 67, 68.	52, 55, 61, 62, 63, 65, 66, 68
43.*9* Other services	52, 53, 69	52, 53, 55, 64, 67, 68.	52, 53, 55, 61, 62, 63, 65, 66, 68
44 Landing fees	69	64	61.
45 Aircraft fuels and oils	51		
45.*1* Aircraft fuels		51	51.
45.*2* Aircraft oils		51	51.
46 Maintenance materials:			
46.*1* Airframes and other flight equipment		52	52
46.*2* Aircraft engines		52	52.
46.*6* Flight equipment	52		
46.*9* Ground property and equipment	52, 53	52, 53	52, 53.
47 Rentals	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
49 Shop and servicing supplies	53, 69	53, 64	53, 61.
50 Stationery, printing, and office supplies	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
51 Passenger food expense	69	55	55.
53 Other supplies	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
54 Inventory adjustments	53, 69	53, 55	53, 55.
55 Insurance—general	51, 53, 69	51, 53, 68	51, 53, 68.
56 Insurance—traffic liability	69	55, 64	55, 62.
57 Employee benefits and pensions	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
58 Injuries, loss and damage	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
59 Schedules and timetables	69	67	65, 66.
60 Advertising	69	67	66.
61 Foreign exchange gains and losses	69	68	68.
62 Other promotional and publicity expenses	69	67	66.
63 Interrupted trips expense	69	55	55.
64 Memberships	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
65 Corporate and fiscal expenses	69	68	68.
66 Uncollectible accounts	69	68	68.
67 Clearance, customs and duties	69	64	61, 62.
68 Taxes—payroll	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66, 68.
69 Taxes—other than payroll	51, 69	51, 68	51, 68.
71 Other expenses	51, 53, 69	51, 53, 55, 64, 67, 68.	51, 53, 55, 61, 62, 63, 65, 66 68.
72 Aircraft overhauls	52, 53	52, 53	52, 53.
72.*1* Airworthiness allowance provisions—airframes	52, 53	52, 53	52, 53.
72.*3* Airframe overhauls deferred	52, 53	52, 53	52, 53.
72.*6* Airworthiness allowance provisions—aircraft engines	52, 53	52, 53	52, 53.
72.*8* Aircraft engine overhauls deferred	52, 53	52, 53	52, 53.
73 Provisions for obsolescence and deterioration—expendable parts:			
73.*1* Current provisions	70	70	70.
73.*2* Inventory decline credits	70	70	70.
74 Amortizations:			
74.*1* Developmental and preoperating expenses	70	70	70.

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
74.2 Other intangibles	70	70	70.
75 Depreciation:			
75.1 Airframes	70	70	70.
75.2 Aircraft engines	70	70	70.
75.3 Airframe parts	70	70	70.
75.4 Aircraft engine parts	70	70	70.
75.5 Other flight equipment	70	70	70.
75.6 Flight equipment	70	70	70.
75.8 Maintenance equipment and hangars	70	70	70.
75.9 General ground property	70	70	70.
76 Amortization expense, capital leases:			
76.1 Amortization—capitalized flight equipment	70	70	70
76.2 Amortization—capitalized other property and equipment	70	70	70
77 Uncleared expense credits:			
77.8 Uncleared interchange expense credits	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
77.9 Other uncleared expense credits	53, 69	53, 55, 64, 67, 68.	53, 55, 61, 62, 63, 65, 66, 68.
78 Direct maintenance—flight equipment	52	52	52.
79 Applied burden Dr/Cr:			
79.6 Flight equipment	52 Dr, 53 Cr	52 Dr, 53 Cr	52 Dr, 53 Cr.
79.8 General ground property	52 Dr, 53 Cr	52 Dr, 53 Cr	52 Dr, 53 Cr.
NONOPERATING INCOME AND EXPENSE			
81 Interest on long-term debt and capital leases:			
81.1 Interest expense, long-term debt	81	81	81
81.2 Interest expense, capital leases	81	81	81
82 Other interest:			
82.1 Interest expense, short-term debt	81	81	81
83.1 Imputed interest capitalized—credit	81	81	81
83.2 Imputed interest deferred—debit	81	81	81
83.3 Imputed interest deferred—credit	81	81	81
83.4 Interest capitalized—credit	81	81	81
84.1 Amortization of discount and expense on debt	81	81	81
84.2 Amortization of premium on debt	81	81	81
85 Foreign exchange gains and losse	81	81	81
89 Other nonoperating income and expense-net:			
80.0 Interest income	81	81	81
86.0 Income from nontransport ventures	81	81	81
87.0 Equity in income of investor controlled companies	81	81	81
88.1 Intercompany transaction adjustment-credit	81	81	81
88.2 Dividend income	81	81	81
88.3 Net unrealized gain or loss on marketable equity securities	81	81	81.
88.4 Net realized gain or loss on marketable equity securities	81	81	81.
88.5 Capital gains and losses—operating property	81	81	81.
88.6 Capital gains and losses—other	81	81	81.
88.7 Unapplied cash discounts	81	81	81.
88.9 Other miscellaneous nonoperating credits	81	81	81.
89.1 Intercompany transaction adjustment—debit	81	81	81.
89.9 Other miscellaneous nonoperating debits	81	81	81.
INCOME TAXES			
91 Provision for income taxes:			
91.1 Income taxes before investment tax credits	91	91	91.
91.2 Investment tax credits utilized	91	91	91.
92 Provisions for deferred income taxes:			
92.1 Current provisions for deferred taxes	91	91	91.
92.2 Application of deferred taxes	91	91	91.
92.3 Adjustment of deferred taxes	91	91	91.
93 Investment tax credits deferred and amortized:			
93.1 Investment tax credits deferred	91	91	91.
93.2 Amortization of deferred investment tax credits	91	91	91.
94 Excess profits taxes	91	91	91.
DISCONTINUED OPERATIONS			
95 Discontinued operations:			
95.1 Income from discontinued operations	96	96	96.

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
95.2 Loss on disposal of discontinued operations	96	96	96.
EXTRAORDINARY ITEMS			
96 Extraordinary items	97	97	97.
97 Income taxes applicable to extraordinary items	97	97	97.
CHANGES IN ACCOUNTING PRINCIPLES			
98 Cumulative effects of change in accounting principles	98	98	98.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–781, 37 FR 25223, Nov. 29, 1972; 37 FR 28277, Dec. 22, 1972; ER–797, 38 FR 10926, May 3, 1973; ER–841, 39 FR 11995, Apr. 2, 1974; ER–948, 41 FR 12295, Mar. 25, 1976; ER–980, 42 FR 35, Jan. 3, 1977; ER–1013, 42 FR 37515, July 21, 1977; ER–1401, 50 FR 242, Jan. 3, 1985; Amdt. 241–56, 52 FR 9129, Mar. 23, 1987; Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

Section 8—General

(a) The profit and loss accounts are designed to reflect, through natural groupings, the elements entering into the derivation of income or loss accruing to the proprietary interests during each accounting period.

(b) The prescribed system of accounts provides for the co-ordinate grouping of all revenues and expenses in terms of both major natural objectives and functional activities and for subdivision of both to provide varying degrees of detail for air carriers of differing accounting capacities and/or requirements.

(c) The detailed objective accounts established for each air carrier group, by the dual subdivision of profit and loss elements in terms of both natural objectives and functional activities, are set forth in section 7, Chart of Profit and Loss Accounts.

(d) The prescribed system of accounts provides generally that profit and loss elements shall be grouped in accordance with their inherent characteristics within the following primary classifications:

(1) *Operating revenues.* (i) This primary classification shall include revenues of a character usually and ordinarily derived from the performance of air transportation and air transportation-related services, which relate to services performed during the current accounting year, and adjustments of a recurrent nature applicable to services performed in prior accounting years.

(ii) Operating revenues shall be subclassified in terms of functional activities as provided in section 9.

(2) *Operating expenses.* (i) This primary classification shall include expenses of a character usually and ordinarily incurred in the performance of air transportation and air transportation-related services, which relate to services performed during the current accounting year, and adjustments of a recurring nature attributable to services performed in prior accounting years.

(ii) Operating expenses shall be subclassified in terms of functional activities as provided in sections 10 and 11.

(3) *Nonoperating income and expense—net.* This primary classification (8100) shall include income and loss incident to commercial ventures not inherently related to the performance of the common carrier air transport services of the accounting entity; other revenues and expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services; and special recurrent items of a nonperiod nature.

(4) *Income taxes for current period.* This primary classification (9100) shall include provisions for Federal, state, local, and foreign taxes which are based upon the net income of the air carrier for the current period together with refunds for excess profits credits or carryback of losses and increases or reductions of income taxes of prior

years of a magnitude which will not distort net income of the current accounting year. Income taxes applicable to special income credits or debits recorded in profit and loss classification 9700 Extraordinary Items, and other material income tax items not allocable to income of the current accounting year, shall not be included in this classification but in profit and loss classification 9700 Extraordinary Items.

(5) *Discontinued operations.* This primary classification (9600) shall include earnings and losses of discontinued nontransport operations and gains or losses from the disposal of nontransport operations the result of which are customarily accounted for through profit and loss objective accounts 86, 87 and 88.2.

(6) *Extraordinary items.* This primary classification (9700) shall include material items characterized by their unusual nature and infrequent occurrence.

(7) *Cumulative effect of changes in accounting principles.* This primary classification (9800) shall include the cumulative effect of material changes in accounting principles.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–841, 39 FR 11997, Apr. 2, 1974; ER–980, 42 FR 36, Jan. 3, 1977, Amdt. 241–58, 54 FR 5594, Feb. 6, 1989]

Section 9—Functional Classification—Operating Revenues

3900 Transport Revenues.

This classification is prescribed for all air carrier groups and shall include all revenues from the air transportation of traffic of all classes. It shall consist of the following subclassifications:

3100 *Scheduled Services.*

This subclassification shall include revenues from the transportation by air of individual passengers or cargo shipments (as opposed to charter flights) pursuant to published schedules, including extra sections and other flights performed as an integral part of published flight schedules.

3200 *Nonscheduled Services.*

This subclassification shall include revenues from the transportation by air of traffic applicable to the performance of aircraft charters, and other air transportation services not part of services performed pursuant to published flight schedules (but shall not include data applicable to flights performed as extra sections to published flight schedules, which shall be reported in the subclassification 3100 Scheduled Services).

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1401, 50 FR 243, Jan. 3, 1985]

4800 Transport-Related Revenues.

(a) This classification is prescribed for all air carrier groups and shall include all revenues from the United States Government as direct grants or aids for providing air transportation facilities and all revenues from services which grow from and are incidental to the air transportation services performed by the air carrier.

(b) Revenues related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this classification (see section 1–6(b)). Revenues applicable to such services shall be included in profit and loss classification 8100, Nonoperating Income and Expense-Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

[ER–841, 39 FR 11997, Apr. 2, 1974]

Section 10—Functional Classification—Operating Expenses of Group I Air Carriers

5100 Flying Operations.

(a) This function shall include expenses incurred directly in the in-flight operation of aircraft and expenses attaching to the holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status.

(b) This function shall not include expenses incurred in repairing, servicing or storing aircraft, expenses incurred on the ground in protecting and controlling the inflight movement of aircraft, or the compensation of ground personnel and other expenses incurred in scheduling or preparing aircraft or aircraft operational personnel for flight assignment. Such expenses shall be included in function 5400 Maintenance or function 6900 General Services and Administration.

5400 Maintenance.

(a) This function shall include all expenses, both direct and indirect, specifically identifiable with the repair and upkeep of property and equipment as may be required to meet operating and safety standards; in inspecting or checking property and equipment in accordance with prescribed operational standards; and in polishing or cleaning property and equipment when such polishing or cleaning is not an incidental routine in connection with the normal productive use of property and equipment.

(b) This function shall include the cost of direct labor, materials, and outside services and maintenances overhead or other costs specifically associated with maintenance operations regardless of the location at which incurred.

(c) This function shall not include costs incurred in the construction, improvement, or modification of property and equipment even when necessitated to meet new or changed operating or safety standards. Such costs shall be charged to appropriate property and equipment accounts.

(d) Costs incurred by aircraft handling personnel in visual inspection, minor check and servicing of aircraft, while in line service, shall not be included in this function when performed as an incidental routine during the normal productive use of aircraft but shall be included in function 6900 General Services and Administration.

(e) Each Group I air carrier shall maintain the following subfunctions:

5200 *Direct Maintenance.*

a. This subfunction shall include the costs of labor, materials and outside services consumed directly in periodic maintenance operations and the maintenance and repair of property and equipment, of all types and classes, regardless of the location at which incurred, exclusive of costs specifically identified with maintenance property and equipment expenses in balance sheet accounts 1630 Equipment, 1639 Improvements to Leased Buildings and Equipment, and 1640.1 Maintenance Buildings and Improvements which shall be included in subfunction 5300 Maintenance Burden.

b. The cost of direct labor, materials and supplies, as well as outside repairs, used in the maintenance and repair of property and equipment shall be recorded on running job orders or tickets covering repairs and periodic inspections except servicing. Where a number of like items are maintained on a group basis, it will be necessary to maintain only one job order for each group.

c. When supervisory personnel such as crew chiefs, inspectors and foremen are engaged in direct labor in connection with equipment maintenance, a proportionate part of their salaries and wages shall be charged to the appropriate direct labor accounts. The cost of transporting property to and from shops for repair and maintenance shall be included as a part of the cost of the materials and supplies used in the repair or maintenance of such property and equipment. Transportation charges, customs and duties, etc.; shall be included in the cost of repairs and maintenance operations when made by outside parties.

5300 *Maintenance Burden.*

a. This subfunction shall include all overhead or general expenses which are specifically identified with activities involved in periodic maintenance operations and the maintenance and repair of property and equipment of all types and classes, including the cost of direct labor, materials and outside services identified with the maintenance and repair of maintenance property and equipment included in balance sheet accounts 1630 Equipment, 1639 Improvements to Leased Buildings and Equipment, and 1604.1 Maintenance Buildings and Improvements. It shall include expenses specifically related to the administration of maintenance stocks and stores, the keeping of pertinent maintenance operations records, and the scheduling, controlling, planning and supervision of maintenance operations.

b. This subfunction shall not include expenses related to financial accounting, purchasing or other overhead activities which are of general applicability to all operating functions. Such expenses shall be included in function 6900 General Services and Administration.

c. This subfunction shall include only those expenses attributable to the current air transport operations of the air carrier. Maintenance burden associated with capital projects of the air carrier, other than overhauls of airframes and aircraft engines shall be allocated to such projects. Maintenance burden incurred in common with services to other companies and operating entities shall be allocated to such services on a pro rata basis unless the services are so infrequent in performance or small in volume as to result in no appreciable demands upon the air carrier's maintenance facilities. When overhauls of airframes or aircraft engines are as a consistent practice accounted for on an accrual basis instead of being expensed directly, maintenance burden shall be allocated to such overhauls on a pro rata basis. Standard burden rates may be employed for quarterly allocations of maintenance burden

provided the rates are reviewed at the close of each calendar year. When the actual burden rate for the year differs materially from the standard burden rate applied, adjustment shall be made to reflect the actual cost incurred for the full accounting year. Allocations of maintenance burden to capital projects, and service sales to others shall be made through the individual maintenance burden objective accounts, except that the air carrier may make such allocations by credits to profit and loss account 77 Uncleared Expense Credits provided that use of that account will not undermine the significance of the individual maintenance burden objective accounts in terms of the expense levels associated with the air carrier's air transport services. Maintenance burden allocated to overhauls shall be credited to profit and loss subaccounts 5372.1 or 5372.6 Airworthiness Allowance Provisions.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 36, Jan. 3, 1977; ER–1027, 42 FR 60128, Nov. 25, 1977; ER–1188, 45 FR 48870, July 22, 1980; Amdt. 241–58, 54 FR 5595, Feb. 6, 1989]

6900 General Services and Administration.

This function shall include expenses incurred on the ground in controlling and protecting the in-flight movement of aircraft; landing, handling, or servicing aircraft on the ground; selling transportation; servicing and handling traffic of all classes; promoting the development of traffic; administering operations generally; and all other expenses not otherwise provided for in functions 5100 Flying Operations, 5400 Maintenance and 7000 Depreciation and Amortization.

7000 Depreciation and Amortization.

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs, as well as losses in serviceability caused by obsolescence, supersession, discoveries, change in demand or actions by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases and other intangible assets applicable to the performance of air transportation. (See sections 6–1696, 1830 and 1890.)

[Amdt. 241–58, 54 FR 5595, Feb. 6, 1989]

7100 Transport-Related Expenses.

(a) This function shall include all expense items applicable to the generation of transport-related revenues included in section 9, Function 4800.

(b) Such expense related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this function (see section 1–6(b)). Expenses applicable to the generation of such revenues shall be included in profit and loss classification 8100, Nonoperating Income and Expense-Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

(c) This function shall also include expenses representing increases in costs incurred in common with the air transport service, to the extent such increases result from the added transport-related services, as well as a pro rata share of the costs incurred by the air carrier in operating facilities which are used jointly with others. As a general rule, this function shall not include those expenses, other than joint facilities costs, which would remain as an essential part of the air transport services if the transport-related services were terminated.

[ER–841, 39 FR 11997, Apr. 2, 1974, as amended by ER–1401, 50 FR 243, Jan. 3, 1985]

Section 11—Functional Classification—Operating Expenses of Group II and Group III Air Carriers

5100 Flying Operations.

(a) This function shall include expenses incurred directly in the in-flight operation of aircraft and expenses attaching to the holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status.

(b) This function shall not include expenses incurred in repairing, servicing or storing aircraft, expenses incurred

on the ground in protecting and controlling the in-flight movement of aircraft, or compensation of ground personnel and other expenses incurred in scheduling or preparing aircraft or aircraft operational personnel for flight assignment. Such expenses shall be included in function 5400 Maintenance, or function 6400 Aircraft and Traffic Servicing.

5400 Maintenance.

(a) This function shall include all expenses, both direct and indirect, incurred in the repair and upkeep of property and equipment as may be required to meet operating and safety standards; in inspecting or checking property and equipment in accordance with prescribed operational standards; and in polishing or cleaning property and equipment when such polishing or cleaning is not an incidental routine in connection with the normal productive use of property and equipment.

(b) This function shall include the cost of direct labor, materials, and outside services and maintenance overhead or other costs associated with maintenance operations regardless of the location at which incurred.

(c) This function shall not include costs incurred in the construction, improvement, or modification of property and equipment even when necessitated to meet new or changed operating or safety standards. Such costs shall be charged to appropriate property and equipment accounts.

(d) Costs incurred by aircraft handling personnel in visual inspection, minor check and servicing of aircraft, while in line service, shall not be included in this function when performed as an incidental routine during the normal productive use of aircraft but shall be included in function 6400 Aircraft and Tariff Servicing.

(e) Both Group II air carriers and Group III air carriers shall maintain the following subfunctions:

5200 *Direct Maintenance.*

a. This subfunction shall include the costs of labor, materials and outside services consumed directly in periodic maintenance operations and the maintenance and repair of property and equipment of all types and classes, regardless of the location at which incurred, exclusive of maintenance property and equipment included in balance sheet accounts 1630 Equipment, 1639 Improvements to Leased Buildings and Equipment, and 1640.1 Maintenance Buildings and Improvements, which shall be included in subfunction 5300 Maintenance Burden.

b. The cost of direct labor, materials and supplies, as well as outside repairs, used in the maintenance and repair of property and equipment shall be recorded on running job orders or tickets covering repairs and periodic inspections except servicing. Where a number of like items are maintained on a group basis, it will be necessary to maintain only one job order for each group.

c. When supervisory personnel such as crew chiefs, inspectors and foremen are engaged in direct labor in connection with equipment maintenance, a proportionate part of their salaries and wages shall be charged to the appropriate direct labor accounts. The cost of transporting property to and from shops for repair and maintenance shall be included as a part of the cost of the materials and supplies used in the repair or maintenance of such property and equipment. Transportation charges, customs and duties, etc., shall be included in the cost of repairs and maintenance operations when made by outside parties.

5300 *Maintenance Burden.*

a. This subfunction shall include all overhead or general expenses used directly in the activities involved in periodic maintenance operations and the maintenance and repair of property and equipment of all types and classes, including the cost of direct labor, materials and outside services used in the maintenance and repair of maintenance property and equipment included in balance sheet accounts 1630 Equipment, 1639 Improvements to Leased Buildings and Equipment, and 1640.1 Maintenance Buildings and Improvements. It shall include expenses related to the administration of maintenance stocks and stores, the keeping of pertinent maintenance operation records, and the scheduling, controlling, planning and supervision of maintenance operations.

b. This subfunction shall not include expenses related to financial accounting, purchasing or other overhead activities which are of general applicability to all operating functions. Such expenses shall be included in function 6800 General and Administrative.

c. This subfunction shall include only those expenses attributable to the current air transport operations of the air carrier. Maintenance burden associated with capital projects of the air carrier, other than overhauls of airframes and aircraft engines, shall be allocated to such projects. Maintenance burden incurred in common with services to other companies and operating entities shall be allocated to such services on a pro rata basis unless the services are so infrequent in performance or small in volume as to result

in no appreciable demands upon the air carrier's maintenance facilities. When overhauls of airframes or aircraft engines are as a consistent practice accounted for on an accrual basis instead of being expensed directly, maintenance burden shall be allocated to such overhauls on a pro rata basis. Standard burden rates may be employed for quarterly allocations of maintenance burden provided the rates are reviewed at the close of each calendar year. When the actual burden rate for the year differs materially from the standard burden rate applied, adjustment shall be made to reflect the actual costs incurred for the full accounting year. Allocations of maintenance burden to capital projects, and service sales to others shall be made through the individual maintenance burden objective accounts, except that the air carrier may make such allocations by credits to profit and loss account 77 Uncleared Expense Credits under such circumstances in which the use of that account will not undermine the significance of the individual maintenance burden objective accounts in terms of the expense levels associated with the air carrier's air transport services. Maintenance burden allocated to overhauls shall be credited to profit and loss subaccounts 5372.1 or 5372.6 Airworthiness Allowance Provisions.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 36, Jan. 3, 1977; ER–1401, 50 FR 244, Jan. 3, 1985; Amdt. 241–58, 54 FR 5595, Feb. 6, 1989]

5500 Passenger Service.

This function shall include all expenses chargeable directly to activities contributing to the comfort, safety and convenience of passengers while in flight and when flights are interrupted. It shall not include expenses incurred in enplaning or deplaning passengers, or in securing and selling passenger transportation and caring for passengers prior to entering a flight status. Such expenses shall be included in functions 6400 Aircraft and Traffic Servicing and 6700 Promotion and Sales, respectively.

6400 Aircraft and Traffic Servicing.

(a) This function shall include the compensation of ground personnel and other expenses incurred on the ground incident to the protection and control of the in-flight movement of aircraft, scheduling and preparing aircraft operational crews for flight assignment, handling and servicing aircraft while in line operation, servicing and handling traffic on the ground, subsequent to the issuance of documents establishing the air carrier's responsibility to provide air transportation, and in-flight expenses of handling and protecting all nonpassenger traffic including passenger baggage.

(b) This function shall include only those aircraft servicing and cleaning expenses which are incurred as an incidental routine during the normal productive use of aircraft in line operations. It shall not include expenses incurred in the repair and maintenance of property and equipment, or in checking or inspecting property and equipment in accordance with prescribed operational standards when such activities are not an incidental routine during the normal productive use of aircraft. Such expenses shall be included in function 5400 Maintenance.

(c) This function shall not include expenses incurred in securing traffic, arranging aircraft space for traffic sold or in issuing documents confirming traffic sales and establishing the air carrier's responsibilities to provide air transportation. Such expenses shall be included in function 6700 Promotion and Sales. However, for purposes of this system of accounts, expenses attributable to the operation of airport traffic offices, excluding reservation centers, shall be included in this function. Expenses attributable to the operation of reservation or aircraft space control centers shall be included in function 6700 Promotion and Sales regardless of the location at which incurred.

(d) Group III air carriers shall further subdivide this function as follows:

6100 *Aircraft Servicing.*

a. This subfunction shall include the compensation of ground personnel and other expenses incurred on the ground incident to the protection and control of the in-flight movement of aircraft; scheduling or preparing aircraft operational crews for flight assignment; landing and parking aircraft; visual inspection, routine checking, servicing and fueling of aircraft; and other expenses incurred on the ground incident to readying for arrival and takeoff of aircraft.

6200 *Traffic Servicing.*

a. This subfunction shall include the compensation of ground personnel and other expenses incurred on the ground incident to handling traffic of all types and classes on

the ground subsequent to the issuance of documents establishing the air carrier's responsibility to provide air transportation. Expenses attributable to the operation of airport traffic offices shall also be included in this subfunction; expenses attributable to reservations centers shall be excluded. It shall include expenses incurred in both enplaning and deplaning traffic as well as expenses incurred in preparation for enplanement and all expenses subsequent to deplanement.

b. This subfunction shall also include costs incurred in handling and protecting all nonpassenger traffic while in flight. It shall not include expenses incurred in contributing to the comfort, safety and convenience of passengers while in flight or when flights are interrupted. Such expenses shall be included in function 5500 Passenger Service.

6300 *Servicing Administration.*

a. This subfunction shall include expenses of a general nature incurred in performing supervisory or administrative activities relating solely and in common to subfunctions 6100 Aircraft Servicing and 6200 Traffic Servicing.

b. This subfunction shall not include supervisory or administrative expenses which can be charged directly to subfunction 6100 Aircraft Servicing or subfunction 6200 Traffic Servicing. Nor shall this subfunction include expenses of a general administrative character and of significant amount regularly contributing to operating functions generally. Such expenses shall be included in function 6800 General and Administrative.

c. The expenses in this subfunction shall be recorded separately for each geographic location at which incurred.

6700 Promotion and Sales.

(a) This function shall include expenses incurred in creating public preference for the air carrier and its services; stimulating the development of the air transport market; and promoting the air carrier or developing air transportation generally.

(b) It shall also include the compensation of personnel and other expenses incident to documenting sales; expenses incident to controlling and arranging or confirming aircraft space for traffic sold; expenses incurred in direct sales solicitation and selling of aircraft space; and expenses incurred in developing tariffs and schedules for publication.

(c) This function shall not include expenses incurred in handling traffic subsequent to the issuance of documents establishing the air carrier's responsibility to provide air transportation which shall be included in functions 5500 Passenger Service and 6400 Aircraft and Traffic Servicing. However, for purposes of this system of accounts, expenses attributable to the operation of airport traffic offices, excluding reservation centers, shall be included in function 6400 Aircraft and Traffic Servicing. Expenses attributable to the operation of reservation or aircraft space control centers shall be included in function 6700 Promotion and Sales regardless of the location at which incurred.

(d) Group III air carriers shall subdivide this function as follows:

6500 *Reservations and Sales.*

This subfunction shall include expenses incident to direct sales solicitation, documenting sales, controlling and arranging or confirming aircraft space sold, and in developing tariffs and schedules for publication. It shall also include expenses attributable to the operation of city traffic offices. Expenses incurred in stimulating traffic and promoting the air carrier or air transportation generally shall not be included in this subfunction but in subfunction 6600 Advertising and Publicity.

6600 *Advertising and Publicity.*

a. This subfunction shall include expenses incurred in creating public preference for the air carrier and its services; stimulating development of the air transport market; and promoting the air carrier or developing air transportation generally.

b. This subfunction shall not include expenses incurred in direct sales solicitation and selling of aircraft space. Such costs shall be included in subfunction 6500 Reservations and Sales.

6800 General and Administrative.

(a) This function shall include expenses of a general corporate nature and expenses incurred in performing activities which contribute to more than a single operating function such as general financial accounting activities, purchasing activities, representation at law, and other general operational administration, which are not directly applicable to a particular function.

(b) This function shall not include expenses incurred directly in promoting traffic or in promoting relations of the air carrier generally with the public which shall be included in function 6700 Promotion and Sales. Nor shall this

function include expenses, regularly applicable in large part to a specific function, which contribute only incidentally, or in small amount, to various other functions. Such expenses when of such size as will not distort the function to which predominantly related, shall be included in the specific function to which regularly related. However, expenses of a general administrative character and of significant amount regularly contributing to operating functions generally shall be included in this function.

7000 Depreciation and Amortization.

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs, as well as losses in serviceability occasioned by obsolescence, supersession, discoveries, change in popular demand or action by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases, and other intangible assets applicable to the performance of air transportation. (See sections 6–1696, 1830 and 1890.)

[Amdt. 241–58, 54 FR 5595, Feb. 6, 1989]

7100 Transport-Related Expenses.

(a) This function shall include all expense items applicable to the generation of transport-related revenues included in section 9, Function 4800.

(b) Such expense related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this function (see section 1–6(b)). Expenses applicable to the generation of such revenues shall be included in profit and loss classification 8100, Nonoperating Income and Expense-Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

(c) This function shall also include expenses representing increases in costs incurred in common with the air transport service, to the extent such increases result from the added transport-related services, as well as a pro rata share of the costs incurred by the air carrier in operating facilities which are used jointly with others. As a general rule, this function shall not include those expenses, other than joint facilities, costs, which would remain as an essential part of the air transport services if the transport-related services were terminated.

[ER–841, 39 FR 11997, Apr. 2, 1974, as amended by ER–1401, 50 FR 244, Jan. 3, 1985]

Section 12—Objective Classification—Operating Revenues and Expenses

00 General Instructions.

(a) Basic objective accounts, applicable to all air carrier groups, are established for recording all revenue and expense elements. These basic accounts are in certain areas subdivided to provide greater detail for indicated air carrier groups.

(b) Each air carrier shall credit the gross revenues accruing from services ordinarily associated with air transportation and transportation-related services to the appropriate account established for each revenue source. Expenses incident to transport and transport-related services shall be charged to the accounts established in this section in accordance with the objectives served by each expenditure. However, direct costs of forwarding traffic as a result of interrupted trips, and refunds of sales, shall be charged to the applicable revenue account.

(c) To the end that the integrity of the prescribed objective accounts shall not be impaired, each air carrier shall:

(1) Charge the appropriate account prescribed for each service purchased or expense element incurred expressly for the benefit of the air carrier regardless of whether incurred directly by the air carrier or through an agent or other intermediary, and (2) except as provided in objective account 77, Uncleared Expense Credits, credit or charge, as appropriate, the account prescribed for each expense element which may be involved in distributions of expenses between (i) separate operating entities of the air carrier, (ii) transport-related services and transport services, or transport functions,

(iii) balance sheet and profit and loss elements, and (iv) the air carrier and others, when the expenses are incurred initially by or for the benefit of the air carrier. At the option of the air carrier, standard rates applicable to each objective account comprising a particular pool of expenses subject to assignment between two or more activities, may be established for proration purposes, provided the rates established are predicated upon the experience of the air carrier and are reviewed and modified as appropriate at least once each year.

TRANSPORT REVENUES

01 Passenger.

(a) Record here revenue from the transportation of passengers by air, including infants transported at reduced fares, berth charges, surcharges for premium services and other similar charges. Revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by 49 U.S.C. 41511(a) and 14 CFR part 223, as well as revenue from travel agents, cargo agents and tour conductors traveling at reduced fares, and revenues from service charges for passengers traveling on a nonrevenue basis shall be recorded in objective account 19 Air Transport—Other.

(b) This account shall be subdivided as follows by all air carrier groups:

01.1 *Passenger—First Class.*

Record here revenue from the air transportation of passengers moving at either standard fares or premium fares, or at reduced fares not predicated upon the use of aircraft space specifically separated from first class, and for whom standard or premium quality services are provided.

01.2 *Passenger—Coach.*

Record here revenue from the air transportation of passengers moving at special fares reduced from the first class or premium fares which are predicated upon both the operation of specifically designated aircraft space and a reduction in the quality of service regularly and ordinarily provided.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 36, Jan. 3, 1977; 60 FR 66723, Dec. 26, 1995]

05 Mail.

(a) Record here revenue from the transportation by air of both United States and foreign mail.

(b) Fines and penalties imposed by the United States Government and foreign governments in connection with the carriage of mail shall not be charged to this account but to profit and loss account 89.9 Other Miscellaneous Nonoperating Debits.

(c) This account shall be subdivided as follows by all air carrier groups:

05.1 *Priority.*

Record here revenue from United States mail for which transportation by air is provided on a priority basis.

05.2 *Nonpriority.*

Record here revenue from United States mail for which transportation by air is provided on a space available basis.

05.3 *Foreign.*

Record here revenue from the transportation by air of mail other than United States mail.

[ER–980, 42 FR 36, Jan. 3, 1977, as amended by Amdt. 241–58, 54 FR 5595, Feb. 6, 1989]

06 Property.

(a) Record here revenue from the transportation by air of property including excess passenger baggage.

(b) Revenues resulting from services incidental to the transportation services such as collection of shipper's interest insurance premiums and charges and fees for service such as pick-up and delivery, assembly and distribution, storage and handling, and C.O.D. collection shall not be credited to this account but to profit and loss account 17 Air Cargo Services.

(c) This account shall be subdivided as follows by all air carrier groups:

06.1 *Freight.*

Record here revenue from the transportation by air of property other than passenger baggage.

06.2 *Excess Passenger Baggage.*

Record here revenue from the transportation by air of passener baggage in excess of fixed free allowance.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1401, 50 FR 244, Jan. 3, 1985]

07 Charter.

(a) Record here the revenue from nonscheduled air transport services (except as otherwise required by profit

and loss Account 86 Income from Nontransport Ventures) where the party receiving the transportation obtains exclusive use of an aircraft at either published tariff or other contractual rates and the remuneration paid by the party receiving transportation accrues directly to, and the responsibility for providing transportation is that of, the accounting air carrier. This account shall also include revenues from air transport services other than inter-airport services, whether scheduled or nonscheduled, where each passenger or shipment receiving transportation is individually documented and does not obtain exclusive use of an aircraft.

(b) This account shall not include revenues or fees received from other air carriers for flight facilities furnished or operated by the accounting air carrier where the remuneration paid by the party receiving transportation accrues directly to, and the responsibility for providing transportation is that of other air carriers. Such revenues and related expenses shall be included in profit and loss accounts 11, Rents; 13, Interchange Sales; or 18, Other Transport-Related Revenues and Expenses.

(c) This account shall be subdivided as follows by all air carrier groups:

07.1 *Passenger*.

Record here revenue from the transportation of passengers and their personal baggage.

07.2 *Property*.

Record here revenue from the transportation of property.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 37, Jan. 3, 1977; ER–1401, 50 FR 244, Jan. 3, 1985]

TRANSPORT RELATED REVENUES AND EXPENSES

08 Public Service Revenues (Subsidy).

Record here amounts of compensation received pursuant to the provisions of 49 U.S.C. 41733 under rates established by the Department of Transportation for the provision of essential air service to small communities.

[Amdt. 241–58, 54 FR 5595, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

09 In-Flight Sales.

(a) Record here revenues from and expenses related to transport-related services performed while in flight.

(b) This account shall be subdivided as follows by all air carrier groups:

09.1 Liquor and food—gross revenues.
09.2 Movies and stereo—gross revenues.
09.3 Other—gross revenues.
09.4 Liquor and food—depreciation expense.
09.5 Liquor and food—other expense.
09.6 Movies and stereo—depreciation expense.
09.7 Movies and stereo—other expense.
09.8 Other—depreciation expense.
09.9 Other—expense.

10 Restaurant and Food Service (Ground).

(a) Record here revenues from and expenses related to the operation of restaurants and similar facilities, and from sales of food. (See section 12–51.)

(b) This account shall be subdivided as follows by all air carrier groups.

10.1 Gross revenues.
10.2 Depreciation expense.
10.3 Other expense.

11 Rents.

(a) Record here revenues from and expenses related to property and equipment owned or leased which has been rented or subleased to others exclusive of associated companies. This account shall not include fees from the use by others of air carrier aircraft under aircraft interchange agreements.

(b) This account shall be subdivided as follows by all air carrier groups:

11.1 Gross Revenues.
11.2 Depreciation Expense.
11.3 Other Expenses.

12 Limousine Service.

(a) Record here revenues from and expenses related to the operation of passenger limousine surface transportation services.

(b) This account shall be subdivided as follows by all air carrier groups:

12.1 Gross Revenues.
12.2 Depreciation Expense.
12.3 Other Expenses.

13 Interchange Sales.

(a) Record here the revenues or fees from and the expenses related to services provided associated companies and

other than associated companies by the air carrier under aircraft interchange agreements. This account shall be charged and the applicable operating expense objective accounts shall be credited, except as provided in operating expense objective account 77, Uncleared Expense Credits, with the expenses attaching to services provided all companies under aircraft interchange agreements.

(b) This account shall not include revenues or expenses related to air transportation services performed in the name of and for the account of the accounting air carrier. Such revenues shall be included in applicable transport revenue and operating expense objective accounts.

(c) This account shall be subdivided as follows by all air carrier groups:

13.1 Associated companies—gross revenues.
13.2 Outside—gross revenues.
13.3 Associated companies—depreciation expense.
13.4 Associated companies—other expense.
13.5 Outside—depreciation expense.
13.6 Outside—other expense.

14 General Service Sales.

(a) Record here the revenues, commissions or fees from and expenses related to other than air transportation and aircraft interchange services provided to associated and outside companies by the air carrier. This account shall include the contractual fees or other revenues from and expenses related to services provided to associated and other companies in the operation of facilities which are used jointly with associated and other companies as well as revenues from and the costs related to the sale of supplies, parts and repairs sold directly or furnished as a part of services to associated and other companies.

(b) This account shall not include consideration received from sales of property, equipment, materials or supplies when disposed of as a part of a program involving retirement of property and equipment as opposed to routine sales and services to associated and other companies unless such disposition is conducted as a normal part of the incidental sales activity. Such retirement gain or loss shall be included in capital gains and losses accounts. Maintenance parts, materials or supplies sold as a service to others shall be charged to this account at cost without adjustment of related obsolescence or depreciation allowances.

(c) This account shall be subdivided as follows by all air carrier groups:

14.1 Associated companies—gross revenues.
14.2 Outside—gross revenues.
14.3 Associated companies—depreciation expense.
14.4 Associated companies—other expense.
14.5 Outside—depreciation expense.
14.6 Outside—other expense.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 37, Jan. 3, 1977]

16 Substitute (replacement) Service.

(a) Record here revenues from and expenses related to substitute service. This account shall include as revenues all monies received from substitute carriers and as expense all monies paid to substitute carriers.

(b) This account shall be subdivided as follows by all air carrier groups:

16.1 Gross revenue.
16.2 Expense.

17 Air Cargo Services.

(a) Record here fees and other revenues from and expenses related to incidental services performed in connection with cargo shipments such as pickup and delivery fees, shipper's interest insurance charges, storage and handling fees, etc.

(b) This account shall be subdivided as follows by all air carrier groups:

17.1 Gross Revenues.
17.2 Depreciation Expense.
17.3 Other Expenses.

18 Other Transport-Related Revenues and Expenses.

(a) Record here revenues from and expenses related to transport-related services not provided for in profit and loss accounts 10 through 17, inclusive, such as revenues and expenses incident to the operation of flight facilities by the accounting air carrier, except those operated under aircraft interchange agreements, where the remuneration paid by the party receiving transportation accrues directly to, and the responsibility for providing transportation is that of, other air carriers; and

the revenues and expenses incident to vending machines, parcel rooms, storage facilities, etc.

(b) [Reserved]

(c) Revenues from the renting or leasing of property and equipment to others shall not be included in this account but in profit and loss account 11 Rents.

(d) This account shall be subdivided as follows by all air carrier groups:

18.1 Gross Revenues.
18.2 Depreciation Expense.
18.3 Other Expenses.

19 Air Transport—Other.

(a) Record here revenues associated with air transportation conducted by the air carrier, not provided for in profit and loss accounts 01 through 09, inclusive, such as revenue from (1) airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by 49 U.S.C. 41511(a) and 14 CFR part 223, as well as travel agents, cargo agents and tour conductors traveling at reduced fares, (2) service charges for failure to cancel or for late cancellation of air transportation reservations, and (3) nontransportation service charges collected on both revenue and nonrevenue flights.

(b) Revenues derived from sightseeing, aerial photography, advertising, or other special flights shall not be included in this account but in account 07 Charter.

(c) This account shall be subdivided as follows by all air carrier groups:

19.1 Reservations Cancellation Fees.
19.9 Miscellaneous Operating Revenue.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–820, 38 FR 24352, Sept. 7, 1973; ER–841, 39 FR 11997, Apr. 2, 1974; ER–980, 42 FR 37, Jan. 3, 1977; 60 FR 66723, Dec. 26, 1995]

TRANSPORT EXPENSES

20 General Instructions.

(a) Each element of expense ordinarily associated with air transportation services shall be charged to the accounts established in this section in accordance with the objectives served by each expenditure. Basic objective accounts, applicable to all air carrier groups, are established for recording all expense elements. These basic accounts are in certain areas subdivided to provide greater detail for indicated air carrier groups.

(b) To the end that the integrity of the prescribed objective accounts shall not be impaired, each air carrier shall:

(1) Charge the appropriate account prescribed for each service purchased or expense element incurred expressly for the benefit of the air carrier regardless of whether incurred directly by the air carrier or through an agent or other intermediary, and (2) except as provided in objective account 77 Uncleared Expense Credits, credit or charge, as appropriate, the account prescribed for each expense element which may be involved in distributions of expenses between (i) separate operating entities of the air carrier, (ii) incidental and transport services or transport functions, (iii) balance sheet and profit and loss elements and (iv) the air carrier and others, when the expenses are incurred initially by or for the benefit of the air carrier. At the option of the air carrier, standard rates applicable to each objective account comprising a particular pool of expenses subject to assignment between two or more activities, may be established for proration purposes, provided the rates established are predicated upon the experience of the air carrier and are reviewed and modified as appropriate at least once each year.

21 General Management Personnel.

Record here the compensation, including vacation and sick leave pay, of general officers and supervisors, and immediate assistants regardless of locality at which based, responsible for an activity not provided for in profit and loss accounts 25 through 35, inclusive, or an activity involving two or more such accounts.

23 Pilots and Copilots.

Record here the compensation, including vacation and sick leave pay, of pilots and copilots assigned or held inactive awaiting assignment to flight duty.

24 Other Flight Personnel.

Record here the compensation, including vacation and sick leave pay, of

other flight personnel assigned or held inactive awaiting assignment to flight status, not responsible for the in-flight management of aircraft, such as engineers, navigation officers and cabin attendants.

25 Maintenance Labor.

(a) Record here the compensation for time of personnel spent directly on specific property and equipment maintenance projects. (See sections 10 and 11–5200.) Vacation and sick leave pay shall be charged to profit and loss account 28 Trainees, Instructors and Unallocated Shop Labor.

(b) This account shall be subdivided as follows:

GROUP II AND GROUP III AIR CARRIERS

25.1 *Labor—Airframes and Other Flight Equipment.*

Record here the direct labor expended upon airframes, spare parts related to airframes, and other flight equipment (Other than aircraft engines and spare parts related to aircraft engines). Other flight equipment shall include instruments, which encompass all gauges, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines which are maintaned separately from airframes and aircraft engines.

25.2 *Labor—Aircraft Engines.*

Record here the direct labor expended upon aircraft engines and spare parts related to aircraft engines.

GROUP I AIR CARRIERS

25.6 *Labor—Flight Equipment.*

Record here the direct labor expended upon flight equipment of all types and classes.

ALL AIR CARRIER GROUPS

25.9 *Labor—Ground Property and Equipment.*

Record here the direct labor expended upon ground property and equipment of all types and classes. Direct labor expended upon general ground properties shall be charged to subfunction 5200 Direct Maintenance; and direct labor expended upon maintenance buildings and equipment shall be charged to subfunction 5300 Maintenance Burden.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1401, 50 FR 244, Jan. 3, 1985]

26 Aircraft and Traffic Handling Personnel.

(a) Record here the compensation, including vacation and sick leave pay, of personnel of all types and classes, including direct supervisory personnel, assigned to ground activities, engaged directly in protecting and controlling aircraft in flight, scheduling and preparing flight crews for flight assignment, parking and servicing aircraft incidental to line operations, and of personnel of all types and classes engaged in servicing and handling traffic of all types and classes on the ground.

(b) This account shall be subdivided as follows by Group II and Group III air carriers:

26.1 *General Aircraft and Traffic Handling Personnel.*

Record here compensation of personnel handling or controlling aircraft and generally servicing or handling traffic of all types and classes whose activities are not identifiable with the particular activities provided for in subaccounts 26.2, 26.3, or 26.4, inclusive.

26.2 *Aircraft Control Personnel.*

Record here compensation of personnel whose activities are identifiable with the protection and control of aircraft in flight and in scheduling or preparing flight crews for flight assignment.

26.3 *Passenger Handling Personnel.*

Record here compensation of personnel whose activities are identifiable with the handling of passengers.

26.4 *Cargo Handling Personnel.*

Record here compensation of personnel whose activities are identifiable with the handling of passenger baggage, mail, express, or freight.

28 Trainees, Instructors, and Unallocated Shop Labor.

(a) Record here the compensation, including vacation and sick leave pay, of instructors and personnel in an off-the-job training status; direct maintenance personnel compensation not assigned to specific projects; and vacation or sick leave pay of direct maintenance personnel.

(b) This account shall be subdivided as follows by all air carrier groups:

28.1 *Trainees and Instructors.*

Record here the compensation of instructors and personnel in a training status.

28.2 *Unallocated Shop Labor.*

Record here the pay of direct maintenance personnel which has not been assigned to profit and loss account 25 Maintenance Labor for time spent on specific maintenance projects, and vacation or sick leave pay of direct maintenance personnel.

30 Communications Personnel.

Record here the compensation, including vacation and sick leave pay, of personnel of all types and classes, including direct supervisory personnel, engaged in local, interstation, or groundair communication activities. This account shall include compensation of personnel such as radio operators, telephone operators, switchboard operators, teletype operators, messengers, etc.

31 Recordkeeping and Statistical Personnel.

Record here the compensation, including vacation and sick leave pay, of personnel including supervisory personnel, whose primary duties relate to maintaining records or conducting economic or other analyses required for general management controls, such as accountants, economists, statisticians, maintenance record clerks, stores record clerks, stores receiving and issuing clerks and file clerks. The account shall not include personnel engaged in documentation or other activities constituting an integral part of activities encompassed by other objective accounts.

32 Lawyers and Law Clerks.

Record here the compensation, including vacation and sick leave pay, of air carrier personnel engaged in law research or representing the air carrier in matters of law.

33 Traffic Solicitors.

Record here the compensation, including vacation and sick leave pay, of personnel engaged directly in solicitation of traffic of all types and classes. This account shall not include compensation of traffic office personel engaged in soliciting activities incidental to the documenting of sales and assigning aircraft space which shall be included in profit and loss account 26 Aircraft and Traffic Handling Personnel.

34 Purchasing Personnel.

(a) Record here the compensation, including vacation and sick leave pay, of personnel, including direct supervisory personnel, engaged in purchasing activities.

(b) This account shall include compensation of personnel engaged in maintaining purchasing records but shall not include compensation of personnel responsible for the control of inventories or stores which shall be included in objective account 31 Record Keeping and Statistical Personnel. In cases where the responsibility for maintaining purchasing and stores records are inseparable, the related compensation may be accounted for in accordance with dominant responsibilities.

35 Other Personnel.

Record here the compensation, including vacation and sick leave pay, of personnel whose activities are not identifiable with activities provided for in profit and loss accounts 21 through 34, inclusive.

36 Personnel Expenses.

(a) Record here expenses incurred by officers, executives, directors and other personnel, whether for the benefit of the air carrier or for the private benefit of such persons, which are directly or indirectly borne by the air carrier.

(b) This account shall include allowances in lieu of expenses as well as expenses incurred for travel, lodgings, meals, entertainment of individuals or groups of individuals, and membership fees and dues in professional or social clubs and associations.

(c) Records shall be maintained in a conveniently accessible form which will separately and clearly document each charge to this account in terms of its natural characteristics and contribution to the performance of the air carrier's transport operations. The records shall be maintained in such manner as will identify specifically the persons incurring the cost. Costs for standby hotel or other facilities maintained for the air carrier's personnel generally need not be allocated among the individuals using such facilities; however, sufficiently detailed records are required to identify the use made of such facilities by each individual.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–948, 41 FR 12295, Mar. 25, 1976]

37 Communications Purchased.

Record here expenses, including related taxes, incurred for rental of communication services and for communication services of all types and classes not provided by personnel of the air carrier, such as telegraph, telephone, teletype, private line services, and charges for communication services from organizations operated jointly with associated companies or others.

38 Light, Heat, Power and Water.

Record here charges related to the provision of light, heat, power and water including related taxes.

39 Traffic Commissions.

(a) Record here charges by others, including associated companies, for commissions arising from sales of transportation. Commissions, fees or other charges incurred for general agency services, as opposed to commissions arising from sales of transportation, shall not be included in this account but in profit and loss account 43 General Services Purchased.

(b) This account shall be subdivided as follows by Group II and Group III air carriers.

39.1 *Commissions—Passenger.*

Record here charges for commissions arising from sales of passenger transportation.

39.2 *Commissions—Property.*

Record here charges for commissions arising from sales of nonpassenger transportation.

40 Legal Fees and Expenses.

Record here expenditures incurred for legal services by counsel retained on a fee basis and related expenses reimbursed or borne directly by the air carrier and other expenses incurred directly by the air carrier for legal supplies not obtainable from the air carrier's general stationery stock. This account shall not be charged with legal fees or expenses incurred in connection with claims occasioned by accidents or other casualties. Such charges shall be accumulated in balance sheet account 1890 Other Assets and cleared to profit and loss account 58 Injuries, Loss and Damage upon settlement of insurance claims. Nor should this account include fees or expenses related to developmental projects. Such expenses shall be included, as appropriate, in profit and loss account 89.9 Other Miscellaneous Nonoperating Debits or balance sheet account 1830 Unamortized Developmental and Preoperating Costs.

[ER–980, 42 FR 37, Jan. 3, 1977]

41 Professional and Technical Fees and Expenses.

Record here fees and expenses, other than legal fees and expenses, incurred for outside professional and technical services which are reimbursed or borne directly by the air carrier. This account shall not include fees or expenses related to developmental projects. Such expenses shall be included, as appropriate, in profit and loss account 89.9 Other Miscellaneous Nonoperating Debits or balance sheet account 1830 Unamortized Developmental and Preoperating Costs.

[ER–980, 42 FR 37, Jan. 3, 1977]

43 General Services Purchased.

(a) Record here charges for services performed for the air carrier by outside and associated companies which are not identifiable with services provided for in profit and loss accounts 37 through 41, inclusive, or which are not expressly identified with other objective expense accounts.

(b) Charges from outside and associated companies for services provided the air carrier under aircraft interchange agreements or other agreements embracing a complete activity or service, such as the operating of jointly used ground facilities, shall be included in this account for each operating function to which the services contribute. Charges for providing aircraft capacity, including charges for depreciation and interest on the capital related to the flight equipment provided, shall be included in function 5100 Flying Operations.

(c) This account shall be subdivided by each air carrier group, as follows:

GROUP II AND GROUP III AIR CARRIERS

43.1 *Airframe and Other Flight Equipment Repairs.*

Record here charges for maintenance or repair of airframes and spare parts related to airframes owned or leased by the air carrier. Charges for maintenance or repair of other

flight equipment (including instruments) owned or leased by the air carrier, excluding aircraft engines and spare parts related to aircraft engines, shall also be recorded here. Instruments shall include all gauges, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines, which are maintained separately from airframes and aircraft engines. Charges by outside and associated companies for maintenance of flight equipment provided under aircraft interchange agreements shall not be included in this subaccount but in subaccount 43.7 Aircraft Interchange Charges.

43.2 *Aircraft Engine Repairs.*

Record here charges for maintenance of repair or aircraft engines, including spare parts related to aircraft engines owned or leased by the air carrier. Charges by outside and associated companies for maintenance of aircraft engines provided under aircraft interchange agreements shall not be included in this subaccount but in subaccount 43.7 Aircraft Interchange Charges.

GROUP I AIR CARRIERS

43.6 *Flight Equipment Repairs.*

Record here charges for maintenance or repair of flight equipment of all types and classes owned or leased by the air carrier. Charges by outside and associated companies for maintenance of flight equipment provided under aircraft interchange agreements shall not be included in this subaccount but in subaccount 43.7 Aircraft Interchange Charges.

ALL AIR CARRIER GROUPS

43.7 *Aircraft Interchange Charges.*

Record here charges by outside and associated companies for providing aircraft capacity or services related to the direct operation or maintenance of flight equipment under aircraft interchange agreements.

43.8 *General Interchange Service Charges.*

Record here charges by outside and associated companies for services provided the air carrier under aircraft interchange agreements, other than charges related to the direct operation or maintenance of flight equipment, including all charges for maintenance and repair of group properties, as well as fees or charges for traffic solicitation and sales, or supervision and administration covered by the aircraft interchange agreements. Charges for depreciation or interest on capital related to flight equipment provided under interchange agreements shall not be included in this subaccount but in subaccount 43.7 Aircraft Interchange Charges.

43.9 *Other Services.*

Record here charges for maintenance and repair of ground property and equipment of all types and classes and other charges for services performed by outside and associated companies not provided for elsewhere. This subaccount shall include only those charges for services not provided for elsewhere in profit and loss accounts 37 to 41, inclusive, and subaccounts 43.1 to 43.8, inclusive, embracing a complete activity or service provided by outside and associated companies such as the operation of traffic offices or other facilities used jointly with the air carrier which do not represent reimbursement of specific expense elements incurred expressly for the benefit of the air carrier. Reimbursement of expenses incurred expressly for the benefit of the air carrier shall be entered in appropriate personnel compensation or other objective expense accounts. The cost of services received in the repair of general ground properties shall be charged to subfunction 5200 Direct Maintenance; and services received in the repair of maintenance buildings and equipment shall be charged to subfunction 5300 Maintenance Burden.

[Amdt. 241–56, 52 FR 9129, Mar. 23, 1987]

44 Landing Fees.

Record here the charges and fees incurred for landing of aircraft while in line operation.

45 Aircraft Fuels and Oils.

(a) Record here the cost of fuels and oils issued from stocks of the air carrier, or delivery directly by others, to aircraft for use in flight operations. Adjustments of inventories of aircraft fuel and oil shall also be entered in this account. The cost of fuels and oils used in repairs and maintenance services and nonrefundable fuel and oil taxes shall not be included in this account but in profit and loss accounts 49 Shop and Servicing Supplies and 69 Taxes—Other than Payroll, respectively.

(b) This account shall be subdivided as follows by Group II and Group III air carriers:

45.1 *Aircraft Fuels.*

Record here the cost of fuels used in flight operations.

45.2 *Aircraft Oils.*

Record here the cost of oils used in flight operations.

46 Maintenance Materials.

(a) Record here the cost of materials and supplies consumed directly in specific property and equipment maintenance projects.

(b) This account shall be subdivided as follows:

GROUP II AND GROUP III AIR CARRIERS

46.1 *Materials—Airframes and Other Flight Equipment.*

Record here the cost of materials and supplies consumed directly in maintenance of airframes and spare parts related to airframes. Other flight equipment (including instruments), excluding aircraft engines and spare parts related to aircraft engines, shall also be recorded here. Instruments shall include all gauges, meters, measuring devices, and indicators, together with appurtenances thereto for installation in aircraft and aircraft engines, which are maintained separately from airframes and aircraft engines.

46.2 *Materials—Aircraft Engines.*

Record here the cost of materials and supplies consumed directly in maintenance of aircraft engines and spare parts related to aircraft engines.

GROUP I AIR CARRIERS

46.6 *Materials—Flight Equipment.*

Record here the cost of materials and supplies consumed directly in the maintenance of flight equipment of all types and classes.

ALL AIR CARRIER GROUPS

46.9 *Materials—Ground Property and Equipment.*

Record here the cost of materials and supplies consumed directly in the maintenance of ground property and equipment of all types and classes. The cost of materials and supplies consumed in the repair of general ground properties shall be charged to subfunction 5200 Direct Maintenance and materials and supplies consumed in the repair of maintenance buildings and equipment shall be charged to subfunction 5300 Maintenance Burden.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–1401, 50 FR 245, Jan. 3, 1985]

47 Rentals.

Record here rentals, fee, or charges incurred in the use of property and equipment provided by others. When a lease arrangement provides that the amounts paid include charges for maintenance, insurance, or taxes, the amounts related thereto shall not be recorded in this account but in the appropriate expense account to which related.

49 Shop and Servicing Supplies.

Record here the cost of supplies and expendable small tools and equipment used in maintaining, servicing and cleaning property or equipment the cost of which cannot be directly assigned to a specific job or type of work.

50 Stationery, Printing and Office Supplies.

Record here the cost of stationery and forms used by the air carrier including the cost of engineering and shipping supplies.

51 Passenger Food Expense.

(a) Record here the cost of food and refreshments served passengers except food costs arising from interrupted trips.

(b) If the air carrier prepares its own food, the initial cost and expenses incurred in the preparation thereof shall be accumulated in a clearly identified clearing account through which the cost of food shall be cleared to this account, to profit and loss account 36 Personnel Expenses, and to profit and loss account 10 Hotel, Restaurant and Food Service on bases which appropriately allocate the cost of food served passengers, the cost of food provided employees without charge and the cost of food sold.

53 Other Supplies.

Record here the cost of supplies consumed and not provided for otherwise.

54 Inventory Adjustments.

Record here adjustments for overage, shortage or shrinkage of inventories carried in balance sheet account 1300 Spare Parts and Supplies. Adjustment of aircraft fuel and oil inventories due to retroactive price increases and decreases shall not be included in this account but in profit and loss account 45 Aircraft Fuels and Oils. Gains or losses from retirements of materials and supplies shall not be recorded in this account but in profit and loss account 88.5 Capital Gains and Losses—Operating Property.

[ER–980, 42 FR 37, Jan. 3, 1977]

55 Insurance—General.

Record here the cost of public liability and property damage insurance and all other general insurance except insurance covering liability for injuries, loss, and damage to passengers and cargo, and insurance carried for the protection or welfare of employees.

[ER–948, 41 FR 12295, Mar. 25, 1976]

56 Insurance—Traffic Liability.

Record here the cost of purchased insurance covering liability for injuries, loss and damage to passengers and cargo.

[ER–980, 42 FR 37, Jan. 3, 1977]

57 Employee Benefits and Pensions.

(a) Record here all costs for the benefit or protection of employees including all pension expenses whether for payments to or on behalf of retired employees or for accruals or annuity payments to provide for pensions; and all expenses for accident, sickness, hospital, and death benefits to employees or the cost of insurance to provide these benefits. Include, also, expenses incurred in medical, educational, or recreational activities for the benefit of employees. Do not include vacation and sick leave pay, or salaries of doctors, nurses, trainees, or instructors, which shall be recorded in the regular salary accounts.

(b) [Reserved]

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 37, Jan. 3, 1977; ER–1188, 45 FR 48871, July 22, 1980]

58 Injuries, Loss and Damage.

Record here the remainder of gains, losses or costs resulting from accidents, casualties or mishandlings, after offsetting insurance recoveries, as accumulated until finally determined in balance sheet account 1890 Other Assets and Deferred Charges. This account shall not include gains or losses from retirement of property and equipment resulting from casualties. Such gains or losses shall be recorded in appropriate capital gains or losses accounts.

[Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

59 Schedules and Timetables.

Record here the production and distribution cost, excluding compensation of air carrier personnel, of all operating schedules, timetables, circulars and related quick reference charts.

[ER–1401, 50 FR 245, Jan. 3, 1985]

60 Advertising.

Record here the cost, excluding compensation of air carrier personnel, of all space, direct mail, spot and other advertising for the purpose of increasing air travel, disseminating air travel information and publicizing services offered by the air carrier.

61 Foreign Exchange Gains and Losses.

Record here gains or losses from transactions involving currency translations resulting from normal, routine, current fluctuations in rates of foreign exchange. Gains or losses of a nonroutine abnormal character and gains or losses which arise from long-term debt principal and interest transactions shall not be entered in this account but in profit and loss account 85, Foreign Exchange Gains and Losses.

[Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

62 Other Promotional and Publicity Expenses.

Record here the costs, excluding compensation of air carrier personnel, of producing and distributing publicity releases and other expenses, not chargeable to profit and loss accounts 59 and 60, incurred for the purpose of publicizing or improving the public relations of the air carrier generally.

63 Interrupted Trips Expense.

Record here expenses allowed or paid for the care and serving of passengers because of unscheduled interruptions in passenger journeys. Transportation refunds and the cost of forwarding traffic by surface common carrier or otherwise as a result of such interruptions shall not be charged to this account but to the appropriate operating revenue account.

64 Memberships.

Record here the cost of membership dues in trade associations, chambers of commerce, or other business associations and organizations together with special assessments related thereto.

65 Corporate and Fiscal Expenses.

Record here corporate and fiscal fees and expenses of the air carrier and all expenses in connection with exchange and transfer of capital stock excluding expenses in connection with original issuance of capital stock.

66 Uncollectible Accounts.

Record here losses from uncollectible accounts and allowance provisions and adjustments thereto, for such losses. When allowances for uncollectible accounts are established, losses as realized shall be charged against such allowances and shall not be charged to this account.

[ER–980, 42 FR 37, Jan. 3, 1977]

67 Clearance, Customs and Duties.

Record here clearance, customs, duties and brokerage fees and charges applicable to clearing aircraft and traffic.

68 Taxes—Payroll.

Record here all taxes levied against the air carrier based upon or directly relating to compensation of personnel.

69 Taxes—Other Than Payroll.

(a) Record here all taxes levied against the air carrier not otherwise provided for including nonrefundable aircraft fuel and oil taxes. Interest and penalties on delinquent taxes shall not be charged to this account but to profit and loss accounts 82 Other Interest and 89.9 Other Miscellaneous Nonoperating Debits, respectively.

(b) Entries to this account shall clearly reveal each kind of tax and the governmental agency to which paid or payable.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 37, Jan. 3, 1977]

71 Other Expenses.

Record here all expenses ordinarily associated with air transportation and its incidental services not provided for otherwise.

72 Aircraft Overhauls.

(a) Record here airframe and aircraft engine overhauls of the current period which are transferred to balance sheet subaccounts 1601.2 Unamortized Airframe Overhauls or 1602.2 Unamortized Aircraft Engine Overhauls. This account shall also include the amount of deferred overhauls costs being amortized for the current period. For carriers which elect to continue accruing for aircraft overhauls for aircraft types acquired before January 1, 1976, as well as for other aircraft of the same type acquired after January 1, 1976, the related provisions and charges shall be recorded in the appropriate subaccounts of this account.

(b) This account shall be subdivided as follows by all carrier groups:

72.1 *Airworthiness Allowance Provisions—Airframes.*

Record here current provisions for effecting an equitable distribution of airframe overhaul costs between different accounting periods. Record here also credits for airframe overhaul costs incurred in the current period which have been charged against related airworthiness allowances.

72.3 *Airframe Overhauls Deferred.*

Record here airframe overhauls of the current period transferred to subaccount 1601.2, Unamortized Airframe Overhauls, and the amount of deferred airframe overhaul costs amortized for the current period.

72.6 *Airworthiness Allowance Provisions—Aircraft Engines.*

Record here current provisions for effecting an equitable distribution of aircraft engine overhauls costs between different accounting periods. Record here also credits for aircraft engine overhaul costs incurred in the current period which have been charged against related airworthiness allowances.

72.8 *Aircraft Engine Overhauls Deferred.*

Record here airframe overhauls of the current period transferred to subaccount 1602.2, Unamortized Aircraft Engine Overhauls, and the amount of deferred aircraft engine overhaul costs amortized for the current period.

[ER–948, 41 FR 12295, Mar. 25, 1976, as amended by ER–1401, 50 FR 245, Jan. 3, 1985]

73 Provisions for Obsolescence and Deterioration—Expendable Parts.

(a) Where allowances for loss in value of flight equipment expendable parts are established, provisions for accruals

to such allowances shall be charged to this account and credited to balance sheet account 1311 Allowance for Obsolescence in accordance with the provisions of that account.

(b) This account shall be subdivided as follows by all air carrier groups:

73.1 *Current provisions.* Record here provisions during the current period for losses in value of expendable parts.

73.2 *Inventory decline credits.* Record here credits applicable to the current period for any adjustments for excess inventory allowance levels determined pursuant to section 6–1311.

[ER–980, 42 FR 37, Jan. 3, 1977]

74 Amortization.

(a) Record here amortization of deferred changes attaching to the air transportation services conducted by the air carrier which are not prepayments of recurrent expenses ordinarily requiring expenditures of working capital within one year.

(b) This account shall be subdivided as follows by all air carrier groups:

74.1 *Developmental and Preoperating Expenses*

Record here amortization of the cost of projects carried in balance sheet account 1830 Unamortized Developmental and Preoperating Costs.

74.2 *Other Intangibles.*

Record here mortization of the cost of intangibles not provided for otherwise.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 38, Jan. 3, 1977; Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

75 Depreciation.

(a) Record here provisions for depreciation of property and equipment carried in balance sheet accounts 1601 through 1640, inclusive.

(b) This account shall be subdivided as follows:

ALL AIR CARRIER GROUPS

75.1 *Depreciation—Airframes.*

Record here provisions for depreciation of property and equipment carried in balance subaccount 1601.1 Airframes.

75.2 *Depreciation—Aircraft Engines.*

Record here provisions for depreciation of property and equipment carried in balance sheet subaccount 1602.1 Aircraft Engines.

GROUP II AND GROUP III AIR CARRIERS

75.3 *Depreciation—Airframe Parts.*

Record here provisions for depreciation of spare airframe instruments and parts carried in balance sheet subaccount 1608.1 Airframe Parts and Assemblies.

75.4 *Depreciation—Aircraft Engine Parts.*

Record here provisions for depreciation of spare aircraft engine instruments and parts carried in balance sheet subaccount 1608.5 Aircraft Engine Parts and Assemblies.

ALL AIR CARRIER GROUPS

75.5 *Depreciation—Other Flight Equipment.*

Record here provisions for depreciation of property and equipment carried in balance sheet account 1607 Improvements to Leased Flight Equipment (exclusive of capitalized overhauls accounted for on a deferral and amortization basis) and balance sheet subaccount 1608.9 Other Parts and Assemblies. Group I air carriers shall also include in this subaccount provisions for depreciation of property carried in balance sheet account 1608 Flight Equipment Rotable Parts and Assemblies.

75.6 *Depreciation—Flight Equipment.*

This classification is established only for purposes of control by the BTS and shall include all charges to operating expenses for depreciation of flight equipment of all types and classes.

75.8 *Depreciation—Maintenance Equipment and Hangars.*

Record here provisions for depreciation of maintenance property and equipment included in balance sheet accounts 1630 Equipment, 1639 Improvements to Leased Buildings and Equipment, and 1640.1 Maintenance Buildings and Improvements.

75.9 *Depreciation—General Ground Property.*

Record here provisions for depreciation of property and equipment included in balance of property and equipment included in balance sheet accounts 1630 through 1640, exclusive of provision for depreciation of maintenance property and equipment included in account 75.8.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–948, 41 FR 12296, Mar. 25, 1976; ER–980, 42 FR 38, Jan. 3, 1977; 60 FR 66723, Dec. 26, 1995]

76 Amortization Expense—Capital Leases.

(a) Record here amortization charges applicable to assets recorded under capital leases in Account 1695 — Leased Property under Capital Leases.

(b) This account shall be subdivided as follows by all air carrier groups:

76.1 *Amortization—Capitalized Flight Equipment.*

Record here amortization charges applicable to flight equipment acquired under capital leases.

76.2 *Amortization—Capitalized Other Property and Equipment.*

Record here the amortization charges applicable to property and equipment, other than flight equipment, acquired under capital leases.

[ER–1401, 50 FR 245, Jan. 3, 1985]

77 Uncleared Expense Credits.

(a) Record here credits to operating expenses, which have not been cleared to the objective accounts to which applicable.

(b) Each air carrier shall credit, or charge as appropriate, the objective account prescribed for each expense element which may be involved in distribution of expenses between separate reporting entities or nontransport divisions of the air carrier. At the option of the air carrier, either the individual applicable objective accounts or this account may be credited with amounts capitalized, charged against incidental services, or otherwise assigned to other than separate operating entities of the air carrier provided the aggregate credits to this account in each function do not, for any accounting year, distort the individual objective accounts of the function to which related and all expense credits applicable to complete individual transactions are consistently credited either to this account or the individual objective accounts to which related. Each air carrier using this account shall establish such standard practices as may be prescribed by the BTS or, in the absence of such action by the Civil Aeronautics Board, such standard practices as will prevent credits to this account from significantly distorting the individual objective accounts of each function to which related.

(c) This account shall not be credited with amounts applicable to objective accounts of the Flying Operations, Depreciation, and Direct Maintenance functions. Credits applicable to such functions shall be carried to the individual objective accounts to which applicable.

(d) This account shall be subdivided as follows by all air carrier groups:

77.8 *Uncleared Interchange Expense Credits.*

Record here credits to operating expenses, from operations performed for others under aircraft interchange agreements, which have not been cleared to the objective accounts to which applicable.

77.9 *Other Uncleared Expense Credits.*

Record here credits to operating expenses, from other than operations under aircraft interchange agreements, which have not been cleared to the objective accounts to which applicable.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

78 Direct Maintenance—Flight Equipment.

This classification is established for purposes of control by the BTS and shall include all charges to operating expenses for maintenance of flight equipment of all types and classes.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended at 60 FR 66723, Dec. 26, 1995]

79 Applied Burden Debit/Credit.

(a) This classification is established only for purposes of control by the BTS and reporting on Form 41 by air carriers, and shall reflect all maintenance burden applied in accordance with the provisions of section 24, schedule P–5 of this system of accounts and reports.

(b) This classification shall be subdivided as follows by all air carrier groups:

79.6 Applied Burden—Flight Equipment.
79.8 Applied Burden—General Ground Property.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–979, 38 FR 10926, May 3, 1973; 60 FR 66723, Dec. 26, 1995]

Section 14—Objective Classification—Nonoperating Income and Expense

80 Interest Income.

Included under account 89 Other Nonoperating Income and Expense—Net.

[ER–1401, 50 FR 245, Jan. 3, 1985]

81 Interest on Long-term Debt and Capital Leases.

(a) Record here interest expense applicable to long-term debt and capitalized leases.

(b) This account shall be subdivided as follows by all air carrier groups:

81.1 *Interest expense—long-term debt.*

Record here interest on all classes of long-term debt. This includes interest expense applicable to all portions of long-term debt

which are classified as either current (Account 2000) or long-term (Account 2210) for balance sheet classification purposes.

81.2 *Interest expense—capital leases.*

Record here for all capitalized leases, that portion of each lease payment which represents interest expense.

[ER–1013, 42 FR 37516, July 21, 1977]

82 Other Interest.

(a) This account shall be subdivided as follows by all air carrier groups:

82.1 *Interest Expense—Short-Term Debt.*

Record here interest on all classes of short-term debt.

83.1 *Imputed Interest Capitalized—Credit.*

Record here credits related to imputed interest capitalized and recorded in asset accounts.

83.2 *Imputed Interest Deferred—Debit.*

Record here debits related to imputed interest deferred in balance sheet account 2390, Other deferred credits.

83.3 *Imputed Interest Deferred—Credit.*

Record here periodic credits for imputed interest, cleared to this account as the amount of such interest in the asset accounts is amortized.

83.4 *Interest Capitalized—Credit.*

Record here interest which is capitalized and recorded in asset accounts.

84.1 *Amortization of discount and expense on debt.*

Record here for all classes of debt the amortizations of discount and expense on short-term and long-term obligations.

84.2 *Amortization of premium on debt.*

Record here for all classes of debt the amortizations of premium on short-term and long-term obligations.

(b) [Reserved]

[ER–1401, 50 FR 245, Jan. 3, 1985, as amended by Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

83 Capitalized Interest.

Included under account 82 Other Interest.

[ER–1401, 50 FR 245, Jan. 3, 1985]

84 Amortization of Debt Discount, Premium and Expense.

Included under account 82 Other Interest.

[ER–1401, 50 FR 245, Jan. 3, 1985]

85 Foreign exchange gains and losses.

Record here gains and losses from transactions involving currency translations resulting from nonroutine abnormal changes in rates of foreign exchange and gains or losses which arise from translations of long-term debt principal and interest transactions.

[Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

86 Income from Nontransport Ventures.

Included under account 89 Other Non-Operating Income and Expense—Net.

[ER–980, 42 FR 38, Jan. 3, 1977]

87 Equity in Income of Investor Controlled Companies.

Included under account 89 Other Nonoperating Income and Expense—Net.

[ER–1401, 50 FR 245, Jan. 3, 1985]

89 Other Nonoperating Income and Expense—Net.

(a) Record here all debits and credits of a nonoperating character which are not otherwise provided for in this section.

(b) This account shall be subdivided as follows by all air carrier groups:

80.0 *Interest Income.*

(a) Record here interest income from all sources. This account shall include as an increase or reduction of interest received the proportionate amortization of any discount or premium on the purchase price of securities of others held by the air carrier.

(b) This account shall not include interest on securities issued or assumed by the air carrier and subsequently reacquired.

86.0 *Income from Nontransport Ventures.*

(a) Record here the gross revenues and expenses applicable to operations not reasonably considered as incidental to the commercial air transport services of the accounting entity; rents from nonoperating properties used by others; income or loss from nontransport divisions; and other income or loss from activities of the air carrier which are extraneous to the air transport and incidental services of the accounting entity.

(b) This account shall include revenues and expenses applicable to nonscheduled transport services performed for the defense establishment when separate reports for such services are required in accordance with section 21 ''Introduction to System of Reports.'' Where the foregoing transport services are not required to be separately reported, gross revenues from such services shall be included in profit and loss account 07 Charter, or other appropriate revenue account, and gross expenses shall be included in the appropriate operating expense functions.

87.0 *Equity in Income of Investor Controlled Companies.*

Record here the equity in the current earnings or losses of investor controlled companies. Dividends declared on the stock of such companies shall not be included in this account as income but shall be entered in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies as a return on investment.

88.1 *Intercompany Transaction Adjustment—Credit.*

Record here all intercompany credits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled.

88.2 *Dividend income.*

Record here income from dividends declared on stocks of other than investor controlled companies. Dividends declared on stock of investor controlled companies shall not be included in this account but shall be entered in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies.

88.3 *Net Unrealized Gain or Loss on Marketable Equity Securities.*

Record here the net unrealized gain or loss on the valuation of marketable equity securities.

88.4 *Net Realized Gain or Loss on Marketable Equity Securities.*

Record here the net realized gain or loss on the valuation of marketable equity securities.

88.5 *Capital gains and losses—operating property.*

Record here gains or losses on retirements of operating property and equipment, flight equipment expendable parts, or miscellaneous materials and supplies sold or otherwise retired in connection with a general retirement program as opposed to incidental sales performed as a service to others.

88.6 *Capital gains and losses—other.*

Record here gains or losses not required to be reported in accounts 88.3, 88.4 and 88.5 such as gains or losses on retirement of nonoperating property and equipment, investments in other than marketable equity securities, and the transfer of assets in a troubled debt restructuring.

88.7 *Unapplied cash discounts.*

Record here cash discounts on routine purchases of materials, repair parts or supplies. Cash discounts on classes of assets included in property and equipment accounts shall not be recorded in this account but shall be applied as a reduction of the cost of such accounts.

88.9 *Other miscellaneous nonoperating credits.*

Record here all credits of a nonoperating character not provided for otherwise, such as royalties from patents, gains from reacquisition and retirement or resale of debt securities issued by the air carrier, and gains resulting from troubled debt restructurings.

89.1 *Intercompany Transaction Adjustment—Debit.*

Record here all intercompany debits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled.

89.9 *Other Miscellaneous Nonoperating Debits.*

Record here all debits of a nonoperating character not provided for otherwise, such as the following:

(a) Fines or penalties imposes by governmental authorities;

(b) Costs associated with employment discrimination that include the following:

(1) Fines or penalties paid by the carrier as a result of a judicial or administrative decree; or the amount paid to the complainant in settling or securing a consent decree;

(2) Back pay awards as a result of a judicial or administrative decree or a compromise settlement regardless of admission of guilt;

(3) Attorneys' fees or court costs awarded to the complainant by a judicial or administrative decree or as a result of a compromise settlement regardless of admission of guilt;

(4) The fees of outside legal counsel or of experts retained in the unsuccessful defense of a discrimination suit or in securing a compromise settlement or consent decree, unless the amounts attributable to the discrimination are not reasonably identifiable; or

(5) Any other expenses, such as employee salaries, resulting from employment practices that were found to be discriminatory or that were the subject of a compromise settlement or consent decree where the amounts attributable to discrimination are reasonably identifiable.

(c) Amortization expense attributable to capital leases recorded in balance sheet Account 1795, Leased Property under Capital Leases;

(d) Costs related to property held for future use;

(e) Donations for charitable, social or community welfare purposes;

(f) Losses on reacquired and retired or resold debt securities of the air carrier;

(g) Losses resulting from troubled debt restructurings;

(h) Losses on uncollectible nonoperating receivables; or

(i) Accruals to allowance for uncollectible nonoperating receivables.

(Secs. 204, 404, 407, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766, 788, (49 U.S.C. 1324, 1374, 1377, 1482))

[ER–980, 42 FR 38, Jan. 3, 1977, as amended by ER–1013, 42 FR 37516, July 21, 1977; ER–1027, 42 FR 60128, Nov. 25, 1977; ER–1076, 43 FR

46296, Oct. 6, 1978; ER–1401, 50 FR 245, Jan. 3, 1985; Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

Section 15—Objective Classification—Income Taxes for Current Period

91 Provision for Income Taxes.

(a) Record here quarterly provisions for accruals of Federal, State, local, and foreign taxes based upon net income, computed at the normal tax and surtax rates in effect during the current accounting year. In general, this account shall reflect provisions within each period for currently accruing tax liabilities as actually or constructively computed on tax returns, and any subsequent adjustments. This account shall include credits for refund claims arising from the carryback of losses in the year in which the loss occurs, credits for the carry-forward of losses in the year to which the loss is carried, and investment tax credits in the year in which each credit is utilized to reduce the liability for income taxes.

(b) Income taxes shall be allocated among the transport entities of the air carrier, its nontransport divisions, and members of an affiliated group. Under circumstances in which income taxes are determined on a consolidated basis by an air carrier and other members of an affiliated group, the income tax expense to be recorded by the air carrier shall be the same as would result if determined for the air carrier separately for all time periods, except that the tax effect of carryback and carryforward operating losses, investment tax credits, or other tax credits generated by operations of the air carrier shall be recorded by the air carrier during the period in which applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group. Any difference between the income tax so recorded and the amount at which settlement is to be made shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit, as is appropriate.

(c) This account shall be subdivided as follows by all carrier groups:

91.1 *Income Taxes Before Investment Tax Credits.*

Record here accruals of income taxes based upon taxable income of the period.

91.2 *Investment Tax Credits Utilized.*

Record here investment tax credits utilized to reduce the accrued liability for income taxes.

[Amdt. 241–58, 54 FR 5596, Feb. 6, 1989]

92 Provisions for Deferred Income Taxes.

(a) Record here income tax debits and credits deferred in accordance with the provisions of balance sheet account 2340 Deferred Income Taxes for all material timing differences.

(b) This account shall be subdivided as follows by all air carrier groups:

92.1 *Current Provisions for Deferred Taxes.*
92.2 *Application of Taxes Deferred.*
92.3 *Adjustments of Deferred Taxes.*

[ER–948, 41 FR 12296, Mar. 25, 1976]

93 Investment Tax Credits Deferred and Amortized.

(a) Record here investment tax credits of the current period which are transferred to balance sheet account 2345 Deferred Investment Tax Credits in accordance with the provisions of balance sheet account 2130 Accrued Taxes. This account shall also include amounts for previously deferred investment tax credits amortized during the current period.

(b) This account shall be subdivided as follows by all carrier groups:

93.1 *Investment Tax Credits Deferred.*
93.2 *Amortization of Deferred Investment Tax Credits.*

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by ER–980, 42 FR 39, Jan. 3, 1977]

Section 16—Objective Classification—Discontinued Operations

95 Discontinued Operations.

(a) Record here the earnings (losses) of discontinued nontransport operations. For the purposes of this system of accounts and reports discontinued operations shall refer to the disposal of investor controlled companies and nontransport ventures whether sold, abandoned, spun off, or otherwise disposed of. This account shall not include earnings or losses from discontinued transport or transport-related operations.

(b) This account shall be subdivided as follows by all air carrier groups:

95.1 *Income from Discontinued Operations.*
Record here the results of operations of the discontinued operations.

95.2 *Loss of Disposal of Discontinued Operations.*
Record here the gain or loss on the disposal of an operation. If loss is anticipated it should be provided for at the measurement date. If gain is anticipated it should be recognized when realized.

[ER–948, 41 FR 12296, Mar. 25, 1976]

Section 17—Objective Classification—Extraordinary Items

96 Extraordinary Items.

Record here material items characterized by their unusual nature and infrequent occurrence. Events or transactions which are material and either unusual or nonrecurring, but not both, shall be recorded in the profit and loss accounts to which they relate and disclosed on BTS Form 41 Schedule P–2 with identification as to their nature and financial effects.

[Amdt. 241–58, 54 FR 5596, Feb. 6, 1989, as amended at 60 FR 66723, Dec. 26, 1995]

97 Income Taxes Applicable to Extraordinary Items.

Record here income taxes allocable to items of income included in profit and loss account 96 Extraordinary Items and income tax assessments that do not constitute ordinary adjustments of a recurrent nature. Records supporting entries to this account shall be maintained with sufficient particularity to identify the nature and gross amount of each extraordinary credit and each extraordinary debit.

[ER–948, 41 FR 12296, Mar. 25, 1976]

Section 18—Objective Classification—Cumulative Effect of Changes in Accounting Principles

98 Cumulative Effect of Changes in Accounting Principles.

Record here the difference between the amount of retained earnings at the beginning of the period of a change in accounting principle and the amount of retained earnings that would have been reported at that date if the new accounting principle had been applied retroactively for all periods which would have been affected and by recognizing only the direct effects of a change and the related income tax effect.

[ER–948, 41 FR 12296, Mar. 25, 1976]

OPERATING STATISTICS CLASSIFICATIONS

Section 19—Uniform Classification of Operating Statistics

Sec. 19–1 Applicability.

(a) *United States air carrier:* Each large certificated U.S. air carrier shall file with the Department, on a monthly basis, Form 41 Schedule T–100 ''U.S. Air Carrier Traffic and Capacity Data By Nonstop Segment and On-flight Market,'' and summary data as prescribed in this section and in sections 22 and 25 of this part. A carrier conducting only domestic all-cargo operations under 49 U.S.C. 41103 is not required to file Schedule T–100. The ''Instructions to U.S. Air Carriers for Reporting Traffic and Capacity Data on Form 41 Schedules T–100, T–1, T–2 and T–3'' (Instructions-U.S. Air Carriers) are contained in the Appendix to section 25 of this part.

(b) *Foreign (non-U.S.) air carrier:* Each foreign air carrier as required by part 217 of this chapter shall file Form 41 Schedule T–100(f) ''Foreign Air Carrier Traffic Data by Nonstop Segment and On-flight Market.'' The ''Instructions to Foreign Air Carriers for Reporting Traffic Data on Form 41 Schedule T–100(f),'' (Instructions-Foreign Air Carriers) are included in the Appendix to § 217.10 of this chapter.

(c) Each U.S. air carrier shall use magnetic computer tape or ''floppy disc'' for transmitting the prescribed data to the Department. Upon good cause shown, OAI may approve the request of a U.S. air carrier, under section 1–2 of this part, to use hardcopy data input forms.

(d) On-flight market and nonstop segment detail data by carrier shall be made public only as provided in section 19–6.

[53 FR 46305, Nov. 16, 1988; 53 FR 52404, Dec. 28, 1988, as amended at 60 FR 66723, Dec. 26, 1995]

Sec. 19–2 Maintenance of data.

(a) Each air carrier required to file Form 41 Schedule T–100 data shall maintain its operating statistics, covering the movement of traffic in accordance with the uniform classifications prescribed. Codes are prescribed for each operating element and service class. All traffic statistics shall be compiled in terms of each flight stage as actually performed.

(b) Each carrier shall maintain data applicable to the specified traffic and capacity elements prescribed in section 19–5 and section 25, and by general service classes prescribed in section 19–4 of this part.

(c) Operating statistics shall be maintained in accordance with the type of record, either nonstop segment or on-flight market.

Sec. 19–3 Accessibility and transmittal of data.

(a) Each reporting air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready accessability for examination by representatives of the Department. The record retention requirements are prescribed in part 249 of this chapter.

(b) Individual nonstop segment and on-flight market data for section 418 domestic all-cargo, domestic charter and military charter operations are not required to be reported on the Schedule T–100, but summary data for such operations shall be included in the T–1, T–2 and T–3 schedules that each U.S. air carrier shall transmit to the Department on a monthly or quarterly basis as prescribed in sections 22 and 25. For international military charters, only the U.S. airports are reported on Schedule T–3, and the foreign airports are combined and reported on a single line, as Airport ''NON.'' International civilian charter and civilian all-cargo operations shall be reported in the T–100 data format, by nonstop segment and on-flight market.

(c) Form 41 Schedule T–100 reports shall be transmitted in accordance with the standard practices established by the Department, and must be received by the Department within 30 days following the end of each reporting month.

Sec. 19–4 Service classes.

The statistical classifications are designed to reflect the operating elements attributable to each distinctive class of service offered. The operating elements shall be grouped in accordance with their inherent characteristics as follows:

(a) *Scheduled services.* Scheduled services shall include traffic and capacity elements applicable to air transportation provided pursuant to published schedules and extra sections to scheduled flights. Scheduled Passenger/Cargo (Service Class F) is a composite of first class, coach, and mixed passenger/cargo service. The following classifications shall be reported, as applicable:

U.S. Air Carriers:
- K—Scheduled Services (F+G)
- F—Scheduled Passenger/Cargo
- G—Scheduled All-Cargo

Foreign Air Carriers:
- F—Scheduled Passenger/Cargo
- G—Scheduled All-Cargo

(b) *Nonscheduled services.* Nonscheduled services shall include all traffic and capacity elements applicable to the performance of nonscheduled aircraft charters, and other air transportation services not constituting an integral part of services performed pursuant to published flight schedules. The following classifications shall be reported, as applicable:

U.S. Air Carriers:
- V—Nonscheduled Services (L+N+P+R)
- L—Nonscheduled Civilian Passenger/Cargo
- P—Nonscheduled Civilian Cargo
- N—Nonscheduled Military Passenger/Cargo
- R—Nonscheduled Military Cargo

Foreign Air Carriers:
- L—Nonscheduled Civilian Passenger Cargo
- P—Nonscheduled Civilian All-Cargo Charters
- Q—Nonscheduled Services (Other than Charter)

(c) *All Services.* This classification shall reflect, for the applicable elements, the aggregate amounts for all services performed by the operating entity:

U.S. Air Carriers:
- Z—All Services (V+K)

Sec. 19–5 Air transport traffic and capacity elements.

(a) Within each of the service classifications prescribed in section 19–4, data shall be reported as applicable to specified air transport traffic and capacity elements.

(b) These reported items are as follows:

Code	Description	Type of Record		Applicable Form 41 Schedule Number
		Segment	Market	
	Carrier, carrier entity code	S	M	T–100(f)1,2,3
	Reporting period date	S	M	T–100(f)1,2,3
	Origin airport code	S	M	T–100(f)3
	Destination airport code	S	M	T–100(f)
	Service class code	S	M	T–100(f)1,2,3
	Aircraft type code	S		T–100(f)1,2,3
110	Revenue passengers enplaned		M	T–100(f)1,3
111	Total psgrs. in market—first cabin		M	T–100
113	Total psgrs. in market—middle cabin		M	T–100
112	Total psgrs. in market—coach cabin		M	T–100
130	Revenue passengers transported	S		T–100(f)
131	Passengers transported—first cabin	S		T–100
133	Passengers transported—middle cabin	S		T–100
132	Passengers transported—coach cabin	S		T–100
140	Revenue passenger-miles			CFD* 1,2
210	Revenue cargo tons enplaned			CFD*
217	Enplaned freight		M	T–100(f),3
219	Enplaned mail		M	T–100 3
230	Revenue tons transported			CFD*
237	Transported freight	S		T–100(f)
239	Transported mail	S		T–100
240	Revenue ton-miles			CFD* 1,2
241	Revenue ton-miles passenger			CFD* 1
247	Revenue ton-miles freight			CFD* 1,2
249	Revenue ton-miles mail			CFD* 1,2
270	Available capacity payload	S		T–100
280	Available ton-miles			CFD* 1,2
310	Available seats, total	S		T–100
311	Available seats—first cabin	S		T–100
313	Available seats—middle cabin	S		T–100
312	Available seats—coach cabin	S		T–100
320	Available seat-miles			CFD* 1,2
410	Revenue aircraft miles flown			CFD* 1,2
430	Revenue aircraft miles scheduled			CFD* 1
501	Interairport distance			CFD* 2
510	Revenue aircraft departures performed	S		T–100(f)1,2,3
520	Revenue aircraft departures scheduled	S		T–100 3
610	Revenue aircraft hours (airborne)	S		T–100 1,2
630	Aircraft hours (ramp-to-ramp)	S		T–100 1,2
650	Total aircraft hours (airborne)			2
810	Aircraft days assigned to service-equip.			2
820	Aircraft days assigned to service-routes			2
921	Aircraft fuels issued (U.S. gallons)			2

*CFD = Computed by DOT from detail Schedule T–100 and T–100(f) data.
T–100 = Form 41 Schedule T–100 for U.S. air carriers
(f) = Form 41 Schedule T–100(f) for foreign air carriers
1– = Form 41 Schedule T–1; 2 = Schedule T–2; 3 = Schedule T–3
NOTE: Cabin data are reported only in Group III international operations; in all other instances, totals are reported in items 110, 130 and 310.

(c) These reported items are further described as follows:

(1) *Reporting period date*. The year and month or quarter to which the reported data are applicable.

(2) *Carrier*, *Carrier entity code*. Each foreign air carrier shall report its name and code (assigned by DOT). Each U.S. air carrier shall report its name and entity code (a five digit code assigned by DOT that identifies both the carrier and its entity) for its particular operations. The Office of Airline Information (OAI) will assign or confirm codes upon request; OAI's address is in the Appendix to section 25 of this part and the Appendix to §217.10 of this chapter.

(3) *Service class code*. The service class codes are prescribed in section 19–4 of

this part. In general, classes are divided into two broad categories, either K (scheduled) or V (nonscheduled), where K=F+G for all carriers and V=L+N+P+R for U.S. air carriers and comprises L+P and Q for foreign air carriers. Refer to section 19–4 for the more information on service class codes F, G, L, N, P, R and Q.

(4) *Record type code*. This code indicates whether the data pertain to nonstop segment (record type S) or on-flight market (record type M).

(5) *Aircraft type code*. This code represents the aircraft types, as described in the Appendix to section 25 of this part.

(6) *Origin, Destination airport code(s)*. These codes represent the industry designators described in the Appendix to section 25 of this part. A common private industry source of these industry designator codes is the *Official Airline Guides* (OAG). OAI will assign codes upon request if not listed in the OAG.

(7) *110 Revenue passengers enplaned*. The total number of revenue passengers enplaned at the origin point of a flight, boarding the flight for the first time; an unduplicated count of passengers in a market. Under the T–100 system of reporting, these enplaned passengers are the sum of the passengers in the individual on-flight markets. Report only the total revenue passengers enplaned in item 110. For all air carriers and all entities, item 110 revenue passengers enplaned is reported on Form 41 Schedule T–100 in column C–1, as follows:

	Col.	All carrier groups and entities
C–1	110	Revenue passengers enplaned.

(8) *130 Revenue passengers transported*. The total number of revenue passengers transported over single flight stage, including those already on board the aircraft from a previous flight stage. Report only the total revenue passengers transported in item 130. For all air carriers and all entities, item 130 revenue passengers transported is reported on Form 41 Schedule T–100 in Column B–7, as follows:

	Col.	All carrier groups and entities
B–7	130	Revenue passengers transported.

(9) *140 Revenue passenger-miles*. Computed by multiplying the interairport distance of each flight stage by the number of passengers transported on that flight stage.

(10) *210 Revenue cargo tons enplaned*. The total number of cargo tons enplaned. This data element is a sum of the individual on-flight market figures for each of the following categories: 217 Freight and 219 mail. This element represents an unduplicated count of the revenue traffic in a market.

(11) *230 Revenue tons transported*. The number of tons of revenue traffic transported. This element is the sum of the following elements: 231 Passengers transported-total, 237 Freight, and 239 Mail.

(12) *240 Revenue ton-miles—total*. Ton-miles are computed by multiplying the revenue aircraft miles flown (410) on each flight stage by the number of tons transported on that stage. This element is the sum of 241 through 249.

(13) *241 Revenue ton-miles—passenger*. Equals the number of passengers times 200, times interairport distance, divided by 2000. A standard weight of 200 pounds per passenger, including baggage, is used for all operations and service classes.

(14) *247 Revenue ton-miles—freight*. Equals the volume of freight in whole tons times the interairport distance.

(15) *249 Revenue ton-miles—mail*. Equals the volume of mail in whole tons times the interairport distance.

(16) *270 Available capacity-payload*. The available capacity is collected in pounds. This figure shall reflect the payload or total available capacity for passengers, mail and freight applicable to the aircraft with which each flight stage is performed.

(17) *280 Available ton-miles*. The aircraft miles flown on each flight stage multiplied by the available capacity on the aircraft in tons.

(18) *310 Available seats*. The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310. For all air carriers and all entities, item 310 available seats, total is reported on Form 41 Schedule T–100 in column B–4, as follows.

	Col.	All carrier groups and entities
B–4	310	Available seats, total.

(19) *320 Available seat-miles*. The aircraft miles flown on each flight stage multiplied by the seat capacity available for sale.

(20) *410 Revenue aircraft miles flown*. Revenue aircraft miles flown are computed in accordance with the airport pairs between which service is actually performed; miles are generated from the data for scheduled aircraft departures (Code 520) times the interairport distances (Code 501).

(21) *430 Revenue aircraft miles scheduled*. The number of revenue aircraft miles scheduled. All such data shall be maintained in conformity with the airport pairs between which service is scheduled, whether or not in accordance with actual performance.

(22) *501 Interairport distance*. The great circle distance, in official statute miles as prescribed in part 247 of this chapter, between airports served by each flight stage. Official interairport mileage may be obtained from the Office of Airline Information at the address included in section 25 of this part.

(23) Revenue aircraft departures performed. The number of revenue aircraft departures performed.

(24) *520 Revenue aircraft departures scheduled*. The number of revenue aircraft departures scheduled, whether or not actually performed.

(25) *610 Revenue aircraft hours (airborne)*. The elapsed time, computed from the moment the aircraft leaves the ground until its next landing.

(26) *630 Aircraft hours (ramp-to-ramp)*. The elapsed time, computed from the moment the aircraft first moves under its own power from the boarding ramp at one airport to the time it comes to rest at the ramp for the next point of landing. This data element is also referred to as ''block'' and block-to-block aircraft hours.

(27) *650 Total aircraft hours (airborne)*. The elapsed time, computed from the moment the aircraft leaves the ground until it touches down at the next landing. This includes flight training, testing, and ferry flights.

(28) *810 Aircraft days assigned to service—carrier's equipment*. The number of days that aircraft owned or acquired through rental or lease (but not interchange) are in the possession of the reporting air carrier and are available for service on the reporting carrier's routes plus the number of days such aircraft are in service on routes of others under interchange agreements. Includes days in overhaul, or temporarily out of service due to schedule cancellations. Excludes days that newly acquired aircraft are on hand, but not available for productive use, days rented or leased to others (for other than interchange) and days in possession but formally withdrawn from air transportation service.

(29) *820 Aircraft days assigned to service—carrier's routes*. The same as ''aircraft days assigned to service—carrier's equipment,'' but excluding the number of days that the reporting carrier's owned or rented equipment are in the possession of others under interchange agreements and including the number of days aircraft of others are in the possession of the reporting air carrier under interchange agreements.

(30) *921 Aircraft fuels issued (gallons)*. The amount of aircraft fuels issued, in U.S. gallons, during the reporting period for both revenue and nonrevenue flights.

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by Amdt. 241–58, 54 FR 7184, Feb. 17, 1989; 60 FR 66723, Dec. 26, 1995; 62 FR 6718, Feb. 13, 1997]

Section 19–6 Public disclosure of traffic data.

(a) Detailed domestic on-flight market and nonstop segment data in Schedule T–100 shall be made publicly available after processing. Domestic data are defined as data from air transportation operations from a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession to a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession.

(b) Detailed international on-flight market and nonstop segment data in Schedule T–100 and Schedule T–100(f) reports shall be publicly available immediately following the Department's

determination that the database is complete, but no earlier than six months after the date of the data. Data for on-flight markets and nonstop segments involving no U.S. points shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months or the end of three years, as applicable, provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data by carrier before the end of the confidentiality periods as follows:

(1) To foreign governments as provided in reciprocal arrangements between the foreign country and U.S. Government for exchange of on-flight market and/or nonstop segment data submitted by air carriers of that foreign country and U.S. carriers serving that foreign country;

(2) To parties to any proceeding before the Department under Title IV of the Federal Aviation Act of 1958, as amended, as required by the Administrative Law Judge or other decision-maker of the Department. Parties may designate agents or consultants to receive the data in their behalf, provided the agents or consultants agree to abide by the disclosure restrictions. Any data to which access is granted pursuant to this provision may be introduced into evidence, subject to the normal rules of admissibility of evidence.

(3) To agencies and other components of the U.S. Government for their internal use only.

[Amdt. 241–59, 56 FR 2845, Jan 25, 1991, as amended at 62 FR 6719, Feb. 13, 1997]

Sec. 19–7 Passenger origin-destination survey.

(a) All U.S. large certificated air carriers conducting scheduled passenger operations (except helicopter carriers) shall participate in a Passenger Origin-Destination (O & D) Survey covering domestic and international operations, as described in the instructions manual entitled, *Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics* (Appendix A to this section), and in *Passenger Origin-Destination Directives* issued by the Department's Bureau of Transportation Statistics (BTS), Office of Airline Information (OAI). Copies of these *Instructions* and *Directives* are provided to each large carrier participating in the Survey. Copies are also available from the Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(b) Those participating air carriers that have access to automatic data processing (ADP) services shall utilize magnetic tape, cartridge, floppy diskette or other ADP media for transmitting the prescribed data. Those carriers without ADP capability should contact the Office of Airline Information for further instructions ((202) 366–4373).

(c) A statistically valid sample of light coupons shall be selected for reporting purposes. The sample shall consist of at least 1 percent of the total lifted ticket flight coupons for all large domestic markets listed in the Instructions and 10 percent for all others—including domestic and international markets. The sample shall be selected and reported in accordance with the requirements of paragraph (a) of their section, except that the participating O & D carriers with nonstandard ticketing procedures, or other special operating characteristics, may propose alternative procedures. Such departures from standard O & D Survey practices shall not be authorized unless approved in writing by the Director, Office of Airline Information under the procedures in Sec. 1–2 of 14 CFR part 241. The data to be recorded and reported from selected lifted ticket flight coupons, as stipulated in the *Instructions* and *Directives* shall include the following data elements: Point of origin, carrier on each flight-coupon stage, fare-basis code for each flight-coupon stage, points of stopover or connection (interline and intraline), point of destination, number of passengers, and total dollar value of ticket (fare plus tax).

(d) Data covering the operations of foreign air carriers that are similar to the information collected in the Passenger Origin-Destination Survey are

generally not available to the Department, the U.S. carriers, or U.S. interests. Therefore, because of the damaging competitive impact on U.S. carriers and the adverse effect upon the public interest that would result from unilateral disclosure of the U.S. survey data, the Department has determined its policy to be that the international data in the Passenger Origin-Destination Survey shall be disclosed only as follows:

(1) To an air carrier directly participating in and contributing input data to the Survey or to a legal or consulting firm designated by an air carrier to use on its behalf O & D data in connection with a specific assignment by such carrier.

(2) To parties to any proceeding before the Department to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the Administrative Law Judge or by the Department's decision-maker. Any data to which access is granted pursuant to this section may be introduced into evidence subject to the normal rules of admissability of evidence.

(3) To agencies and other components of the U.S. Government.

(4) To other persons upon a showing that the release of the data will serve specifically identified needs of U.S. users which are consistent with U.S. interests.

(5) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable O & D data.

(e) The Department reserves the right to make such other disclosures of the O & D data as is consistent with its regulatory functions and responsibilities.

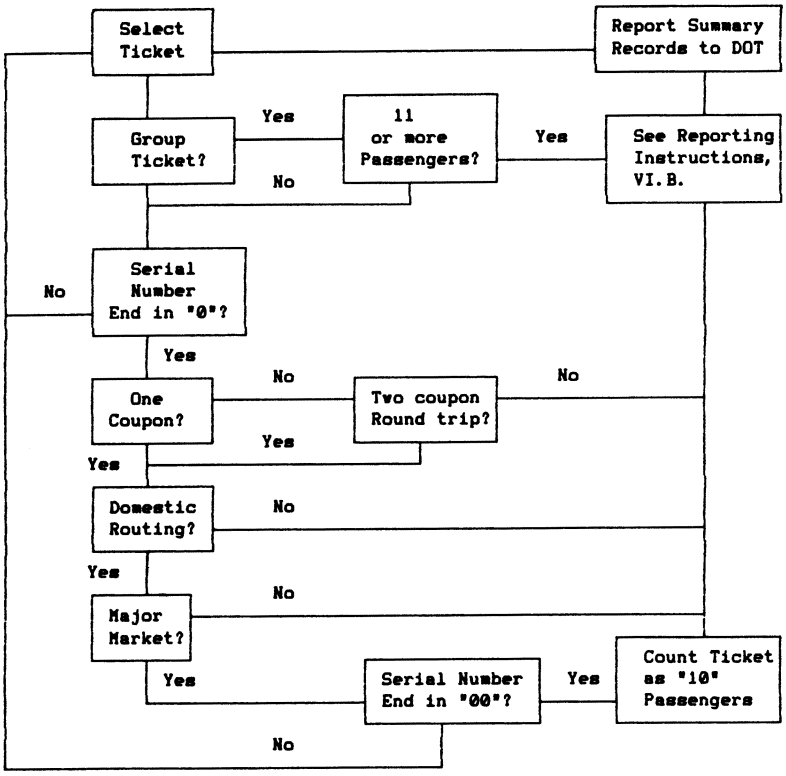
APPENDIX A TO SEC. 19–7—INSTRUCTIONS TO AIR CARRIERS FOR COLLECTING AND REPORTING PASSENGER ORIGIN-DESTINATION SURVEY STATISTICS

All questions, comments, extension and waiver requests should be addressed to:

Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590, Telephone (202) 366–9059.

I. GENERAL DESCRIPTION OF O&D SURVEY

A. Flow Chart of O&D Reporting From Tickets



B. Narrative Description

A single O&D Survey is conducted continuously by the large U.S. certificated air carriers. Foreign air carriers do not directly participate in the Survey, although some of their data are captured in the Survey, since passengers who share a ticketed itinerary between a U.S. carrier and a foreign carrier may be sampled by the U.S. carrier. The authority for these instructions is found in 14 CFR part 241, section 19–7, and in the CAB Sunset Act of 1984 (Pub. L. 94–443).

The Survey samples revenue passenger trips moving in whole or in part on domestic and/or international scheduled services of the carriers participating in the Survey. In general, these requirements do not apply to small certificated, all-cargo and all charter carriers.

The source documents for the Survey data are passenger tickets. These data are collected from the ''lifted'' flight coupons of tickets (a portion of a multi-part ticket booklet of three[1] or more coupons, including one for each stage of the passenger's trip itinerary which is lifted by the carrier as the passenger boards a particular flight segment).

The Survey data are taken from the coupon that is lifted by a participating carrier, unless it is apparent from the lifted coupon that another participating carrier has already recorded and reported the data, in which instance the ticket coupon is non-reportable for the second honoring/participating carrier. The complete passenger itinerary, and related data on type of fare and dollar value of the ticket, is recorded as

[1] Each ticket booklet is comprised of one or more *flight coupons* for passenger travel in a city-pair market, plus a *passenger coupon* (the traveler's receipt) and the *auditor coupon* (for the carrier's internal controls).

one entry from the sampled, reportable flight coupon.

The recording of data from the sampled flight coupon normally consists of transcribing the information exactly as indicated on the ticket. The detail recorded for each trip shows the complete routing from the origin city (airport code) to the destination city (airport code) including, in sequence from the origin, each point of transfer and stopover (intraline and interline), the summarized fare-basis code shown for each flight coupon stage of the itinerary, and the total dollar value of the fare and tax for the entire ticket.

Prior to 1987, the Survey was generally based on a 10-percent sample of passenger tickets. Beginning July 1, 1987, the Survey is collected primarily on the basis of a stratified, scientific sample of at least 1 percent of tickets in domestic major markets and 10 percent of tickets in all other domestic and in all international city-pair markets. The Survey data are taken from the selected flight coupons of the tickets sampled: single-coupon or double-coupon round trips in domestic major markets where the ticket serial number ends in double zero (00) and all other ticket coupons ending in zero (0). This procedure yields a ''two-tiered'' stratified sample.

Group tickets are included on the basis of a 10-percent sample when the number of passengers on such a group ticket is 10 or less. Group tickets with more than 10 passengers on each ticket are included on the basis of a 100 percent census, *i.e.*, all such tickets are sampled, regardless of serial number, and the total data listed are conformed to a 10 percent sample for inclusion in the O&D Survey.

Following the selection of reportable flight coupons and the recording of data, each participating carrier shall edit and summarize[2] the data into a quarterly report to the Department.

II. Effective Date of Instructions

These data collection and reporting instructions are effective on and after July 1, 1987 and apply to all flight coupons lifted on or after July 1, 1987.

III. Carriers Participating in Survey

A. *Participating carriers.* As defined in section 19–7 of the Department's Economic Regulations (14 CFR part 241), the participants in the O&D Survey include all large certificated air carriers conducting scheduled passenger services (except helicopter carriers). These participating carriers collect and report data in accordance with these Instructions, and supplemental *Passenger Origin-Destination Directives* that may be issued periodically. The list of participating carriers will be issued by reporting directive under the authority in 14 CFR 385.27(b).

B. *Amendments to list of participating carriers.* As new carriers begin service, they will be required to file O&D Survey Data. These carriers will not be added to the participating carrier list automatically, but will be added when the next annual review is made.

IV. Submission of Reports

A. *Period covered by reports.* Reports are to be filed for each calendar quarter of the year as shown below:

Report	Time period covered
1st quarter	Jan. 1 through Mar. 31.
2nd quarter	Apr. 1 through June 30.
3rd quarter	July 1 through Sept. 30.
4th quarter	Oct. 1 through Dec. 31.

B. *Filing date for reports.* Reports are to be filed with the Department on or before the dates listed below. The mailing address is on the inside cover to these instructions.

Report	Due date[1]
1st quarter	May 15
2nd quarter	Aug. 15
3rd quarter	Nov. 15
4th quarter	Feb. 15

[1] Due dates falling on Saturday, Sunday or national holiday will become effective the first following work day.

C. *Format of report.* The report may be submitted in any one of the following formats:

(1) ADP media including magnetic tapes and floppy discs.[3]

(2) Hard copy BTS Form 2787, in typewritten form, for carriers that lack computer capability. Sample formats of the required data appear in Sections IX and XII. Supplies of blank Form 2787 are available, upon request, from the Director, Office of Airline Information (address on inside cover). Any reasonable facsimile of Form 2787 will be acceptable in lieu of Form 2787, if approved in advance by the Director.

D. *Number of copies of report to be filed.* A participating carrier shall file with the Department a single copy of its quarterly O&D data report. When ADP submissions are transmitted, the package is to contain a transmittal letter describing the contents, and stating the overall record and passenger

[2] These summarization procedures include showing two or more passengers with the same itinerary as one O&D record and compressing extremely lengthy itineraries (such as around-the-world tickets) into a standard trip stage length limit (which may be either seven or twenty-three stages, at the carrier's option), as explained in Section V.D.

[3] Magnetic tapes, floppy discs and similar media will be returned to the carriers, upon request, following completion of the processing cycle by the Department.

counts included in the submission. Each submission is to be labeled externally as to submitting carrier and time period of the O&D Survey data.

E. *Address for filing reports.* Reports should be submitted to the Director, Office of Airline Information (address on inside cover).

V. SELECTION OF SAMPLE AND RECORDING OF DATA.[4]

A. *Sampling Basis.* Each participating carrier in this O&D Survey shall search all listed flight coupons, whether the coupons are its own ticket stock or on the ticket stock of another U.S. or foreign carrier (either standard IATA and ARC ticket stock or nonstandard ticket stock), and is to *select for reporting purposes* the following flight coupons:

(1) *Major domestic markets.* All single-passenger flight coupons that are either a single flight coupon ticket or part of a round trip, two coupon ticket where the ticket serial number ends in the digits double-zero (00). NOTE.—The list of major domestic markets will be issued by reporting directive under the authority in 14 CFR 385.27(b).

(2) *International markets and all other domestic markets.* (a) All single-passenger flight coupons with ticket serial numbers ending with the digit zero (0);

(b) Those group-ticket flight coupons with 10 or fewer passengers with ticket serial numbers ending with the digit zero (0);

(c) Those group-ticket flight coupons with 11 or more passengers without regard to serial number; and

(d) Itineraries in major domestic markets that comprise more than two coupons are sampled on a uniform 10 percent basis, by selecting all ticket serial numbers ending with the digit zero (0).

B. *Selection of Reportable Flight Coupons.* The flight coupons identified above are to be examined to isolate the reportable flight coupons, i.e. coupons from which data are to be recorded. Flight coupon data are reported only by the first honoring and participating carrier (operating carrier). Such carriers shall report the required data for the entire ticketed itinerary.

If a participating carrier has preceded an examining carrier on any stage in the trip itinerary, including any stage in a conjunction itinerary and any stage in a reissued ticket (either before or after reissue) that coupon is not reportable.

For conjunction tickets, the ticket number for the first ticket booklet determines if the conjunction tickets should be reported in the Survey. Otherwise, conjunction tickets do not require special treatment and are governed by the rules for regular tickets.

No adjustment is made in the Survey for alterations or changes in the trip itinerary subsequent to the stage covered by the reportable coupon.

C. *Optional Use of Other Sampling Procedures.*

(1) Alternative sampling procedures or alternative O&D data systems may be proposed by participating carriers with nonstandard ticketing procedures, or other special operating characteristics. Data reported under proposed alternative procedures must approximate the usefulness and statistical validity of the O&D Survey.

(2) Such departures from the prescribed O&D Survey practices shall not be authorized unless approved in writing by the Director, Office of Airline Information (address inside front cover). The proposed alternative O&D Survey procedures must be described in detail in the letter requesting the waiver.

D. *Recording of Data from Reportable Flight Coupons.* (1) The following items are to be reported from the reportable flight coupons:

(a) Point of origin,

(b) Operating carrier on each flight stage (if unknown, identify ticketed carrier),

(c) Ticketed carrier on each flight stage,

(d) Fare-basis on each flight coupon, C, D, F, G, X or Y,

(e) Points of stopover or connection (interline and intraline),

(f) Point of destination,

(g) Number of passengers, and

(h) Total dollar value of ticket (fare plus tax and other charges, such as Passenger Facility Charges).

(2) The individual items are to be recorded in the sequence of occurrence in the itinerary as follows:

(a) All entries for *points* (airport codes[5]) in an itinerary are to be recorded in three-letter airport code data to fit into the stage-length limitation (seven or twenty-three stages at the carrier's option), all airport codes are to be reported, including data on

[4] Upon approval of the Director, Office of Airline Information, carriers may continue current reporting procedures (up to twenty-three stages of a passenger flight) and may report a uniform 10 percent sample of tickets lifted (each zero ending lifted coupon) without reducing the sample size from 10 percent to 1 percent for domestic major markets. Note that the domestic major markets will be reviewed each year at June 30, based on the prior 12 months O&D data, and the list amended as necessary. The list could remain static for more than a year, although it will be reviewed annually. Necessary amendments will be effective on January 1 of the following year.

[5] Codes to be used are those appearing in the *Official Airline Guide* at the time the data are being recorded. If a code is not found in the OAG, contact the Director, Office of Airline Information (address inside front cover).

commuter, foreign, intra-state and other carriers' portions of itineraries. Normally codes are recorded as they appear on the ticket. However, if a code is obviously incorrect, *record the correct code*. For instance, if a ticket is coded DCA–NYC or Washington/National to New York when the flight stage actually operated from Washington, Dulles to Newark (EWR), record the correct airport code. When only name spellings of a city appear on the ticket for multi-airport cities (such as Washington, New York, San Francisco, or Los Angeles), record the specific *three letter airport code*. In cases where two airport codes are shown on the ticket for a point, such as when the passenger arrives at an airport such as San Francisco and departs from another local airport such as Oakland, record the code for the arrival airport, enter a surface segment indicator (—) to the departure airport, and record the departure airport code. (When the surface portion is at the beginning or end of an itinerary, the surface indicator is to be omitted). For example:

000001	UCA	YV	UA	Y	JFK	TW	TW	X
Passenger(s)	Utica	Mesa Operating Carrier	United Ticketed Carrier	Fare Code	New York Kennedy Airport	TWA Operating Carrier	TWA Ticketed Carrier	Fare Code

SURFACE TRANSPORTATION

SFO			(Blank space)
San Francisco	Operating Carrier	Ticketed Carrier	Fare Code

OAK	UA	UA	G	LAX	DL	DL	F
Oakland	United Operating Carrier	United Ticketed Carrier	Fare	Los Angeles	Delta Operating Carrier	Delta Operating Carrier	Fare Code

SLC	NW	NW	D	PHX	AA	AA	C	LAX
Salt Lake City	Northwest Operating Carrier	Northwest Ticketed Carrier	Fare Code	Phoenix	American Operating Carrier	American Ticketed Carrier	Fare Code	Los Angeles

JL	JL	C	NRT	04596
Japan Air Lines Operating Carrier	Japan Air Lines Ticketed Carrier	Fare Code	Tokyo Narita	Dollars of Fare + Tax

In the above example, the passenger trip stages or segments are compressed into the maximum of 7 stages so that several intermediate city-pairs (Los Angeles to Seattle to Anchorage, or LAX—SEA—Anc) and the related carriers have not been recorded, as prescribed below in this Section V.D.(3)(e). In addition, after the fourth city-pair (Los Angeles-Salt Lake City), the passenger trip itinerary moves from the initial four-part ticket booklet onto another ''conjunction'' ticket, and the summary fare code data are not recorded beyond the initial four-part ticket.

(b) All entries for operating and ticketed carriers for a coupon stage of an itinerary are to be recorded using two character IATA-assigned or DOT codes, as in the above example. Note that the fare code summary was properly inserted after the ticketed carrier's code, i.e., UA for United Air Lines and Y for unrestricted coach class service. When a two-character carrier code is shown on the ticket, record that code for the ticketed carrier. However, if a code is obviously incorrect, record the correct carrier code. If the reporting carrier does not know the operating carrier on a downline code-share segment, it would use the ticketed carrier's code for both the operating and ticketed carriers. The reporting carrier is not responsible for knowing the operating carrier of a downline code-share where it is not a party to the code-share segment. Except for the infrequent compression of data to fit into the stage-length limitation (7 or 23 stages at the carrier's option), all carrier codes are to be recorded, including data on air taxis, commuters, intra-state, and other carrier portions of itineraries. On tickets involving interchange service or other cooperative carrier arrangements, the juncture point(s) where the passenger moves from one carrier

system to another is to be recorded as an intermediate point in the itinerary, even when not shown on the ticket and even though the flight may overfly the juncture point.

(c) Entries for fare-basis codes are to be taken from the ''fare basis'' and ''fare description'' portions of the ticket and simplified into the appropriate category, as shown below. No attempt shall be made to determine and record fare-basis codes for that portion of a conjunction ticket appearing in the ticket. Fare-basis codes are to be recorded in one-character alphabetic codes. The fare-basis codes are recorded as follows:

C—Unrestricted Business Class
D—Restricted Business Class
F—Unrestricted First Class
G—Restricted First Class
X—Restricted Coach/Economy Class
Y—Unrestricted Coach/Economy Class
U—Unknown (This fare category is used when none is shown on a ticket coupon, or when a fare category is not discernible, or when two or more carrier fare codes are compressed into a single stage of a passenger trip).

(d) In recording the number of passengers, each single-passenger ticket is to be recorded as one passenger. Tickets for infants under two years of age not occupying a seat are not to be counted. A revenue passenger is defined in Section X.

For group tickets of 10 or fewer passengers per ticket record the actual number of passengers on each ticket, *i.e.*, either 2, 3, 4, 5, 6, 7, 8, 9 or 10. For group tickets with 11 or more passengers (those sampled at a 100-percent rate) record the actual number of passengers traveling on each ticket, but keep these entries separate from the group ticket records with 10 or fewer passengers and from the single-passenger ticket records. Group tickets with 11 or more passengers are to be sorted and summarized to combine all passengers for all itineraries which are identical in every respect, *i.e.*, points, carriers, fare basis codes, and average dollar value (as defined in paragraph (e), below). The total number of passengers on each summarized record is to be divided by 10, rounding to the nearest whole passenger. If the quotient ends in 0.5 or more, raise to the next whole passenger. If the quotient ends in less than 0.5, drop the fraction. These large group-ticket records, after division by 10 for compatibility with the other data, are to be merged with the single-passenger records and with the group-ticket entries from tickets of 10 or fewer passengers for the quarterly O&D Survey report.

(e) The total dollar value shall be taken from the ''Total'' box on each ticket and shall be the sum of the fare plus tax for the entire ticket. Record this amount in whole U.S. dollars, with the cents dropped. Do not round cents to nearest whole dollar.

Amounts on tickets stated in foreign currency are to be converted to U.S. dollar equivalents. For *all group tickets,* the dollar value to be recorded shall be the average amount per passenger, determined by dividing the total dollar value for the entire group by the number of passengers on the group ticket, dropping cents in the average amount.

(3) The *length of the itineraries to be recorded is limited* to a maximum of seven stages or twenty-three stages, at the carrier's option. This recognizes that the vast majority of tickets sampled have seven stages or fewer and that the rare occurrences of extremely lengthy itineraries do not impact the overall Survey results enough to justify their reporting burden. Therefore, trips longer than these limits are *compressed* to fall within the stated maximums. The ticketed origin and destination are retained, but the *intermediate routing is compressed* by applying the following rules, in sequence:

(a) Combine any contiguous open, unknown carrier, or surface stages eliminating the connecting point, and ignoring the fare-basis codes, if different:

(b) Combine any contiguous stages via the same non-U.S. carrier, eliminating the connecting point, and ignoring the fare-basis codes, if different;

(c) Combine any contiguous stages via different non-U.S. carrier, making the carrier ''UK'', eliminating the connecting point, and ignoring fare-basis codes, if different:

(d) Combine any contiguous stages via the *same U.S. carrier*, eliminating the connecting point, and ignoring the fare-basis codes, if different, and;

(e) If the trip, after applying the four steps above, is still too long, record the compressed routing through to the stage length limitation city (seventh or twenty-third city), enter UK as the final carrier, and then record the ticketed destination as the next (the 8th or 24th) city.

VI. SUMMARIZATION OF RECORDED DATA

A. *General*. Prior to the submission of each quarterly report to the Department, each carrier is to summarize the data in accordance with the rules in Section VI.B. In special hardship cases, carriers may submit a waiver request (with justification under Section 1–2 of 14 CFR part 241) requesting permission to report their flight coupon records exactly as represented on their lifted tickets. Waiver requests must provide the documentation described in Section VI.C. so that the Department can develop the necessary procedures and edit routines to ensure the accuracy and reliability of the overall O&D Survey results. The granting of such waivers will depend upon the availability of resources for the Department to assume this

additional burden, which can only be determined on a case by case basis, after evaluating each carrier's need.

B. *Rules for Summarization*. Sort the recorded entries into sequence by the entire record (excluding the passenger field), *i.e.*, by origin, complete routing (including fare-basis codes), tickets destination, and dollars value of ticket. *All identical records are then to be combined into one summary record*. The number of passengers on the summary record is to be the sum of the passenger amounts of all the individual records combined. Passengers are only summarized where records are identical in all respects except in number of passengers including dollar value of ticket. NOTE: DO NOT SUMMARIZE DOLLARS OVER IDENTICAL RECORDS. This summarization is to include the entries from group tickets, but only after the entries for *group tickets with 11 or more passengers* have been *summarized and divided by 10*, as stated in Section V.D.(2)(d). Carriers submitting quarterly O&D Survey reports on magnetic tapes or similar formats such as ''floppy discs'' will follow the ADP INSTRUCTIONS in Section IX. Carriers filing reports on hardcopy BTS Forms 2787 are to enter, on the last page of the report, the overall total of the number of passengers in the report.

C. *Waiver Requests*. Requests for permission to depart from the required O&D Survey procedures should include a *procedural statement* describing the process the carrier proposed to employ in *examining, selecting and editing* the data from reportable flight coupons for the O&D Survey, as well as a flow chart diagramming the proposed procedures.

D. *Quantity and Quality Controls*. Carriers are expected to establish and maintain *continuous quantity and quality* controls on the flow of all lifted flight coupons through their system processes to determine the total *number of coupons handled* and the number of reportable *coupons selected*. Such data controls and tests have not been specified by the Department, and necessarily must be developed by each carrier. Each participating carrier shall develop and use on a continuous basis such control tests as are necessary to ensure that all reportable coupons are being selected, recorded and reported as intended by these O&D Survey Instructions. Such controls should extend over all ADP processing, both in-house and that from external service bureaus.

VII. Editing of Recorded Data

A. *City and Airport Codes*. Prior to submission of O&D Survey reports, each carrier is to edit the recorded data to validate city and airport codes. This edit is to verify that the codes recorded are valid official codes, and it is independent of whether or not the carriers shown actually operated into or out of the airport shown. Any questions about airport codes should be addressed to the Director, Office of Airline Information (see inside of cover).

B. *Edit Responsibility of Carriers*. Each carrier is responsible for developing edit procedures and internal controls over its data entry and processing procedures so that valid and reliable data are captured in the O&D Survey inputs and are properly summarized in the outputs. Since the carriers have many different statistical systems, it is not practicable for the Department of Transportation to prescribe specific controls in this area, and each carrier is responsible for developing the appropriate internal control procedures to edit the O&D Survey data and ensure the integrity of these data. The Department will control the accuracy of its processing of the sampled data upon receipt from the carriers.

C. *System Documentation of Edits*. Carriers are required to maintain written O&D Survey procedural statements and flow charts. As provided in Section VIII, these must be established, or re-certified as of July 1, 1987, and thereafter when significant procedural revisions occur.

VIII. Control of Sample Selection and Data Recording

A. *Sample Accuracy and Reliability*. In order to maximize the accuracy and reliability of the sample selection and data recording, each carrier is to:

(1) Develop a written statement describing the procedures it will employ in examining and selecting reportable flight coupons and in recording, summarizing, editing, and testing the Survey data.

(2) Submit any proposed changes in the above procedures to the Department's Office of Airline Information, prior to implementation of such changes.

(3) Establish continuous quantity controls on the flow of all lifted flight coupons through the carrier's accounting processing to determine the total number of coupons handled, and the number of reportable coupons selected. Tests are to be made continuously to assure that all reportable coupons are being selected and the data recorded. Such tests should be completed while the ''lifted'' flight coupons (representing earned passenger revenues for flight segments operated) remain in the possession of the carrier. Establish such other internal control procedures as are necessary for supervising and monitoring the accuracy of the recording of data from reportable flight coupons.

B. *Staff Review*. The OAI staff will review the carrier procedures and practices and may request modifications or the use of special procedures necessary to improve the sample or to bolster the controls for accuracy and reliability.

IX. ADP INSTRUCTIONS

Each carrier electing to submit its Survey reports in machine listing form or magnetic media in lieu of hardcopy BTS Form 2787 is to be governed by the following instructions:

A. Instructions for Submitting Records on Magnetic Media

(1) *Identification record.* This identification record is to include the reporting carrier and the reporting period. It is designed to fall at the beginning of each file when sorted on columns 7 through 200. The record is to be in the format shown as follows:[6]

Field	Tape positions (from-to)	Tape record layout
Passenger Count	1–6	1. Passenger field must contain leading zeros, and no blanks.
1st City Code	7–9	
1ST Operating Carrier	10–11	
1ST Ticketed Carrier	12–13	2. City field contains the 3-letter alpha code for the airport in the first 3 positions.
Fare Basis Code	14	
2ND City Code	15–17	
2nd Operating Carrier	18–19	
2nd Ticketed Carrier	20–21	
Fare Basis Code	22	
3rd City Code	23–25	
3rd Operating Carrier	26–27	
3rd Ticketed Carrier	28–29	
Fare Basis Code	30	
4th City Code	31–33	3. Ticketed and operating carrier fields are to contain the 2 character air carrier code. An unknown carrier is to be coded ''UK'' and surface carrier is to be coded ''— —'' (dash dash).
4th Operating Carrier	34–35	
4th Ticketed Carrier	36–37	
Fare Basis Code	38	
5th City Code	39–41	
5th Operating Carrier	42–43	
5th Ticketed Carrier	44–45	
Fare Basis Code	46	
6th City Code	47–49	4. Fare basis code is a one position alpha code.
6th Operating Carrier	50–51	
6th Ticketed Carrier	52–53	
Fare Basis Code	54	5. Portion of record for sorting, summarizing, and sequencing includes columns 7 through 200.
7th City Code	55–57	
7th Operating Carrier	58–59	
7th Ticketed Carrier	60–61	
Fare Basis Code	62	
8th City Code	63–65	6. Dollar amount in positions 196–200 is right justified.
8th Operating Carrier	66–67	
8th Ticketed Carrier	68–69	
Fare Basis Code	70	7. Positions 66–193 are used only by those carriers who want to report more data, and are not compressing to 7 stages (see Sec. V.D. (3) for compressing rules.
9th City Code	71–73	
9th Operating Carrier	74–75	
9th Ticketed Carrier	76–77	
Fare Basis Code	78	
10th City Code	79–81	
10th Operating Carrier	82–83	
10th Ticketed Carrier	84–85	
Fare Basis Code	86	
11th City Code	87–89	
11th Operating Carrier	90–91	
11th Ticketed Carrier	92–93	
Fare Basis Code	94	
12th City Code	95–97	
12th Operating Carrier	98–99	
12th Ticketed Carrier	100–101	
Fare Basis Code	102	

[6] Each reel of tape will be returned to the individual carrier upon request.

Field	Tape positions (from-to)	Tape record layout
13th City Code	103–105	
13th Operating Carrier	106–107	
13th Ticketed Carrier	108–109	
Fare Basis Code	110	
14th City Code	111–113	
14th Operating Carrier	114–115	
14th Ticketed Carrier	116–117	
Fare Basis Code	118	
15th City Code	119–121	
15th Operating Carrier	122–123	
15TH Ticketed Carrier	124–125	
Fare Basis Code	126	
16th City Code	127–129	
16th Operating Carrier	130–131	
16th Ticketed Carrier	132–133	
Fare Basis Code	134	
17th City Code	135–137	
17th Operating Carrier	138–139	
17th Ticketed Carrier	140–141	
Fare Basis Code	142	
18th City Code	143–145	
18th Operating Carrier	146–147	
18th Ticketed Carrier	148–149	
Fare Basis Code	150	
19th City Code	151–153	
19th Operating Carrier	154–155	
19th Ticketed Carrier	156–157	
Fare Basis Code	158	
20th City Code	159–161	
20th Operating Carrier	162–163	
20th Ticketed Carrier	164–165	
Fare Basis Code	166	
21st City Code	167–169	
21st Operating Carrier	170–171	
21st Ticketed Carrier	172–173	
Fare Basis Code	174	
22nd City Code	175–177	
22nd Operating Carrier	178–179	
22nd Ticketed Carrier	180–181	
Fare Basis Code	182	
23rd City Code	183–185	
23rd Operating Carrier	186–187	
23rd Ticketed Carrier	188–189	
Fare Basis Code	190	
24th City Code	191–193	
Blank	194–195	
US Value of Ticket in $	196–200	

Field	Columns	Remarks
Reporting carrier	1–2	Alpha code.
Reporting period:		
Year	3–4	Tens and units position.
Quarter	5	1, 2, 3, or 4.
Blanks	6–200	

(2) *Detail record*. (a) All records are to be summarized on the complete itinerary[7] (columns 7 through 200) and the summary record *only* for each itinerary is to be submitted. The tape file, including the identification record, is to be in sequence by complete itinerary.

[7] Itinerary includes total dollar value of ticket.

(b) The tape record layout is shown on the following page.

(3) Magnetic Tape Instructions: (a) All tapes are to be written using the standard IBM extended binary coded decimal interchange code (EBCDIC).

(b) The recording density can be either 6250 or 1600 B.P.I.

(c) All tape will contain standard IBM volume header, and trailer records.

(d) External labels will contain the carrier, name, the report date, file identification, and an address for returning the tapes.

(4) *Transmittal letter*. The tape shall be accompanied by a transmittal letter which shows the number of records reported and the total number of passengers contained in the report.

B. *Editing of Tape Records*. Prior to submission of data, each carrier is requested to edit

and correct its data so that its O&D Survey report may be as error-free as is reasonably practicable. The methods to be used in editing are left to the carriers' discretion, but with assistance available upon request from the Department's Office of Airline Information (OAI). To aid the carriers in maintaining a current file of editing criteria, OAI will re-issue, as needed, the city/airport-carrier file to each participating carrier. There will be a five-position field to denote the city/airport-carrier. The first three positions denotes the airport and the last two positions denotes the air carrier.

C. Standard Formats for Floppy Disk or Cartridge Submissions. Carriers should use the 200 position format with the standard length fields prescribed for magnetic media submissions. The record layout is detailed in subsection A(1) of this section. However, to simplify the PC submissions, the submitter may report the dollar value of the ticket in the field immediately after the last reported city code, rather than in positions 196–200. Submitters may separate fields by using commas or tabs (comma delimited ASCII or tab delimited ASCII format).

X. Glossary of Terms

Selected terms used in the foregoing instructions are here defined and explained in the context of the O&D Survey.

ADP. An abbreviation for automated data processing, which is the term applied to all forms of machine processed data.

Carrier. Any scheduled air carrier, U.S. or foreign, that appears on a coupon stage in a ticketed itinerary, including helicopter, air taxi, commuter, intra-Alaska carriers, and intra-state carriers.

City or origin. (See origin.)

Conjunction ticket. Two or more tickets concurrently issued to a passenger and which together constitute a single contract of carriage.

Connecting point. An intermediate point in an itinerary at which the passenger deplanes from one flight and boards another flight, either on the same carrier or from the flight of one carrier to a flight of another carrier, for continuation of the journey.

Coupon stage. (See flight-coupon stage.)

Destination. The last point in the itinerary and the last point at which the passenger is to deplane at the completion of the journey. (In roundtrip itineraries, the destination and the origin are the same.)

Dollar value of ticket. (See total dollar value of ticket.)

Domestic. Itineraries within or between the 50 U.S. States and the District of Columbia are considered domestic for this Survey.

Fare basis code. The alphabetic code(s) or combination of alphabetic and numeric codes appearing in the ''Fare basis'' box on the flight coupon which describe the applicable service and discount to which the passenger is entitled. All fare basis codes are summarized into basic categories; namely C—Unrestricted Business Class, D—Restricted Business Class, F—Unrestricted First Class, G—Restricted First Class, X—Restricted Coach/Economy Class, Y—Unrestricted Coach/Economy Class, and U—Unknown (This fare category is used when none is shown on a ticket coupon, or when a fare category is not discernible, or when two or more carrier fare codes are compressed into a single stage of a passenger trip).

Fare ladder. The ''For-issuing-office-only'' box of a ticket.

Flight-coupon stage. The portion of an itinerary which lies between two contiguous points in the itinerary and between which points the passenger is to travel on a single flight.

Group ticket. A single ticket valid for the transportation of two or more passengers over the same itinerary.

Interline transfer. An occurrence at an intermediate point in an itinerary where a passenger changes from one carrier to another carrier, with or without a stopover.

Intermediate point. Any point in an itinerary, other than the origin or destination, at which the passenger makes an interline or intraline connection or stopover.

International. The world area outside the 50 U.S. States and the District of Columbia. Itineraries between points outside the 50 States are considered as international for this Survey, as well as itineraries between the 50 States and U.S. possessions, and between or within U.S. possessions.

Intraline transfer. An occurrence at an intermediate point in an itinerary where a passenger changes from a flight of one carrier to another flight of that same carrier, with or without stopover, or where the passenger changes from one class of service to another class of service on the same flight.

Itinerary. All points in the passenger journey, beginning with the origin, followed by the routing, and ending with the destination, in the sequence shown on the ticket.

Operating air carrier. Under a code-share arrangement, the air carrier whose aircraft and flight crew are used to perform a flight segment.

Origin. The first point in the itinerary and the point where the passenger first boards a carrier at the beginning of the itinerary.

Participating carrier. A carrier which is governed by the Survey data collection and reporting instructions contained herein and which is required to file Survey reports with the Department of Transportation.

Point. A city or airport (always identified by its airport code).

Reissued ticket. A ticket issued in exchange for all or part of the unused portion of a previously issued ticket.

Reportable flight coupon. A flight coupon in an itinerary in which the carrier examining

the coupon is the first participating carrier to lift a flight coupon in the itinerary and from which coupon the examining carrier records the Survey data.

Reporting carrier. The carrier in a given itinerary which has lifted the reportable flight coupon in that itinerary and which carrier is required to record the Survey data for that itinerary for the report to the Department.

Revenue passenger. A passenger transported for which more than a service charge or nominal remuneration is received by the air carrier. Passengers traveling for a zero fare, because of the frequent flyer or mileage programs are considered revenue passengers, since the revenue considerations for passenger travel were included in their previously purchased tickets.

Routing. The carrier on each flight-coupon stage in an itinerary and the intermediate points of routing stopover or connection (interline or intraline) in the sequence of occurrence in the movement of the passenger from origin to destination. The routing also includes fare-basis summary codes on each flight-coupon stage, to the extent these are available from the ticket.

Scheduled service. Transport service operated on a certificated large air carrier's routes pursuant to published flight schedules, including extra sections of scheduled flights.

Stage. (See flight-coupon stage.)

Ticketed air carrier. Under a code-share arrangement, the air carrier whose two-character air carrier code is used for a flight segment, whether or not it actually operates the flight segment.

Total dollar value of ticket. The sum of the fare plus tax for the entire ticketed itinerary, in whole U.S. dollars with cents dropped. For a group ticket, the amount is the average per passenger. For fares stated in foreign currency, it is the equivalent in U.S. dollars.

Transfer. (See interline transfer and intraline transfer.)

XI. Sample of RSPA Form 2787

PASSENGER

ORIGIN-DESTINATION

SURVEY REPORT

Reporting Carrier: _____
(Two letter carrier code)

Reporting Period: _____
(Indicate reporting qtr.)

Number of Passengers	City Code (1)	Car. Fare Code	City Code (2)	Car. Fare Code	City Code (3)	Car. Fare Code	City Code (4)	Car. Fare Code	City Code (5)	Car. Fare Code	City Code (6)	Car. Fare Code	City Code (7)	Car. Fare Code	City Code (8)	Amount of Fare plus Tax in U.S. Dollars

Car. Fare Code = Two character alphabetic carrier code followed by fare basis code, such as TWFD, indicating Trans World as the carrier and coach discount as the fare basis summary group code.

City Code = Three character alphabetic airport code, such as EWR for Newark, OAK for Oakland, and SJC for San Jose.

Amount = Dollar amount of ticket, stated in whole U.S. dollars.

No. of passengers = Tickets sampled at one-percent are to be multiplied by 10 for reporting on this form. Note that all passenger data are presented as a ten-percent sample.

RSPA Form 2787

[Amdt. No. 241–55, 52 FR 6529, Mar. 5, 1987, as amended at 60 FR 66723, 66724, Dec. 26, 1995; 62 FR 43280, Aug. 13, 1997]

GENERAL REPORTING PROVISIONS—LARGE CERTIFICATED AIR CARRIERS

Section 21—Introduction to System of Reports

(a) Each large certificated air carrier subject to the Federal Aviation Act of 1958, as amended, shall file with the BTS, monthly, quarterly, semiannually, and annually BTS Form 41 Reports of financial and operating statistics as prescribed herein unless waiver has been made by the Civil Aeronautics Board.

(b) The system prescribed provides for the submission by each air carrier of four classes of financial and operating statistics, on individual schedules of the BTS Form 41 Report, grouped as follows:

A. Certification.
B. Balance Sheet Elements.
P. Profit and Loss Elements.
T. Traffic and Capacity Elements.

(c) The prescribed system of reports provides that the frequency of reporting shall be monthly for some schedules, quarterly for some, semiannually for some and annually for others. It also provides in some areas for the classification of large certificated air carriers into Group I, Group II, and Group III with the form and content differentiated as between groups.

(d) Each schedule of the prescribed BTS Form 41 Report has been assigned a specific code. The prefix alphabetical codes A, B, P and T, respectively, have been employed to denote certification, balance sheet, profit and loss, and traffic and capacity. The digits immediately following the alphabetical prefix designate the particular schedule.

(e) Upon approval by the Director, Office of Airline Information, a carrier may:

(1) Supply its own computer prepared formats provided each schedule conforms with the size and format of the forms prescribed in this part.

(2) Use telefacsmile, or fax, equipment to submit the forms prescribed by this part; however, forms transmitted by fax must conform to an 8½ × 14 inch size. With prior approval, larger forms may be reduced in size of 8½ × 14 for transmission to the Department.

(f) In submitting each schedule prescribed by this part to the Department, each reporting air carrier shall adhere to the following guidelines:

(1) A good quality black ribbon shall be used in preparing the original copy of each schedule.

(2) In no event shall any information be typed on the reverse side of copies submitted to the Department.

(3) Except as provided for in paragraph (e) of this section, no photocopy or similar process shall be used.

(g) Four separate air carrier entities shall be established for large certificated air carriers conducting scheduled service for the purpose of submitting the prescribed reports. They are as follows: (1) Domestic operations; (2) operations via the Atlantic Ocean; (3) operations via the Pacific Ocean; and (4) operations in Latin American areas. With respect to the first classification, the domestic entity shall embrace all operations within and between the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands, and shall also include Canadian transborder operations. The reports to be submitted by each entity shall be comparable to those required of a distinct legal entity whether the reporting entity constitutes such an entity, a semiautonomous physically separated operating division of the carrier, or an entity established for reporting purposes only.

(h) Two separate entities shall be established for large certificated air carriers predominantly engaged in conducting charter activities for the purpose of submitting the prescribed reports: (1) Domestic operations; and (2) international operations. The domestic entity includes all operations within and between the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. All other operations will be in the international entity.

(i) The entities for which separate reports shall be made by the different route and charter air carriers will be set semiannually by the Office of Airline Information.

(j) As a general rule separate reports shall be filed for the air carrier and for each associated company air carriers as defined in section 03 which is an air carrier. However, transactions of associated companies in which 100 percent equity control resides in the reporting air carrier shall be consolidated with transactions of the reporting air carrier when such associated companies perform services related to the transport operations of the reporting air carrier almost exclusively and are not engaged in air transportation for their own account.

(k) Generally, route air carriers' nonscheduled services shall be treated as an integral part of the reporting entity to which most closely related without regard to the geographic area in which such nonscheduled services may actually be performed. However, supplemental reports shall be made of nonscheduled services (including service for the Department of Defense) in areas not encompassed by the prescribed reporting entity in any month in which

the available ton-miles of such nonscheduled services exceed 5 percent of the available ton-miles of the reporting entity. Such supplemental reports shall continue until waived by the BTS upon a showing that such nonscheduled operations will not in the subsequent 12-month period exceed the 5-percent limit. The supplemental reports to be filed each month or calendar quarter, as applicable, shall be comprised of report Schedules P–5, T–1, and T–2. Transport and nontransport revenues pertaining to such separately reported nonscheduled services shall be reported on Schedule P–2 each quarter.

(l) When and as required in the national interest, any air carrier which performs nonscheduled transport services for the Department of Defense shall, when directed by the Department, make separate reports for such services as if they were conducted by a physically separate transport entity, such reports shall consist of Schedules P–1 through P–7, T–1, and T–2. The letter ''D'' shall be inserted on such reports, following the schedule number of each P and T schedule. When a carrier has more than one reporting entity, nonscheduled transport and nonscheduled Defense services shall be assigned to the reporting entity to which more closely related.

[ER–1027, 42 FR 60128, Nov. 25, 1977, as amended by ER–1073, 43 FR 40453, Sept. 12, 1978; ER–1073, 44 FR 1970, Jan. 9, 1979; ER–1188, 45 FR 48871, July 22, 1980; ER–1297, 47 FR 32919, July 30, 1982; ER–1400, 50 FR 12, Jan. 2, 1985; ER–1401, 50 FR 247, Jan. 3, 1985; Amdt. No. 241–56, 52 FR 9130, Mar. 23, 1987; Amdt. 241–60, 56 FR 12658, Mar. 27, 1991; 60 FR 66724, Dec. 26, 1995]

Section 22—General Reporting Instructions

(a) One copy of each schedule in the BTS Form 41 report shall be filed with the BTS and shall be received on or before the due date indicated for each such schedule in the list titled ''Due Dates of Schedules in BTS Form 41 Report.''

LIST OF SCHEDULES IN BTS FORM 41 REPORT

[See footnotes at end of table]

Schedule No.	Title	Filing frequency	Applicability by carrier group		
			I	II	III
A	Certification	Q	(1)	X	X
B–1	Balance sheet	Q	(1)	X	X
B–1.1	Balance sheet	SA	(2)	NA	NA
B–7	Airframe and aircraft engine acquisitions and retirements	Q	NA	X	X
B–12	Statement of changes in financial position	Q	(1)	X	X
B–43	Inventory of airframes and aircraft engines	A	X	X	X
P–1.1	Statement of operations	SA	(2)	NA	NA
P–1.2	Statement of operations	Q	(1)	X	X
P–1(a)	Interim operations report	M	X	X	X
P–2	Notes to RSPA Form 41 report	Q	(1)	X	X
P–5.1	Aircraft operating expenses	Q(1), SA(2)	X	NA	NA
P–5.2	Aircraft operating expenses	Q	NA	X	X
P–6	Operating expenses by objective groupings	Q	(1)	X	X
P–7	Operating expenses by functional groupings— Group III air carriers	Q	NA	NA	X
P–10	Employment statistics by labor category	A	(1)	X	X
P–12(a)	Fuel consumption by type of service and entity	M	(1)	X	X
T–100	U.S. air carrier traffic and capacity data by nonstop segment and on-flight market.	M	X	X	X
T–100(f)	Foreign air carrier traffic data by nonstop segment and on-flight market.	M			
	(see 14 CFR 217)				
T–1	U.S. air carrier traffic and capacity summary by service class	M	X	X	X
T–2	U.S. air carrier traffic and capacity by aircraft type	Q	X	X	X
T–3	U.S. air carrier airport activity statistics	Q	X	X	X
T–8	Report of all-cargo operations	A	(3)	(3)	(3)

M=Monthly, Q=Quarterly, SA=Semiannually, A=Annually, NA=Not Applicable, X=All Carriers.
(1) Applicable to Group I Air Carriers with annual operating revenues of $20 million or more.
(2) Appilcable to Group I Air Carriers with annual operating revenues below $20 million.
(3) Applicable to Air Carriers conducting 49 U.S.C. 41103 all-cargo operations.

DUE DATES OF SCHEDULES IN BTS FORM 41 REPORT

Due dates[1]	Financial data on schedule No.	Traffic and capacity data on schedule No.
January 20	P–12(a)	
January 30	P–1(a)	T–100, T–100(f), T–1, T–2, T–3
February 10[2]	A, B–1, B–1.1, B–7, B–12, P–1.1, P–1.2, P–2, P–5.1, P–5.2, P–6, P–7, P–10.	
February 20	P–12(a)	
March 1	P–1(a)	T–100, T–100(f), T–1
March 20	P–12(a)	
March 30	B–43, P–1(a).	T–100, T–100(f), T–1, T–8
April 20	P–12(a)	
April 30	P–1(a)	T–100, T–100(f), T–1, T–2, T–3
May 10	A, B–1, B–7, B–12, P–1.2, P–2, P–5.1, P–5.2, P–6, P–7.	
May 20	P–12(a)	
May 30	P–1(a)	T–100, T–100(f), T–1
June 20	P–12(a)	
June 30	P–1(a)	T–100, T–100(f), T–1
July 20	P–12(a)	
July 30	P–1(a)	T–100, T–100(f), T–1, T–2, T–3
August 10	A, B–1, B–1.1, B–7, B–12, P–1.1, P–1.2, P–2, P–5.1, P–5.2, P–6, P–7.	
August 20	P–12(a)	
August 30	P–1(a)	T–100, T–100(f), T–1
September 20	P–12(a)	
September 30	P–1(a)	T–100, T–100(f), T–1
October 20	P–12(a)	
October 30	P–1(a)	T–100, T–100(f), T–1, T–2, T–3
November 10	A, B–1, B–7, B–12, P–1.2, P–2, P–5.1, P–5.2, P–6, P–7.	
November 20	P–12(a)	
November 30	P–1(a)	T–100, T–100(f), T–1
December 20	P–12(a)	
December 30	P–1(a)	T–100, T–100(f), T–1

[1] Due dates falling on a Saturday, Sunday or national holiday will become effective the first following work day.
[2] Reporting due dates on Form 41 Schedules B and P are extended to March 30 if preliminary schedules are filed at the Department by February 10

(b) Each large certificated air carrier shall file the applicable schedules of the BTS Form 41 Report with the BTS in accordance with the above instructions with the following exceptions:

(1) The time for filing B and P report schedules for the final quarter or semiannual period of each calendar year may be extended to the following March 30 if the preliminary Schedules B–1 or B–1.1 and P–1.1 or P–1.2 are submitted, as applicable, and are received on or before their respective due dates.

(2) For the third month of any calendar quarter, Schedule P–1(a) need not be filed if Schedule P–1.1 or P–1.2 for the quarter or semiannual period, as applicable, is received on the due date prescribed for Schedule P–1(a).

(3) Income and expense data on Schedule P–1(a) for each month will be withheld by the BTS from public disclosure, until such time as (i) the semiannual or quarterly financial reports are due, (ii) the semiannual or quarterly financial reports are filed, or (iii) information covered by monthly reports is publicly released by the carrier concerned, whichever occurs first. Before that time, income and expense data reported on Schedule P–1(a) will be disclosed to parties to any proceeding before the DOT to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the DOT. Any data to which access is granted may be introduced into evidence, subject to the normal rules of admissibility of evidence. The DOT will make other disclosure of these data upon its own motion or upon application of any interested person, when the DOT finds the public interest so requires. The BTS may, from time to time, publish summary information compiled from Schedule P–1(a) in a form which will not identify the individual carrier. At the request of an air carrier, and upon a showing by such air carriers that public disclosure of its preliminary year-end report would adversely affect its interests and would not be in the public interest, the BTS will withhold such preliminary year-end report from public disclosure until such time as (i) the final report is filed, (ii) the final report is due, or (iii) information covered by the preliminary report is publicly released by the carrier concerned, whichever occurs first.

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the BTS at least three (3) days before the prescribed due date. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(d) [Reserved]

(e) All financial data reported on B, P and G schedules shall reflect the status of the air carrier's books of account for the period for which the report is being made and shall conform to the instructions contained in this Uniform System of Accounts and Reports. At the option of the air carrier, Group III air carriers may round reported financial data to the nearest thousands of dollars by typing ''($000)'' at the top of each amount column. All Group I and Group II air carriers may, at their option, round reported financial data to the nearest whole dollars by dropping the cents. All rounded amounts must be balanced within and between schedules. This option applies only to the submission of hardcopy reports. Instructions for the submission of data in ADP format are contained in the Accounting and Reporting Directives, which are available from OAI.

(f) Traffic and other operational statistics included in schedules of the BTS Form 41 reports shall reflect data pertaining to the month, quarter or 12-months-to-date period for which the report is being made.

(g) Adjustments correcting errors in previously reported traffic and other operational statistics shall not be included in data reported in schedules for the current period but shall be effected by submission of corrected schedules for the period to which applicable or, if only a few items are involved, by written notice and authorization to the BTS to correct previously filed reports except that any correction which amounts to less than one-half of one percent (0.5%) of the corrected amount for the month to which related may be included in the report for the current month provided the amount of the correction is clearly noted on the Form 41 Report.

(h) All letters and statements of correction or revision of reported data shall be a part of the BTS Form 41 reports.

(i) All changes in accounting methods having a material impact upon the particular financial elements involved, and all changes in methods of computing and reporting traffic and capacity statistics having a material impact upon the particular statistic involved shall be adequately explained and identified in the report first reflecting such changes. Such explanations related to financial position or financial results shall be made on BTS Form 41 Schedule P–2. Changes in methods for computing or reporting traffic and capacity statistics shall be identified and explained on a separate sheet attached to the first report affected. (See sec. 2–16.) The reporting requirements shall not be construed, in any sense, as relieving the air carrier of the responsibility for conforming its procedures to those otherwise prescribed in this system of accounts and reports.

(j) All financial statements released by carriers to the public reflecting a financial position or operating results for dates or reporting periods not covered by reports on file with the Board shall be filed with the Board simultaneously with their public release.

(Approved by the Office of Management and Budget under control number 2138–0013)

[ER–755, 37 FR 19726, Sept. 21, 1972]

EDITORIAL NOTE: For Federal Register citations affecting part 241, section 22, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

FINANCIAL REPORTING REQUIREMENTS

Section 23—Certification and Balance Sheet Elements

Schedule A—Certification

(a) The certification of the BTS Form 41 Report shall be signed by an elective corporate officer, executive, or director. Other persons may be authorized by the carrier to sign the certification provided a written authorization disclosing the individual's name and title is forwarded to the Department of Transportation. Since corrections or revisions of reported data are a part of the BTS Form 41 Report, all correspondence relating to such matters shall be signed only by the person(s) authorized to sign the certification.

(b) The certification of the Form 41 reports, embodied in Schedule A thereof, shall read as follows:

I, the undersigned (Title of officer in charge of accounts) _____ of the (Full name of the reporting company) _____ do certify that this report and all schedules, ADP-media submissions, Passenger Origin-Destination Survey submissions and supporting documents which are submitted herewith or have been submitted heretofore as parts of this report filed for the above indicated period have been prepared under my direction; that I have carefully examined them and declare that they correctly reflect the accounts and records of the company, and to the best of my knowledge and belief are a complete and accurate statement, after adjustments to reflect full accruals, of the operating revenues and expenses, income items, assets, liabilities, capital, retained earnings, and operating statistics for the periods reported in the several schedules, the Schedule T–100 ADP-media submissions, and the Passenger Origin-Destination Survey; that the various items herein reported were determined in accordance with the Uniform System of Accounts and Reports for Large Certificated Air Carriers prescribed by the Department of Transportation; and that the data contained herein are reported on a basis consistent with that of the preceding report except as specifically noted in the financial and statistical statements.

Schedule B–1 Balance Sheet

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) This schedule shall reflect the balances at the close of business on the last day of each calendar quarter for the overall or system operations of each air carrier in conformance with the provisions of sections 4, 5 and 6.

(c) Individual proprietors or partners shall report the aggregate capital contributed by the proprietor or partners in account 2890 Additional Capital Invested.

Schedule B–1.1—Balance Sheet

(a) This schedule shall be filed semiannually by Group I air carriers with annual operating revenues below $20 million.

(b) Each carrier shall insert in the space provided for ''OAG Code'' its carrier code as contained in the Official Airlines Guide (OAG). If the OAG does not contain a carrier code for the reporting carrier, a code will be provided by the Office of Airline Information upon request. This code will then be inserted in the space provided for ''carrier code.''

(c) This schedule shall show the account balances at the close of business on June 30 or December 31, as applicable, of each semiannual reporting period.

(d) ''Current Assets'' shall include all resources that may reasonably be expected to be realized in cash or sold or consumed within one year. This group of assets is classified into three basic accounts:

(1) ''Cash and Equivalents'' shall include cash on hand and on deposit, U.S. Government securities, and other temporary cash investments.

(2) ''Notes and Accounts Receivable-Net'' shall include general traffic accounts receivable, government receivables, notes and receivables from associated companies, officers, employees and others, and a deduction for a reasonable allowance for bad debts.

(3) ''Other Current Assets'' shall contain all other current assets not provided for in the above classifications. This account shall include, but is not limited to, short-term prepayments, expendable spare parts, supplies and other inventories of flight equipment replacement parts that are usually replaced rather than repaired, and materials and supplies held in stock, such as fuel and oil, expendable tools, office supplies and food service supplies. Spare parts may be reduced by an allowance for obsolescence to provide for losses in value.

(e) ''Property and Equipment'' shall be segregated into that which is owned and that which is leased under capital leases. All property and equipment, with the deception of land, shall be reported net of accumulated depreciation or amortization.

(f) ''Other Assets'' shall included all assets not included in the above categories, such as long-term investments, long-term prepayments, long-term receivables, deferred charges, intangible assets, equipment purchase deposits, and construction work in progress.

(g) ''Current Liabilities'' shall include all obligations, the liquidation of which is reasonably expected to require the use of existing resources within one year. This group of

liabilities is classified into three basic accounts:

(1) ''Notes and Accounts Payable'' shall include any payments on long-term debt, short-term notes and accounts payable, and accrued expenses that are payable within one year.

(2) ''Accrued Taxes'' shall include tax liabilities, such as those imposed on income, property and payroll, which are reasonably expected to be liquidated within one year.

(3) ''Other Current Liabilities'' shall include all current liabilities which are not provided for elsewhere, such as air traffic liabilities for unused transportation sold (includes sales of transportation on both the reporting carrier and other carriers).

(h) ''Long-Term Debt'' shall include all obligations which are not reasonably expected to be liquidated within one year. Typical examples include bonds payable, long-term notes payable, lease obligations, and pension obligations.

(i) ''Other Liabilities'' shall include any debts or obligations which are not properly listed in the ''Current Liabilities'' or ''Long-Term Debt'' sections.

(j) ''Deferred Credits'' shall include all credit balances of a general clearing nature, including credits held in suspense pending receipt of further information necessary for final disposition. Included in this account are deferred income taxes and deferred investment tax credits.

(k) ''Stockholder's Equity'' shall be reported as follows:

(1) ''Capital Stock'' shall be segregated as between common and preferred. The number of shares outstanding, along with the par or stated value of the stock, shall be reported. In the case of no-par stock without stated value, the full consideration received shall be reported.

(2) ''Other Paid-In Capital'' shall include the difference between the price at which the capital stock is sold and the par or stated value of the stock.

(3) ''Retained Earnings'' shall represent the net income or loss from all operations of the corporate entity less dividends.

(4) ''Treasury Stock'' shall represent the cost of stock issued by the carrier and reacquired by it but not retired or cancelled.

(l) The statement of certification shall be signed by the carrier's chief accounting officer.

(m) All substantive matters that may materially influence interpretations or conclusions in regard to the financial condition or the earnings position of the air carrier which are not clearly identified in the body of the schedule or which represent information that cannot be expressed adequately in monetary terms shall be completely and clearly stated in a note attached to this schedule and cross-referenced to the affected account or accounts.

Schedule B–7 Airframe and Aircraft Engine Acquisitions and Retirements

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) Data applicable to acquisitions and data applicable to retirements shall be grouped and reported separately. The data reported within each group (acquisitions; retirements) shall be further subgrouped and reported as follows:

(1) Acquisitions: the indicated data shall be reported for each individual airframe, identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported in aggregate for each type or model; however, leased aircraft engines shall be separately reported under captions entitled: Capital Leases—Aircraft Engines; and Operating Leases—Aircraft Engines. Airframe units leased from others for a period of more than 90 days shall be reported in a separate subsection of this schedule, captioned as follows: Capital Leases—Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number of airframe units of the air carrier returned after lease to others for a period of more than 90 days. Airframe units obtained through interchange lease arrangements shall not be so reported.

(2) Retirements: The indicated data shall be reported for the sale or retirement of each airframe, each type of aircraft engine (stating the number of units retired) and, to the extent retired along with airframes and engines, in aggregates by accounts, operating property and equipment included in accounts 1607 and 1608 and nonoperating property and equipment included in accounts 1707 and 1708. Disposition of properties in accounts 1608 and 1708 not related to airframe and aircraft engine retirements shall be reported in a separate group for each account. Airframe units leased from others for a period of more than 90 days shall be reported, upon return to the lessor, in a separate subsection of this schedule and captioned as follows: Capital Leases—Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number and name of lessee of airframe units leased to others for a period of more than 90 days; moreover, airframe units leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule. Airframe units leased under interchange arrangements shall not be so reported. Aircraft engines leased from others for a period of more than 90 days shall be reported, upon return to the lessor, in a separate subsection of this schedule and captioned as follows: Capital Leases—Aircraft Engines; and Operating Leases—Aircraft Engines. In addition, a notation shall be made

by model number, number of units, and name of lessee of aircraft engines leased to others for a period of more than 90 days; moreover, aircraft engines leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule. Aircraft engines leased under interchange arrangements shall not be so reported.

(c) All dates shall indicate the day, the month and the year; shall be provided on a unit basis for airframes only, and, shall be reported for each aircraft engine group by date of transaction.

(d) Column 1, ''Year of First Delivery—Airframe,'' shall reflect, for each reported airframe, the year that the airframe was first delivered by its manufacturer.

(e) Column 2, ''Airframe Manufacturer's Serial Number,'' shall reflect the serial number assigned to each reported airframe by its manufacturer.

(f) Column 4, ''Acquisitions or Retirements,'' shall be used to indicate, for each item entered, whether it represents an acquisition or retirement. This shall be indicated by inserting in Column 4 an ''A'' for acquisition or an ''R'' for retirement.

(g) Column 8, ''Maximum Seating Capacity,'' shall reflect the number of passenger seats installed in each airframe acquired. When airframes are designed for multiple adjustable seating configurations, the maximum number of seats for which designed shall be reported. When the seating configuration of airframes is modified subsequent to original acquisition, the revised passenger capacity of each airfame shall be reported in the quarter in which modified and referenced to identify original capacity reported.

(h) Column 9, ''Cost,'' shall reflect the book cost of reported airframe and aircraft engine acquisitions and retirements.

(i) Column 10, ''Amortization/Depreciated Cost,'' shall reflect the book cost, less amortization or depreciation expense, for airframes and aircraft engines that have been retired.

(j) Column 11, ''Realization,'' shall reflect the proceeds from the disposition of airframes and aircraft engines, including any insurance proceeds.

(k) Column 12, ''Acquired From/Disposition,'' shall reflect: (1) for acquisitions: the name of the person or organization from which airframes and aircraft engines are acquired and (2) for dispositions (retirements): the name of the person or organization to which airframes and aircraft engines are sold or a notation as to the nature of the retirement and the account to which any depreciated cost has been charged, if not sold. Items included in accounts 1607, 1608, 1707, and 1708, sold as a part of an airframe or aircraft sales transaction, shall also be identified by the name of the buyer. Other sales of items included in these accounts shall be reported in a separate group in aggregate for each property account affected.

Schedule B–12—Statement of Cash Flows

(a) This Schedule shall be filed quarterly by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) This schedule shall be filed for the overall or system operations of the air carrier.

(c) The statement of cash flows shall separately disclose the amount of net cash provided or used during the reporting period from the carrier's operating activities, investing activities and financing activities. The effect on cash and cash equivalents of the total amount of net cash provided or used during the quarter from each of the above activities shall be clearly disclosed so as to reconcile beginning and ending cash and cash equivalents.

(d) Carriers may use either the direct or indirect method of reporting cash flows. Under either method, the reporting of cash flows from investing and financing activities will remain the same. However, the reporting of cash flows from operating activities does differ between the two methods.

(e) For carriers electing to use the direct method, cash flows from operating activities are reported as gross amounts of the principal components of cash receipts and cash payments from operating activities, such as cash received from passengers and shippers, cash paid to suppliers, and cash paid to employees. Each carrier using the direct method shall provide as part of its statement of cash flows, a separate schedule that reconciles net income (as reported on Schedule P–1.2 in Account 9899) to cash flow from operating activities.

(f) For carriers electing to use the indirect method, cash flows from operating activities shall reflect net income (as reported on Schedule P–1.2 in Account 9899) along with the adjustments necessary to reconcile net income (Account 9899) to net cash for the period (Net Cash Provided or Used By Operating Activities).

(g) Regardless of the method used, the statement of cash flows shall reflect the amount of net cash flow provided or used by operating activities during the reporting period.

(h) The balance of ''Cash and Cash Equivalents,'' at the beginning and ending of the quarterly period covered by the report, should equal the sum of Accounts 1010, ''Cash,'' and 1100, ''Short-term Investments,'' as reported on the immediately preceding and current quarterly Schedule B–1, ''Balance Sheet.'' If the sum of these two accounts does not equal the total ''Cash and Cash Equivalents'' reported on the statement of cash flows, then a footnote explaining the difference shall be provided as part of the statement of cash flows.

Schedule B–43—Inventory of Airframes and Aircraft Engines

(a) This schedule shall be filed by all Group I, Group II and Group III air carriers.

(b) The indicated data shall be reported for each individual airframe, identified by type, model and design of cabin (main deck) as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Type and model refers to aircraft models such as B–707–100, B–707–200, DC–10–40, Beech–18, Piper PA–32, etc. Aircraft type designations are prescribed in Accounting and Reporting Directive No. 178, ''List of Aircraft Type Numeric Codes.'' Copies of this directive and subsequent updates to the list of aircraft type codes are available from the Department's Office of Airline Information. Airframes that are authorized for operation over water under FAA regulation FAR 121 shall be so indicated by asterisk.

(c) Data pertaining to aircraft engines shall be reported on a group basis by type of engine and by type of aircraft to which related.

(d) Data in this schedule shall be grouped and subtotaled as data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment. Data pertaining to airframes and aircraft engines obtained under operating and capital leases shall be reported, by type of lease, in a separately captioned grouping below nonoperating airframes and aircraft engines and subgrouped within those groups according to operating and nonoperating equipment.

(e) Column 1, ''Year of First Delivery—Airframe,'' shall reflect, for each reported airframe, the year that the airframe was first delivered by its manufacturer.

(f) Column 2, ''Airframe Manufacturer's Serial Number,'' shall reflect the serial number assigned to each reported airframe by its manufacturer.

(g) Data pertaining to airframes and aircraft engines obtained under operating leases shall be listed in Columns 1 through 9; the cost of improvements to equipment under operating leases shall be reported in Columns 10 through 12.

(h) Column 9, ''Available Capacity (Weight),'' shall reflect, for each reported aircraft type, the available capacity (stated in pounds) that is used in computing the available ton-miles reported on Schedules T–100, T–1, and T–2.

(i) Column 10, ''Acquired Cost or Capitalized Value,'' shall include (1) the acquisition cost of owned airframes and aircraft engines; (2) the total capitalized cost of obtaining airframes and engines under capital leases; and (3) the cost of improvements to airframes and engines obtained under operating leases.

(j) Column 11, ''Allowance for Depreciation or Amortization,'' shall include (1) the accumulations of all provisions for losses due to use and obsolescence that are applicable to owned airframes and aircraft engines, (2) the amount of amortization recorded for amortizing the value of airframes and engines obtained under capital leases, and (3) the amount of amortization recorded for amortizing the value of improvements to airframes and aircraft engines obtained under operating leases.

(k) Column 12, ''Depreciated Cost or Amortized Value,'' shall be calculated as either (1) Acquired Cost (Column 10) less the Allowance for Depreciation (Column 11) or (2) Capitalized Value (Column 10) less Amortization (Column 11).

(l) Column 13, ''Estimated Residual Value,'' shall state, in dollars, the residual value assigned to owned and capital-leased airframes and aircraft engines, including any overhaul value not subject to depreciation.

(m) Column 14, ''Estimated Depreciable or Amortizable Life (Months),'' shall state the estimated depreciable or amortizable life from the date of acquisition of each airframe and each group of aircraft engines.

[ER–755, 37 FR 19726, Sept. 21, 1972]

EDITORIAL NOTE: For Federal Register citations affecting part 241, section 23, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Section 24—Profit and Loss Elements

Schedule P–1.1—Statement of Operations

(a) This schedule shall be filed semiannually by Group I air carriers with annual operating revenues below $20 million. Data reported on this schedule shall be for the overall or system operations of the air carrier.

(b) This schedule shall show the results of operations for six-month periods ending June 30 and December 31. Data reported in the ''12 Months-to-Date'' column shall represent for each individual item the sum of the amount reported in the ''Current Period'' column and the next previous six-month period.

(c) Each carrier shall insert in the space provided for ''OAG Code'' its carrier code as contained in the Official Airlines Guide (OAG). If the OAG does not contain a carrier code for the reporting carrier, a code will be provided by the Office of Airline Information upon request. This code will then be placed in the space provided for ''carrier code.''

(d) ''Operating Revenue'' shall be put in categories as follows:

(1) ''Transport Revenue'' shall include the revenue generated by the performance of air transportation services. This category shall be subdivided as follows:

(i) ''Scheduled Service'' shall include all transport revenue derived from operations

between pairs of points which are served on a regularly scheduled basis. Transport revenue received from scheduled service operations shall be subdivided as follows:

(A) *Passengers*. Revenue generated from the transportation of passengers shall be included in this category.

(B) *Other*. Revenue generated by the transportation of property and mail shall be included in this category.

(ii) ''Nonscheduled Service'' shall include all transport revenue derived from operations between pairs of points which are not served on a regularly scheduled basis.

(2) ''Transport-Related Revenue'' shall include monies received for providing air transportation facilities associated with the performance of services which flow from and are incidental to air transportation services performed by the air carrier. This category shall be subdivided as follows:

(i) *Public Service Revenue*. This category shall include amounts of compensation paid to the carrier under 49 U.S.C 41733.

(ii) *Other*. This category shall include other transport-related revenue such as in-flight sales, restaurant and food service (ground), rental of property or equipment, limousine service, interchange sales, and cargo pick-up and delivery charges.

(e) ''Operating Expense'' shall be segregated as follows:

(1) ''Flying Operations'' shall include expenses incurred directly in the in-flight operation of aircraft and expenses incurred in the holding of aircraft and aircraft operation personnel in readiness for assignment to an in-flight status.

(2) ''Maintenance'' shall include all expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation.

(3) ''General and Administrative'' shall include that portion of all expenses of a general corporate nature and all other expenses not provided for elsewhere which are related to air transport operations either directly or indirectly.

(4) ''Depreciation and Amortization'' shall include all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services. These expenses shall be segregated between those applicable to owned property and equipment and those applicable to property and equipment which is leased.

(5) ''Transport-Related Expense'' shall include all expenses associated with the transport-related revenues reported on line 5 of this schedule.

(f) ''Operating Profit (Loss)'' shall be computed by subtracting the total operating expenses from the total operating revenues.

(g) ''Nonoperating Income and Expense'' shall include all revenues and expenses resulting from commercial ventures which are not inherently related to the performance of air transport services. For example, the revenues and expenses related to operating a hotel or motel would be reported under this category. This category shall also include the total interest expense incurred from all sources and shall be subdivided as follows:

(1) Interest Expense.

(2) Other Nonoperating (Net).

(h) ''Income Tax'' shall reflect the provisions for accruals of Federal, State, local, and foreign taxes based upon taxable income, and computed at the normal and surtax rates in effect during the current accounting year.

(i) ''Discontinued Operations, Extraordinary Items or Accounting Changes'' shall reflect any earnings or losses from discontinued operations, the net of the tax amount of extraordinary items, and the cumulative effect of any changes in accounting principles.

(j) Any air carrier that does not file Schedule P–1(a) in accordance with the filing option described in section 22—General Reporting Instructions shall, for the sixth month of any semi-annual period during which the option is exercised, type in the bottom margin of this statement of operations the total number of full-time and part-time employees to be labeled as such and calculated in accordance with paragraph (d) of the reporting instructions for Schedule P–1(a).

Schedule P–1.2—Statement of Operations

(a) This schedule shall be filed quarterly by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) Route and charter carriers shall file separate statements of operations for each separate operating entity and for the overall, or system operations.

(c) Data reported on this schedule shall conform with the instructions pertaining to profit and loss classifications within this Uniform System of Accounts and Reports.

(d) Data reported in the ''12 Months-to-Date'' column shall represent for each item the sum of amounts reported in the ''Quarter'' column for the current and next previous three quarters.

(e) Group III air carriers shall subdivide total Transport Revenues-Passenger (Account 3901) between Accounts 3901.1, Passenger-Flight Class and Account 3901.2 Passenger-Coach, only for operations that are reported in the international entity (Atlantic, Pacific and Latin American). First class and coach passenger revenues associated with transport operations reported in the domestic entity shall be reported as a combined total in Account 3901 Transport Revenues-Passenger.

(f) All Group I and Group II air carriers shall report first class and coach passenger revenues as a combined total in Account 3901

Transport Revenues-Passenger, for both domestic and international entity operations. However, U.S. air carriers in any carrier group that elect to do so may continue to report first class and coach revenue data, if they consider such voluntary reporting to be less burdensome than changing their existing financial reporting system.

(g) Any air carrier that does not file Schedule P–1(a) in accordance with the filing option described in section 22—General Reporting Instructions shall, for the third month of any calendar quarter during which the option is exercised, type in the bottom margin of the system statement of operations the total number of full-time and part-time employees to be labeled as such and calculated in accordance with paragraph (d) of the reporting instructions for Schedule P–1(a).

Schedule P–1(*a*) *Interim Income Statement*

(a) This schedule shall be filed by all air carriers.

(b) This schedule shall be filed for the overall or system operations of the air carrier.

(c) Data reported on this schedule shall reflect the results of operations for the month covered by the report and shall conform to the instructions pertaining to profit and loss classifications within this Uniform System of Accounts and Reports.

(d) Air carriers shall report on this schedule:

(1) Total operating revenues,

(2) Total operating expenses,

(3) Operating profit or loss,

(4) Net income,

(5) Passenger revenues—scheduled service,

(6) Public service revenues (subsidy) and other information on

(7) The total number of full-time and

(8) Part-time employees. Total number of full-time employees and total number of part-time employees shall reflect for the overall or system operations of the air carrier the total number of full-time and part-time employees, respectively, who worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month. For the purposes of this part, ''part-time employees'' means those employees hired to work less than the number of hours that is customary or standard for their occupational specialty.

(e) In the event of a labor strike, the ''number of employees'' to be reported on this schedule shall be determined on and actual payroll basis. Actual payroll shall be determined in accordance with paragraph (d) of these reporting instructions. An air carrier that on October 24, 1978, held a certificate issued under 49 U.S.C. 41102 shall also report in a footnote on this schedule the number of full-time employees who were deprived of employment because of a strike (*i.e.*, the number of full-time employees who, but for a strike, would have been included in the number reported in accordance with paragraph (d)(7)).

Schedule P–2—Notes to BTS Form 41 Report

(a) This schedule shall be filed quarterly by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) Route and charter air carriers shall file this schedule for each separate operating entity and for the overall, or system operations of the carrier.

(c) All substantive matters which may influence materially interpretations or conclusions in regard to the financial condition or the earnings position of the air carrier which are not clearly identified in the body of the Form 41 report or which represent information that cannot be expressed adequately in monetary terms shall be completely and clearly stated in this schedule and cross-referenced to the affected account or accounts. The informative disclosure on this schedule for the system operations of the air carrier shall conform, at the end of each carrier's fiscal or calendar year, with the footnotes prepared for audited financial statements.

(d) The amounts and estimated delivery dates of any purchase commitments of material size and not of a recurrent routine character shall be explained on this schedule. In the case of commitments involving flight equipment, the amount for each equipment type may be given in total, including any engines, airframes and spares; but the number of airframes and the number of engines by type shall be given, as well as the estimated delivery date for each complete aircraft. Reports on commitments other than for flight equipment are required only in the December 31 report of each calendar year.

(e) Each scheduled air carrier shall include on this schedule a description of each interruption in air transport operations, the aggregate effect of which is ten (10) percent or more of the scheduled revenue plane-miles which, except for the interruption, would have been operated during the month or either of 2 consecutive months affected. The information to be reported for each such interruption in operations shall consist of:

(1) For the report period in which partial or complete interruption first occurs, the nature of the interruption and dates of partial and/or complete cessation of operations, as applicable;

(2) For each report period until full resumption of operations, an estimate of the revenue plane-miles canceled in each month of the quarter because of the interruption; and

(3) For the report period in which scheduled operations are resumed, dates of partial and/or complete resumption, as applicable.

Schedule P–5.1—Aircraft Operating Expenses

(a) This schedule shall be filed by all Group I air carriers. Group I air carriers that have annual operating revenues of $20 million or more shall file this schedule quarterly and only report direct operating expense data (lines 1 thru 9). Group I air carriers with annual operating revenues below $20 million shall file this schedule semiannually and report both direct and indirect operating expense data (lines 1 thru 16).

(b) Subject to the provisions of Section 22(a), quarterly reports are due on May 10, August 10, November 10 and February 10 for the first, second, third and fourth calendar quarters, respectively. Semiannual reports are due on August 10 and February 10.

(c) Each carrier shall indicate in the space provided its full corporate name and an ''X'' shall be inserted in the appropriate box to indicate whether the data being reported are quarterly or six months data. The period-ending data shall be indicated in the space provided.

(d) Route and charter air carriers subject to the quarterly filing requirement shall file this schedule for each operating entity of the air carrier. Air carriers subject to the semiannual filing requirement shall file this schedule for the overall or system operations of the air carrier.

(e) This schedule shall show the direct and indirect expenses incurred in aircraft operations. Direct expense data applicable to each aircraft type operated by the carrier shall be reported in separate colums of this schedule. Each aircraft type reported shall be identified at the head of each column in the space provided. ''Aircraft Type'' refers to aircraft models such as B–707–100, B–707–200, DC–10–40, Beech–18, Piper PA–32, etc, Aircraft Type designations are prescribed in the Accounting and Reporting Directives, which is available from the Board's Information Management Division. In the space provided for ''Aircraft Code'' carriers shall insert the four digit code which is prescribed in the Accounting and Reporting Directives for the reported aircraft type.

(f) Direct aircraft operating expenses shall be reported in the following categories:

(1) Line 2 ''Flying Operations (Less Rental)'' shall be subdivided as follows:

(i) Line 3 ''Pilot and Copilot'' expense shall include pilots' and copilots' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(ii) Line 4 ''Aircraft Fuel and Oil'' expense shall include the cost of fuel and oil used in flight operations and nonrefundable aircraft fuel and oil taxes.

(iii) Line 5 ''Other'' expenses shall include general (hull) insurance, and all other expenses incurred in the in-flight operation of aircraft and holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status that are not provided for otherwise on this schedule.

(2) Line 6 ''Total Flying Operations (Less Rentals)'' shall equal the sum of lines 3, 4 and 5.

(3) Line 7 ''Maintenance-Flight Equipment'' shall include the cost of labor, material and related overhead expended by the carrier to maintain flight equipment, general services purchased for flight equipment maintenance from associated or other outside companies, and provisions for flight equipment overhauls.

(4) Line 8 ''Depreciation and Rental-Flight Equipment'' expense shall include depreciation of flight equipment, amortization of capitalized leases for flight equipment, provision for obsolescence and deterioration of spare parts, and rental expense of flight equipment.

(5) Line 9 ''Total Direct Expense'' shall equal the sum of lines 6, 7 and 8.

(g) Line 10 Indirect aircraft operating expenses shall be reported only in total for all aircraft types and shall be segregated according to the following categories:

(1) Line 11 ''Flight Attendant Expense'' shall include flight attendants' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(2) Line 12 ''Traffic Related Expense'' shall include traffic solicitor salaries, traffic commissions, passenger food expense, traffic liability insurance, advertising and other promotion and publicity expenses, and the fringe benefit expenses related to all salaries in this classification.

(3) Line 13 ''Departure Related (Station) Expense'' shall include aircraft and traffic handling salaries, landing fees, clearance, customs and duties, related fringe benefit expenses and maintenance and depreciation on ground property and equipment.

(4) Line 14 ''Capacity Related Expense'' shall include salaries and fringe benefits for general management personnel, record-keeping and statistical personnel, lawyers, and law clerks, and purchasing personnel; legal fees and expenses; stationery; printing; uncollectable accounts; insurance purchased-general; memberships; corporate and fiscal expenses; and all other expenses which cannot be identified or allocated to some other specifically identified indirect cost category.

(h) Line 15 ''Total Indirect Expense'' shall equal the sum of lines 11, 12, 13 and 14.

(i) Line 16 ''Total Operating Expense'' shall equal the sum of lines 9 and 15.

Schedule P–5.2—Aircraft Operating Expenses

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) Route and charter air carriers shall file this schedule for each operating entity of the air carrier.

(c) Data applicable to each aircraft type operated by the air carrier shall be reported

in separate columns of this schedule. ''Aircraft Type'' refers to aircraft models (such as B–707–100, B–707–300, DC–9–30, etc.) that are prescribed in the *Accounting and Reporting Directives,* which is available from the Office of Airline Information. In the space provided for ''Aircraft Code'' carriers shall insert the four digit code which is prescribed in the *Accounting and Reporting Directives* for the reported aircraft type. For route air carriers, expenses of operating aircraft provided by other carriers under interchange agreements shall be separately reported in total for all such aircraft as if for a distinct aircraft type. Interchange expenses applicable to aircraft of the same type as those owned or operated by the air carrier shall be distributed in summary memo form as item 98.1 and 98.2 to each aircraft type owned or operated by that air carrier. Aircraft types not generally used in revenue service shall be separately reported. If more than one type of aircraft is involved, a separation of data relating to each type of aircraft shall not be required.

(d) Each aircraft type for which a report is being made shall be identified at the head of each column in the space provided. Data applicable to aircraft designed primarily for cargo services and only incidentally used for passenger services shall be reported in separate columns, and the word ''cargo'' shall be inserted after the aircraft type at the head of the column. The prescribed reporting by aircraft types may be reviewed from time to time upon request by individual air carriers, or upon the initiative of the BTS, and groupings of aircraft types for reporting purposes may be prescribed or amended in specific instances.

(e) Italicized codes and item titles do not constitute accounts or account numbers prescribed for air carrier accounting, but shall be used for reporting purposes only.

(f) Item 79.6 ''Applied Maintenance Burden'' shall reflect a memorandum allocation by each air carrier of the total expenses included in subfunction 5300 ''Maintenance Burden'' between maintenance of flight equipment, by aircraft type, and maintenance of ground property and equipment. The allocation of subfunction 5300 (maintenance burden) shall include the net effect of charges and credits to profit and loss account 5272 Flight Equiment Airworthiness Provisions.

(g) Item 73 ''Obsolescence and Deterioration—Expendable Parts'' shall reflect (for obsolescence and deterioration of flight equipment expandable parts) the gross provisions for losses in value of expendable parts during the current accounting period offset by any credits applicable to the current period for adjustments for excess inventory levels determined pursuant to section 6–1311.

(h) The total of function 5100 ''Flying Operations'' reported on this schedule shall agree with corresponding amounts reported on Schedule P–1.2.

Schedule P–6—Operating Expenses by Objective Groupings

(a) This schedule shall be filed quarterly by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) Route and charter air carriers shall file this schedule for each separate operating entity.

(c) Line 36 ''Total Operating Expenses'' shall agree with the corresponding amount reported on Schedule P–1.

Schedule P–7—Operating Expenses by Functional Groupings—Group III Air Carriers

(a) This schedule shall be filed by all Group III air carriers.

(b) Route and charter air carriers shall file this schedule for each operating entity of the air carrier.

(c) Line 38 ''Total Operating Expenses'' shall agree with the corresponding amount reported on Schedule P–1.2.

Schedule P–10—Employment Statistics by Labor Category

(a) This schedule shall be filed annually by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) Separate sets of this schedule shall be filed for each operating entity of the air carrier. Employees will be allocated to the reporting entities on a basis consistent with that used in the allocation of salaries for Form 41 financial reporting purposes.

(c) Column 3, ''Number of Employees,'' shall reflect, for each category in column 1, the weighted average number of full-time employees who received pay for any part of the calendar year. In determining the weighted average, all temporary or part-time employees shall be restated, based on their hours paid, as an equivalent number of full-time employees. The calculation shall be based on a standard full-time 2,080/hour year with overtime hours excluded from the computation.

(d) Labor category description—''Other personnel'' shall include all employees whose salary is chargeable to accounts 30, 32, 34 and 35 in this Uniform System of Accounts and Reports.

(e) Labor category description—''Transport-related'' shall include all employees whose salary is not chargeable to one of the various salary accounts contained in the Uniform System of Accounts and Reports. For example, this category would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. The number of employees reported

as transport-related shall be calculated in accordance with paragraph (c) of these reporting instructions.

Schedule P–12(a)—Fuel Consumption by Type of Service and Entity

(a) This schedule shall be filed monthly by all Group II and Group III air carriers and Group I air carriers that have annual operating revenues of $20 million or more.

(b) A single copy (original only) of this schedule shall be filed to report monthly fuel consumption data by type of service and entity.

(c) For the purposes of this schedule, type of service shall be either scheduled service or nonscheduled service as those terms are defined in section 03 of part 241.

(d) For the purpose of this schedule, scheduled service shall be reported separately for: (1) Intra-Alaskan operations; (2) domestic operations, which shall include all operations within and between the 50 States of the United States (except Intra-Alaska), the District of Columbia, the Commonwealth of Puerto Rico and the United States Virgin Islands and Canadian transborder operations; (3) Atlantic operations (excluding Bermuda); (4) Pacific operations which shall include the North/Central Pacific, South Pacific (including Australia) and the Trust Territories; and (5) Latin American operations which shall include the Caribbean (including Bermuda and the Guianas), Mexico and South/Central America.

(e) For the purpose of this schedule, nonscheduled service shall be reported separately for domestic operations and international operations as defined in paragraph (d) above, except that domestic and international MAC operations shall be reported on separate lines.

(f) The cost data reported on each line shall represent the average cost of fuel, as determined at the station level, consumed in that entity.

(g) The cost of fuel shall include shrinkage but exclude (1) ''through-put'' and ''in to plane'' fees, *i.e.*, service charges or gallonage levies assessed by or against the fuel vendor or concessionaire and passed on to the carrier in a separately identifiable form and (2) nonrefundable Federal and State excise taxes. However, ''through-put'' and ''in to plane'' charges that cannot be identified or segregated from the cost of fuel shall remain a part of the cost of fuel as reported on this schedule.

(h) Each air carrier shall maintain records for each station showing the computation of fuel inventories and consumption for each fuel type. The periodic average cost method shall be used in computing fuel inventories and consumption. Under this method, an average unit cost for each fuel type shall be computed by dividing the total cost of fuel available (Beginning Inventory plus Purchases) by the total gallons available. The resulting unit cost shall then be used to determine the ending inventory and the total consumption costs to be reported on this schedule.

(i) Where amounts reported for a specific entity include other than Jet A fuel, a footnote shall be added indicating the number of gallons and applicable costs of such other fuel included in amounts reported for that entity.

(j) Where any adjustment(s) recorded on the books of the carrier results in a material distortion of the current month's schedule, carriers shall file a revised schedule P–12(a) for the month(s) affected.

(k) Data reported on this schedule shall be withheld from public release until the quarterly Form 41 P schedules for the calendar quarter to which the monthly schedules relate are due at the BTS. However, aggregate data may be released before that time without identifying individual carriers. Provisions governing the due dates for submitting the quarterly P schedules are contained in paragraphs (a) and (b) of section 22 of this part. Individual carrier fuel data withheld from public disclosure may be disclosed by the BTS to:

(1) Parties to any proceeding before the DOT to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the DOT;

(2) Agencies and other components of the Federal Government for their internal use only; and

(3) Such persons and in such circumstances as the BTS determines to be in the public interest or consistent with its regulatory functions and responsibilities.

(Approved by the Office of Management and Budget under control number 2138–0013)

[ER–755, 37 FR 19726, Sept. 21, 1972, as amended by 241–58, 54 FR 5597, Feb. 6, 1989]

EDITORIAL NOTE: For Federal Register citations affecting part 241 section 24, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

TRAFFIC REPORTING REQUIREMENTS

Section 25—Traffic and Capacity Elements

General Instructions. (a) All prescribed reporting for traffic and capacity elements shall conform with the data compilation standards set forth in section 19—Uniform Classification of Operating Statistics.

(b) Schedules T–1, T–2, T–3 and T–100 for U.S. air carriers shall be submitted in magnetic computer tape or floppy disc as provided in section 19–1(c) of this part. As prescribed in section 1–02 of this part, air carriers may request a waiver from the Director, Office of Airline Information, BTS, to allow the submission of hardcopy reports.

Schedule T–1 U.S. Air Carrier Traffic and Capacity Summary-By Service Class

(a) Schedule T–1 collects summary statistics to supplement the detail Schedule T–100 data. This schedule shall be filed monthly by each large certificated U.S. air carrier conducting domestic charter, or domestic cargo operations, or military charters in each applicable entity. Traffic and capacity data are reported on this schedule for the following service classes.

(1) G—Scheduled All-Cargo.

(2) L—Nonscheduled Civilian Passenger/Cargo.

(3) P—Nonscheduled Civilian Cargo.

(4) N—Nonscheduled Military Passenger/Cargo.

(5) R—Nonscheduled Military Cargo.

(b) Separate schedules shall be filed for each operating entity.

(c) Detailed instructions for preparing Schedule T–1 are included in the Appendix to this section.

(d) The reported data shall be compiled as aggregates of the basic data prescribed in section 19, Uniform Classification of Operating Statistics.

(e) The schedule shall include the following items:

Code	Service/class	Elements
.....	.....	Air carrier.
.....	.....	Operating entity.
.....	.....	Report date (month ended).
.....	G,L,N,P,R	Service class code.
.....	N, R	Aircraft type code.
110	L,N	Revenue passengers enplaned.
140	L,N	Revenue passenger-miles (000).
240	G,L,N,P,R	Revenue ton-miles.
241	L,N	Revenue ton-miles passenger.
247	G,L,N,P,R	Revenue ton-miles freight.
249	G.L, P	Revenue ton-miles mail.
280	G,L,N,P,R	Available ton-miles.
320	L,N	Available seat-miles.
410	G,L,N,P,R	Revenue aircraft miles flown.
430	G	Revenue aircraft miles scheduled.
510	G,L,N,P,R	Revenue aircraft departures performed.
610	G,L,N,P,R	Revenue aircraft hours (airborne).
630	G,L,N,P,R	Revenue aircraft hours (ramp-to-ramp).

Schedule T–2 U.S. Air Carrier Traffic and Capacity Statistics-By Aircraft Type

(a) Schedule T–2 collects summary statistics to supplement the detail Schedule T–100 data. This schedule shall be filed for each calendar quarter by each large certificated U.S. air carrier.

(b) Separate schedules shall be filed for each operating entity of the air carrier.

(c) Detailed instructions for preparing Schedule T–2 are included in the Appendix to this section.

(d) The reported data shall be compiled as aggregates of the data prescribed in section 19, Uniform Classification of Operating Statistics.

(e) This schedule shall include the following items:

Code	Service class	Elements
.....	.....	Air carrier.
.....	.....	Operating entity.
.....	.....	Report date (quarter ended).
.....	G,Z	Aircraft type code.
.....	G,Z	Service class code.
140	Z	Revenue passenger-miles (000).
240	G,Z	Revenue ton-miles.
247	Z	Revenue ton-miles freight.
249	Z	Revenue ton-miles mail.
280	G,Z	Available ton-miles.
320	Z	Available seat-miles.
410	G,Z	Revenue aircraft miles flown.
510	V,G,Z	Revenue aircraft departures performed.
610	Z	Revenue aircraft hours (airborne).
630	Z	Revenue aircraft hours (ramp-to-ramp).
650	Z	Total aircraft hours airborne.
810	Z	Aircraft days assigned to service—carrier's equipment.
820	Z	Aircraft days assigned to service—carrier's routes.
921	Z	Aircraft fuels issued (gallons).

Schedule T–3 U.S. Air Carrier Airport Activity Statistics

(a) This schedule supplements the detail Schedule T–100 data. Schedule T–3 collects supplementary airport activity statistics as follows: The domestic entity report covers summary statistics on domestic all-cargo operations and both civilian and military charters. The international entity report covers summary information on military charter operations only. Further, only the U.S. airport is identified for international military charter operations, and airports outside the U.S. are summarized as a one-line total, coded ''NON'' in lieu of the airport code; these data are collected only on this schedule, not in the detail Schedule T–100.

(b) Separate schedules shall be filed for each air carrier entity, as prescribed under section 19–5(c)(2) of this part.

(c) In addition to the following general information, more detailed instructions for

completing schedule T–3 are included in the Appendix to this section.

(d) The data shall be compiled as aggregates of the basic data prescribed in section 19, Uniform Classification of Operating Statistics.

(e) This schedule shall include the following items:

Code	Service class	Elements
.....	.....	Air carrier.
.....	.....	Operating entity.
.....	.....	Report date (quarter ended).
.....	G,V	Aircraft type code.
.....	G,V	Service class code (G or V).
.....	G,V	Airport code.
110	V	Revenue passengers enplaned.
217	G,V	Revenue cargo tons enplaned—freight.
219	G,V	Revenue cargo tons enplaned—mail.
510	G,V	Revenue departures performed, by aircraft type.
520	G	Revenue aircraft departures, scheduled, by aircraft type.

Schedule T–8—Report of all-cargo operations.

(a) This schedule shall be filed annually by all air carriers that conduct all-cargo operations under certificates issued under 49 U.S.C. 41103.

(b) Data reported on this schedule shall include only results of operations conducted in all-cargo aircraft. Data shall be segregated between domestic all-cargo operations conducted within the geographic limitations of section 418 certificates and all other all-cargo operations.

(c) *Statement of operations.* This statement shall include the following elements:

(1) Total operating revenue, categorized as follows:

(i) Transport revenues from the carriage of property in scheduled and nonscheduled service;

(ii) Transport revenues from the carriage of mail in scheduled and nonscheduled service; and

(iii) Transport-related revenues.

(2) Total operating expenses; and

(3) Operating profit or loss, computed by subtracting the total operating expenses from the total operating revenues.

(d) Summary of traffic and capacity statistics. This summary shall include the following elements:

(1) Total revenue ton-miles, which are the aircraft miles flown on each flight stage times the number of tons of revenue traffic carried on that stage. They shall be categorized as follows:

(i) Property; and

(ii) Mail.

(2) Revenue tons enplaned, reflecting the total revenue tons of cargo loaded on aircraft during the annual period;

(3) Available ton-miles, reflecting the total revenue ton-miles available for all-cargo service during the annual period, and computed by multiplying aircraft miles flown on each flight stage by the number of tons of aircraft capacity available for that stage;

(4) Aircraft miles flown, reflecting the total number of aircraft miles flown in cargo service during the annual period;

(5) Aircraft departures performed, reflecting the total number of take-offs performed in cargo service during the annual period; and

(6) Aircraft hours airborne, reflecting the aircraft hours of flight (from take-off to landing) performed in cargo service during the annual period.

Schedule T–100 U.S. Air Carrier Traffic and Capacity Data By Nonstop Segment and On-Flight Market

(a) This Schedule T–100 collects detail on-flight market and nonstop segment data. This schedule shall be filed monthly by each large certificated U.S. air carrier except for a charter air carrier or an all-cargo carrier with only domestic operations. Separate data shall be reported on Schedule T–100 for each operating entity (Latin America, Atlantic, Pacific, International or Domestic) of the air carrier in the five digit entity code prescribed under section 19–5(c)(2) of this part. Domestic scheduled passenger/cargo operations and all international operations of scheduled and nonscheduled passenger/cargo and all cargo services shall be reported on Schedule T–100, except that international military charters shall not be reported on Schedule T–100.

(b) Guidelines for reporting the automated monthly Schedule T–100 are included in the Appendix to this section.

(c) Reported data shall be compiled as aggregates of the basic data elements and service classes contained in sections 19–4 and 19–5 of this part.

Schedule T–100(f) Foreign Air Carrier Traffic Data by Nonstop Segment and On-Flight Market

(a) This Schedule T–100(f) collects detail on-flight market and nonstop segment data. This schedule shall be filed monthly by each foreign (non-U.S.) air carrier conducting operations to or from the United States with large aircraft pursuant to Section 41302 permits or exemption authority. Reported traffic data shall include all services affecting the United States, as prescribed in this part.

(b) Guidelines for reporting the monthly Schedule T–100(f) are included in the Appendix to § 217.10 of this chapter. Copies of these instructions are provided to each foreign air carrier submitting the traffic data. Copies are also available from the Office of Airline

Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(c) The reported data shall be compiled as aggregates of the basic data elements and service classes prescribed in sections 19–4 and 19–5 of this part.

APPENDIX TO SECTION 241.25 OF CFR PART 241—INSTRUCTIONS TO U.S. AIR CARRIERS FOR REPORTING TRAFFIC AND CAPACITY DATA ON FORM 41 SCHEDULES T–100, T–1, T–2, AND T–3

(a) Applicability. Each large U.S. air carrier that holds a 49 U.S.C. 41102 certificate and operates aircraft designed with a maximum capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds must file these schedules. A carrier that conducts all of its operations under 49 U.S.C. 41103 (all-cargo certificates) does not file. Each air carrier will be advised of its reporting requirements by letters of instruction from the Office of Airline Information (OAI).

(b) Schedules, frequency, and entity:

(1) Schedule T–100, Monthly. Schedule T–100 collects summarized flight stage data by reporting entity as follows: International entity reports cover scheduled and nonscheduled passenger/cargo and all cargo services. Domestic entity reports cover passenger/cargo operations in scheduled services only. The term entity refers to the geographic location designator prescribed by the Department in section 19–5(c)(2) of this part, such as, for instance, domestic entity air transport operations as distinguished from international entity air transport operations.

(2) Schedule T–1, Monthly. For the domestic entity, Schedule T–1 collects summary statistics on domestic all-cargo operations, and on both civilian and military charters. For international entities, it collects summary information on military charter operations only.

(3) Schedule T–2, Quarterly. Schedule T–2 collects summary information for all reporting entities. It contains data elements for which there are no corresponding details in T–100 reports. It is submitted for each operating entity prescribed by the Department for each air carrier.

(4) Schedule T–3, Quarterly. For the domestic entity, Schedule T–3 collects summary statistics on all-cargo operations and on both civilian and military charters; and for international entities, it collects summary information on military charter operations only. Further, only the U.S. airport must be identified for international military charter operations, and airports outside the U.S. are summarized as a one-line total, coded ''NON'' in lieu of the airport code, since international military charters are not reported in the detail international Schedule T–100 data.

(c) Format of reports:

(1) Automatic Data Processing (ADP) magnetic tape. Refer to paragraph (f) below for instructions pertaining to mainframe and minicomputer reporting. The Department will issue ''Reporting Directives'' to make necessary technical changes to these T–100 instructions, where no policy issues are involved that would require a new rulemaking, or where only a few air carriers are affected.

(2) Microcomputer diskette.

(i) Optional specification. If an air carrier desires to use its personal computers (PC's), rather than mainframe or minicomputers to prepare its data submissions, the following specifications for filing data on diskette media apply:

(ii) Reporting medium. Microcomputer ADP data submission of T–100 information must be on IBM compatible floppy disk, including diskettes, floppy disks, or flexible disks. The particular type of acceptable minidisk is on 5¼ inch, double-sided/double-density, with a capacity of approximately 360,000 characters of data (360K). Carriers wishing to use a different ADP procedure must obtain written approval to do so from the Director, OAI, under the waiver provisions in section 1–2 of this part. Requests for approval to use alternate methods must disclose the proposed data transmission methodology. Refer to paragraph (k) for microcomputer record layouts.

(iii) Microcomputer file characteristics. The files will be created in ASCII delimited format, sometimes called Data Interchange Format (DIF). This form of recording data provides for variable length fields (data elements) which, in the case of alphabetic data, are enclosed by quotation marks (''') and separated by a comma (,) and numeric data elements that are recorded without editing symbols are also separated by a comma. The data is identified by its juxtaposition within a given record. Therefore, each record must contain the exact number of data elements, all of which must be juxtapositionally correct. Personal computer software including most spreadsheets, data base management programs, and BASIC are capable of producing files in this format.

(d) Filing data for reports. The reports must be received at DOT within 30 days following the end of each reporting period. Refer to §241.22 of this part for more information on date requirements.

(e) Address for filing: Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(f) ADP format for magnetic tape:

(1) Magnetic tape specifications. IBM compatible 9-track EBCDIC recording. Recording density of 6250 or 1600 bpi. The order of recorded information is:

Volume label.
Header label.
Data records.
Trailer label.

(g) External tape label information.
Carrier name.
Report date.
File identification.
Carrier address for return of tape reel.

(h) Standards. It is the policy of the Department to be consistent with the American National Standards Institute and the Federal Standards activity in all data processing and telecommunications matters. It is our intention that all specifications in this application are in compliance with standards promulgated by these organizations.

(i) Volume, header, and trailer label formats:

(1) Use standard IBM label formats. The file identifier field of the header labels should be ''T–100.SYSTEM''.

(j) Magnetic tape record layouts for T–100, T–1, T–2, and T–3.

(1) Nonstop segment record layout:

Field No.	Positions	Mode	Description
1	1	1A	Record type code (S=nonstop segment).
2	2–6	5A/N	Carrier entity code.
3	7–10	4N	Report date (YYMM).
4	11–13	3A	Origin airport code.
5	14–16	3A	Destination airport code.
6	17	1A	Service class code (F,G,L, or P).
7	18–21	4N	Aircraft type code.
8	22–26	5N	Revenue aircraft departures performed (F,G,L,P510).
9	27–36	10N	Available capacity payload (pounds) (F,G,L,P270).
10[1]	37–43	7N	Available seats—first cabin (F310, F311, L310).
11[1]	44–50	7N	Available seats—middle cabin (F313).
12[1]	51–57	7N	Available seats—coach cabin (F312).
13[1]	58–64	7N	Passengers transported—first cabin (F130, F131, L130).
14[1]	65–71	7N	Passengers transported—middle cabin (F133).
15[1]	72–78	7N	Passengers transported—coach cabin (F132).
16	79–88	10N	Revenue freight transported (F,G,L,P237) (in pounds).
17	89–98	10N	Revenue mail transported (F,G,L,P239) (in pounds).
18	99–103	5N	Revenue aircraft departures scheduled (F,G520).
19	104–113	10N	Revenue aircraft ramp hours, ramp-to-ramp (F,G,L,P630) (in minutes).
20	114–123	10N	Revenue aircraft hours, airborne (F,G,L,P610) (in minutes).

[1] Cabin data (First, Coach and Middle) are not reported by any carrier group in the domestic entity, where total available seats are reported in 310 and total passengers transported are included in 130; these totals are also used for the international operations of Group I and II carriers; cabin data are reported only for Group III international operations. All carrier groups will report total nonscheduled passengers in the summary data item L130, and nonscheduled available seats in L310.

(2) On-flight market record layout:

Field No.	Positions	Mode	Description
1	1	1A	Record type indicator: M = on-flight market record.
2	2–6	5A	Carrier entity code.
3	7–10	4N	Report data (YYMM).
4	11–13	3A	Origin airport code.
5	14–16	3A	Destination airport code.
6	17	1A	Service class code (F,G,L or P).
7[1]	18–24	7N	Total passengers in market—first cabin (F110, F111, L110).
8[1]	25–31	7N	Total passengers in market—middle cabin (F113).
9[1]	32–38	7N	Total passengers in market—coach cabin (F112).
10	39–48	10N	Revenue freight in market (F,G,L, P217) (in pounds).
11	49–58	10N	Revenue mail in market (F,G,L, P219) (in pounds).

[1] Cabin data (First, Coach and Middle) are not reported by any carrier Group in the domestic entity, where total passengers enplaned in a market are included in F110; cabin data are reported only for international operations of Group III air carriers; in international entity operations of Group I and Group II air carriers, total passengers enplaned are included in 110. All carrier groups will include nonscheduled passengers enplaned in L110.

(3) T–1, T–2, and T–3 Summary record layout:

Field No.	Positions	Mode	Description
1	1	1A	Record Type Code: 1 = T–1 data 2 = T–2 data 3 = T–3 data.
2	2–6	5A	Air Carrier Entity Code.
3	7–10	4N	Report Date (YYMM).
4	11–14	4A	Data Element Code (T–1, T–2, and T–3).
5	15–18	4A	Aircraft Type Code (T–1, T–2, and T–3).

Field No.	Positions	Mode	Description
6	19–21	3A	Airport Code (T–3).
7	22–31	10N	Data Value—Right justified with leading zeros.

(4) T–1 data elements:

1. Revenue passengers enplaned	L110	N110			
2. Revenue passenger-miles (000)	L140	N140			
3. Revenue ton-miles total	G240	L240	P240	N240	R240
4. Revenue ton-miles passenger	L241	N241			
5. Revenue ton-miles mail	G249	L249	P249		
6. Revenue ton-miles freight	G249	L247	P247	N247	R247
7. Available ton-miles	G280	L280	P280	N280	R280
8. Available seat-miles (000)	L320	N320			
9. Revenue aircraft miles flown	G410	L410	P410	N410	R410
10. Revenue departures performed	G510	L510	P510	N510	R510
11. Revenue aircraft miles scheduled	G430				
12. Revenue aircraft hours airborne	G610	L610	P610	N610	R610
13. Revenue aircraft hours ramp-to-ramp	G630	L30	P630	N630	R630
14. Revenue aircraft miles scheduled	G430				
15. Carrier code			.....		
16. Report date			.....		
17. Operating entity			.....		
18. Aircraft type code (Military charters)	.....		.....		

(5) T–2 Data elements (by aircraft type):

1. Revenue ton-miles	G240		
2. Available ton-miles	G280		
3. Revenue aircraft miles flown	G410		
4. Revenue aircraft departures performed	G510		
5. Revenue aircraft departures performed		V510	
6. Revenue passenger-miles (000)			Z140
7. Available seat-miles (000)			Z320
8. Revenue ton-miles total			Z240
9. Revenue ton-miles mail			Z249
10. Revenue ton-miles freight			Z247
11. Available ton-miles			Z280
12. Revenue aircraft miles flown			Z410
13. Revenue aircraft departures performed			Z510
14. Revenue aircraft hours airborne			Z610
15. Revenue aircraft hours ramp-to-ramp			Z630
16. Total aircraft hours (airborne)			Z650
17. Aircraft days assigned to service equipment			Z810
18. Aircraft days assigned to service routes			Z820
19. Aircraft fuels issued			Z921
20. Aircraft type code	.....		
21. Carrier code	.....		
22. Report date	.....		
23. Operating entity	.....		

(6) T–3 Data elements (by origin airport):

1. Airport code		.....
2. Revenue passengers enplaned		V110
3. Revenue tons enplaned mail	G219	V219
4. Revenue tons enplaned freight	G217	V217
5. Revenue aircraft departures performed	G510	V510
6. Revenue aircraft departures scheduled	G520	
7. Aircraft type code		.....
8. Carrier code		.....
9. Report date		.....
10. Operating entity		.....

(k) Record layouts for microcomputer diskettes. The record layouts for diskette are generally identical to those shown for magnetic tape, with the exception that delimiters (quotation marks and commas) are used to separate fields. It is necessary that the order of fields be maintained in all records.

(1) File characteristics. The files will be created in ASCII delimited format, sometimes called Data Interchange Format (DIF). This form of recording data provides for variable length fields (data elements) which, in the case of alphabetic data, are enclosed by quotation marks (‘‘) and separated by a comma (,) and numeric data elements that are recorded without editing symbols are also separated by a comma. The data is identified by its juxtaposition within a given record. Therefore it is critical that each record contain the exact number of data elements, all of which data must be juxtapositionally correct. PC software including most spreadsheets, data base management programs, and BASIC produce minidisks files in this format.

(2) File naming conventions for diskettes. For microcomputer reports, each record type should be contained in a separate DOS file on the same physical diskette. The following DOS naming conventions should be followed:

Record type S = SEGMENT.DAT
Record type M =MARKET.DAT
Record type 1 = T–1.DAT
Record type 2 = T–2.DAT
Record type 3 = T–3.DAT

(l) Discussion of reporting concept.

(1) The detail T–100 data shall be maintained in such a manner as to permit monthly summarization and organization into two basic groupings. First, the nonstop segment information which is to be summarized by equipment type, within class of service,

within pair-of-points, without regard to individual flight number. The second grouping requires that the enplanement/deplanement information be broken out into separate units called on-flight market records, which shall be summarized by class of service, within pair-of-points, without regard for equipment type of flight number.

(2) The Schedules T–1 and T–3 information is applicable only to operations that are not required in the detail T–100 report. The Department will derive other necessary summary data directly from the detail T–100. The T–1 and T–3 data pertaining to domestic entities is for scheduled all-cargo service and charter operations. The T–1 for international entities contains data on military charter operations only.

(3) The Schedule T–2 information is required from each carrier and for each reporting entity. It contains some data elements for which there is no corresponding detail in T–100.

(4) A single tape file shall be submitted containing nonstop segment and on-flight market records for all applicable entities. The summary data pertaining to schedules T–1, T–2, and T–3 should be submitted on a second tape reel. A carrier reporting on diskette should create separate files for each record type, using DOS file naming conventions to identify them.

(5) An air carrier who submits middle cabin data may be confronted by a situation resulting from a change of gauge or other considerations wherein a given leg of a flight may not offer the same classes of service that is available on the remainder of the legs. When preparing on-flight market records applicable to this situation, the carrier should consider passengers transported as though the entire trip was configured as the first segment. The passenger cabin where the passenger is seated at the beginning of the flight determines the classification for the whole trip.

(m) Joint Service.

(1) The Department may authorize joint service operations between two direct air carriers. Examples of these joint service operations are: blocked-space agreements; part-character agreements; code-sharing agreements; wet-lease agreements, and similar arrangements.

(2) Joint service operations shall be reported in Form 41 Schedule T–100 and T–100(f) within the following guidelines:

(i) Blocked space, part-charters and code-sharing arrangements shall be reported by the carrier in operational control of the flight. The traffic moving under those agreements is reported the same as any other traffic on board the aircraft.

(ii) Wet lease agreements shall be reported by the lessee as though the leased aircraft and crew were a part of the lessee's own fleet.

(iii) If there are questions about reporting a joint service operation, contact the Director, Office of Airline Information at the address in paragraph (d) of this Appendix.

(iv) The Department may require information pertaining to joint service operations in addition to that reported by in Schedules T–100 and T–100(f) by U.S. and foreign air carriers. If additional information is needed, *ad hoc* reporting will be used by the Director, Office of Airline Information (OAI), under authority delegated in §§385.27 (b) and (d) of this chapter. *Ad hoc* reporting requirements will be communicated to the applicable carriers by letter.

(m) Glossary of data elements. Sections 19–5 and 03 of 14 CFR part 241.

(n) Schedules.

FORM 41 SCHEDULE T-100
U. S. AIR CARRIER
TRAFFIC AND CAPACITY DATA BY NONSTOP SEGMENT AND ON-FLIGHT MARKET

A. SERVICE PATTERN							B. NONSTOP SEGMENT INFORMATION								
Line No.	A-3 Airport Code	A-4 Airport Code	A-5 Service Class Code				B-1 Aircraft Type Code	B-2 Revenue Aircraft Depart. Performed F,L510 6,P510	B-3 Avail. Capacity Payload F,L270 6,P270	B-4 * Avail. Seats TOTAL/ First F,L310 F311	B-5 Avail. Seats Middle F313	B-6 Avail. Seats Coach F312	B-7 * Revenue Psgrs. Transp. TOTAL/ First F,L130 F131	B-8 Revenue Psgrs. Transp. Middle F133	B-9 Revenue Psgrs. Transp. Coach F132
	Origin	Destin.	F	G	L	P		By aircraft type							
1.															
2.															
3.															
4.															
5.															
6.															
7.															
8.															
9.															
10.															
11.															
12.															
13.															
14.															
15.															
16.															
17.															
18.															
19.															
20.															

* Note: The multiple cabin (First, Middle and Coach Class) data for Available Seats, Revenue Passengers Transported and Revenue Passengers Enplaned are reported only for the International entity operations of Group III U.S. air carriers. In all other instances, air carriers will report total Available Seats, Revenue Passengers Transported and Revenue Passengers Enplaned.

RSPA Form 41 Schedule T-100

A-1. Air Carrier Name: _____Code_____

A-2. Report Date: (Year) _____ (Month)_____

					C. ON-FLIGHT MARKET				
B-10 Revenue Freight Transp. (Pounds) F,L237 G,P237	B-11 Revenue Mail Transp. (Pounds) F,L239 G,P239	B-12 Revenue Acft. Dept. Sched. F520 G520	B-13 Revenue Aircraft Hours Ramp F,L630 G,P630	B-14 Revenue Aircraft Hours Airborne F,L610 G,P610	C-1 * Revenue Psgrs. Enplaned TOTAL/ First F,L110 F111	C-2 Revenue Psgrs. Enplaned Middle F113	C-3 Revenue Psgrs. Enplaned Coach F112	C-4 Revenue Freight Enplaned (Pounds) F,L217 G,P217	C-5 Revenue Mail Enplaned (Pounds) F,L219 G,P219
----------					-- Total for all aircraft types in market---				

FORM 41 SCHEDULE T-1
TRAFFIC AND CAPACITY SUMMARY
BY SERVICE CLASS

Air Carrier Name: _____ Code: ____

Entity Code: _____

Report Date: (Year) _____ (Month)_____

This schedule is used to report only: 1. Domestic all cargo scheduled service. 2. Domestic civilian charters. 3. International and domestic military charters.		Scheduled	Nonscheduled Civilian		Nonscheduled Military	
		All Cargo Service (G)	Passenger/ Cargo (L)	All Cargo (P)	Passenger/ Cargo By Aircraft Type (N)	All Cargo By Aircraft Type (R)
TRAFFIC ON REVENUE FLIGHTS					Aircraft Type Code _____	Aircraft Type Code _____
Revenue passengers enplaned	110	xxxxxx		xxxxxx		xxxxxx
Revenue passenger-miles (000)	140	xxxxxx		xxxxxx		xxxxxx
Revenue ton-miles	240					
Passenger	241	xxxxxx		xxxxxx		xxxxxx
Freight	247					
Mail	249				xxxxxx	xxxxxx
AIRCRAFT CAPACITY OPERATED						
Available ton-miles	280					
Available seat-miles	320	xxxxxx		xxxxxx		xxxxxx
Revenue aircraft-miles flown	410					
Revenue aircraft miles scheduled	430		xxxxxx	xxxxxx	xxxxxxx	xxxxxx
Revenue aircraft departures performed	510					
Revenue aircraft hours (airborne)	610					
Revenue aircraft hours (ramp-to-ramp)	630					

RSPA Form 41 Schedule T-1

(3) Form 41 Schedule T-2:
Provides data QUARTERLY to supplement detail T-100.

FORM 41 SCHEDULE T-2 U.S. AIR CARRIER TRAFFIC AND CAPACITY BY AIRCRAFT TYPE		Air Carrier Name:_____ Code:_____ Entity Code: _____ Report date: (Year)_____ (Month)_____			
		Aircraft Type Code:	Aircraft Type Code:	Aircraft Type Code:	Aircraft Type Code:
		---------	---------	---------	---------
SCHEDULED ALL-CARGO SERVICES:					
Revenue ton-miles	G240				
Available ton-miles	G280				
Revenue aircraft miles flown	G410				
Aircraft departures performed	G510				
NONSCHEDULED SERVICES:					
Aircraft departures performed	V510				
ALL SERVICES:					
Revenue passenger-miles (000)	Z140				
Available seat-miles (000)	Z320				
Revenue ton-miles	Z240				
Mail revenue ton-miles	Z249				
Freight revenue ton-miles	Z247				
Available ton-miles	Z280				
Revenue aircraft miles flown	Z410				
Aircraft departures performed	Z510				
Revenue aircraft hours (airborne)	Z610				
Revenue aircraft hours (ramp)	Z630				
Total aircraft hours (airborne)	Z650				
Aircraft days - equipment	Z810				
Aircraft days - routes	Z820				
Aircraft fuels issued	Z921				

RSPA Form 41 Schedule T-2

FORM 41 SCHEDULE T-3

U.S. AIR CARRIER

AIRPORT ACTIVITY STATISTICS

Air Carrier Name:_____Code_____

Report Date: (Year)_____ (Month)_____ _____ (Entity Code)

Line No.	Airport Code	Revenue Passengers Enplaned V110	Mail Tons Enplaned V219	Freight Tons Enpl. V217	Mail Tons Enpl. G219	Freight Tons Enpl. G217	Aircraft Departures Scheduled G520	Acft. Departures Performed -- G510 -- -- Aircraft Type Code --			Acft. Departures Performed -- V510 -- -- Aircraft Type Code --		
								------	------	------	------	------	------
1.													
2.													
3.													
4.													
5.													
6.													
7.													
8.													
9.													
10.													
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RSPA Form 41 Schedule T-3

Exhibit A

US Department of Transportation
Research and Special Programs
Administration

Air Carrier _____

Operation _____

STATEMENT OF OPERATIONS

	Account No.	Quarter Ended _____ , 19 __	12 Months Ended _____ , 19 __
OPERATING REVENUES			
Passenger-First Class	3901.1		
Passenger-Coach	3901.2		
Transport Revenues-Passenger	3901		
Mail	3905		
Property-freight	3906.1		
Property-excess passenger baggage	3906.2		
Charter-passenger	3907.1		
Charter-property	3907.2		
Reservation cancellation fees	3919.1		
Miscellaneous operating revenues	3919.2		
Public service revenues (subsidy)	4808		
Transport related revenues	4898		
Total Operating Revenues	4999		
OPERATING EXPENSES			
Flying operations	5100		
Maintenance	5400		
Passenger Service o	5500		
Aircraft and traffic servicing o	6400		
Promotion and sales o	6700		
General and administrative o	6800		
Depreciation and amortization +	6900		
Transport related expenses	7100		
Total Operating Expenses	7199		
Operating Profit or Loss	7999		
NONOPERATING INCOME AND EXPENSE			
Interest on long-term debt and capital leases	8181		
Other interest expense	8182		
Foreign exchange gains and losses	8185		
	8188.5		
Capital gains and losses	8188.6		
Other income and expenses-net	8189		
Nonoperating income and expense	8199		
Income before Income Taxes	8999		
INCOME TAXES FOR CURRENT PERIOD	9100		
Income before discontinued operations, extraordinary items and accounting changes	9199		
DISCONTINUED OPERATIONS	9600		
EXTRAORDINARY ITEMS	9796		
Income taxes applicable to extraordinary items	9797		
ACCOUNTING CHANGES	9800		
Net Income	9899		

* Denotes inverse amount; in accounts 8100, 9600, 9700, and 9800 denoted debit amount.

RSPA Form 41 Schedule P-1.2

\+ Group I Air Carriers Only

o Group II and Group III Air Carriers Only

(Approved by the Office of Management and Budget under control number 2138–0013)

[ER–755, 37 FR 19726, Sept. 21, 1972]

EDITORIAL NOTE: For Federal Register citations affecting part 241, section 25, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

PART 243—PASSENGER MANIFEST INFORMATION

Sec.
243.1 Purpose.
243.3 Definitions.
243.5 Applicability.
243.7 Information collection requirements.
243.9 Procedures for collecting and maintaining the information.
243.11 Transmission of information after an aviation disaster.
243.13 Filing requirements.
243.15 Conflicts with foreign laws.
243.17 Enforcement.

AUTHORITY: 49 U.S.C. 40101, 40101nt., 40105, 40113, 40114, 41708, 41709, 41711, 41501, 41702, 41712, 44909, 46301, 46310, 46316; section 203 of Pub. L. 101–604, 104 Stat. 3066 (22 U.S.C. 5501–5513), Title VII of Pub. L. 104–264, 110 Stat. 3213 (22 U.S.C. 5501–5513) and Pub. L. 105–148, 111 Stat. 2681 (49 U.S.C. 41313.)

SOURCE: Docket No. OST–95–950, 63 FR 8280, Feb. 18, 1998, unless otherwise noted.

§ 243.1 Purpose.

The purpose of this part is to ensure that the U.S. government has prompt and adequate information in case of an aviation disaster on covered flight segments.

§ 243.3 Definitions.

Air piracy means any seizure of or exercise of control over an aircraft, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent.

Aviation disaster means:

(1) An occurrence associated with the operation of an aircraft that takes place between the time any passengers have boarded the aircraft with the intention of flight and the time all such persons have disembarked or have been removed from the aircraft, and in which any person suffers death or serious injury, and in which the death or injury was caused by a crash, fire, collision, sabotage or accident;

(2) A missing aircraft; or

(3) An act of air piracy.

Contact means a person not on the covered flight or an entity that should be contacted in case of an aviation disaster. The contact need not have any particular relationship to a passenger.

Covered airline means:

(1) certificated air carriers, and

(2) foreign air carriers, except those that hold Department of Transportation authority to conduct operations in foreign air transportation using only small aircraft (i.e., aircraft designed to have a maximum passenger capacity of not more than 60 seats or a maximum payload capacity of not more than 18,000 pounds).

Covered flight segment means a passenger-carrying flight segment operating to or from the United States (i.e., the flight segment where the last point of departure or the first point of arrival is in the United States). A covered flight segment does not include a flight segment in which both the point of departure and point of arrival are in the United States.

Full name means the given name, middle initial or middle name, if any, and family name or surname as provided by the passenger.

Passenger means every person aboard a covered flight segment regardless of whether he or she paid for the transportation, had a reservation, or occupied a seat, except the crew. For the purposes of this part, passenger includes, but is not limited to, a revenue and non-revenue passenger, a person holding a confirmed reservation, a standby or walkup, a person rerouted from another flight or airline, an infant held upon a person's lap and a person occupying a jump seat. Airline personnel who are on board but not working on that particular flight segment would be considered passengers for the purpose of this part.

United States means the States comprising the United States of America, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

U.S. citizen means United States nationals as defined in 8 U.S.C. 1101(a)(22).

§ 243.5 Applicability.

This part applies to covered flight segments operated by covered airlines. (See § 243.3 of this part)

§ 243.7 Information collection requirements.

(a) For covered flight segments, each covered airline shall:

(1) Collect, or cause to be collected, the full name for each passenger who is a U.S. citizen. U.S.-citizen passengers for whom this information is not obtained shall not be boarded;

(2) Solicit, or cause to be solicited, a name and telephone number of a contact from each passenger who is a U.S. citizen; and

(3) Maintain a record of the information collected pursuant to this section.

(b) The covered airline operating the flight segment shall be responsible for ensuring compliance with paragraph (a) of this section.

§ 243.9 Procedures for collecting and maintaining the information.

Covered airlines may use any method or procedure to collect, store and transmit the required information, subject to the following conditions:

(a) Information on individual passengers shall be collected before each passenger boards the aircraft on a covered flight segment.

(b) The information shall be kept until all passengers have disembarked from the covered flight segment.

(c) The contact information collected pursuant to section 243.7(a)(2) of this part shall be kept confidential and released only to the U.S. Department of State, the National Transportation Safety Board (upon NTSB's request), and the U.S. Department of Transportation pursuant to oversight of this part. This paragraph does not preempt other governments or governmental agencies that have an independent, legal right to obtain this information.

(d) The contact information collected pursuant to section 243.7(a)(2) of this part shall only be used by covered airlines for notification of family members or listed contacts following an aviation disaster. The information shall not be used for commercial or marketing purposes.

§ 243.11 Transmission of information after an aviation disaster.

(a) Each covered airline shall inform the Managing Director of Overseas Citizen Services, Bureau of Consular Affairs, U.S. Department of State immediately upon learning of an aviation disaster involving a covered flight segment operated by that carrier. The Managing Director may be reached 24 hours a day through the Department of State Operations Center at (202) 647–1512.

(b) Each covered airline shall transmit a complete and accurate compilation of the information collected pursuant to § 243.7 of this part to the U.S. Department of State as quickly as possible, but not later than 3 hours, after the carrier learns of an aviation disaster involving a covered flight segment operated by that carrier.

(c) Upon request, a covered airline shall transmit a complete and accurate compilation of the information collected pursuant to § 243.7 of this part to the Director, Family Support Services, National Transportation Safety Board.

§ 243.13 Filing requirements.

(a) Each covered airline that operates one or more covered flight segments shall file with the U.S. Department of Transportation a brief statement summarizing how it will collect the passenger manifest information required by this part and transmit the information to the Department of State following an aviation disaster. This description shall include a contact at the covered airline, available at any time the covered airline is operating a covered flight segment, who can be consulted concerning information gathered pursuant to this part.

(b) Each covered airline shall file any contact change as well as a description of any significant change in its means of collecting or transmitting manifest information on or before the date the change is made.

(c) All filings under this section should be submitted to OST Docket 98–3305, Dockets Facility (SVC–121.30), U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The statement shall be filed by July 1, 1998, or, for covered airlines beginning operations after July 1, 1998, prior to the date a covered airline operates a covered flight segment.

§ 243.15 Conflict with foreign laws.

(a) If a covered airline obtains a waiver in the manner described in this section, it will not be required to solicit, collect or transmit information under this part in countries where such solicitation or collection would violate applicable foreign law, but only to the extent it is established by the carrier that such solicitation or collection would violate applicable foreign law.

(b) Covered airlines that claim that such solicitation, collection or transmission would violate applicable foreign law in certain foreign countries shall file a petition requesting a waiver in the Docket Facility, on or before October 1, 1998, or on or before beginning service between that country and United States. Such petition shall include copies of the pertinent foreign law, as well as a certified translation, and shall include opinions of appropriate legal experts setting forth the basis for the conclusion that collection would violate such foreign law. Statements from foreign governments on the application of their laws will also be accepted.

(c) The U.S. Department of Transportation will notify the covered airline of

the extent to which it has been satisfactorily established that compliance with all or part of the data collection requirements of this part would constitute a violation of foreign law.

(d) The U.S. Department of Transportation will maintain an up-to-date listing in OST Docket 98–3305 of countries where adherence to all or a portion of this part is not required because of a conflict with applicable foreign law.

[Doc. No. OST–95–950, 63 FR 8280, Feb. 18, 1998; 63 FR 9413, Feb. 25, 1998]

§ 243.17 Enforcement.

The U.S. Department of Transportation may at any time require a covered airline to produce a passenger manifest including emergency contacts and phone numbers for a specified covered flight segment to ascertain the effectiveness of the carrier's system. In addition, it may require from any covered airline further information about collection, storage and transmission procedures at any time. If the Department finds a covered airline's system to be deficient, it will require appropriate modifications, which must be implemented within the period specified by the Department. In addition, a covered airline not in compliance with this part may be subject to enforcement action by the Department.

PART 247—DIRECT AIRPORT-TO-AIRPORT MILEAGE RECORDS

AUTHORITY: 49 U.S.C. chapter 401.

SOURCE: Amdt. 247–2, 56 FR 67170, Dec. 30, 1991, unless otherwise noted.

§ 247.1 Official mileage record of the Department of Transportation.

The direct airport-to-airport mileage record now maintained, and as hereafter amended or revised from time to time by the Office of Airline Information of the Bureau of Transportation Statistics of the Department of Transportation in the regular performance of its duties, is hereby adopted as the official mileage record of the Department and the mileages set forth therein shall be used in all instances where it shall be necessary to determine direct airport-to-airport mileages pursuant to the provisions of Titles IV and X of the Federal Aviation Act of 1958, as amended, or any rule, regulation, or order of the Department pursuant thereto.

[Amdt. 247–2, 56 FR 67170, Dec. 30, 1991, as amended at 60 FR 66725, Dec. 26, 1995]

PART 248—SUBMISSION OF AUDIT REPORTS

Sec.
248.1 Applicability.
248.2 Filing of audit reports.
248.4 Time for filing reports.
248.5 Withholding from public disclosure.

AUTHORITY: 49 U.S.C. 329 and chapters 401, 411, 417.

SOURCE: ER–420, 29 FR 13799, Oct. 7, 1964, unless otherwise noted.

§ 248.1 Applicability.

The requirements of this part shall be applicable to all air carriers subject to the requirements of part 241 of this subchapter.

§ 248.2 Filing of audit reports.

(a) Whenever any air carrier subject to § 248.1 shall have caused an annual audit of its books, records, and accounts to be made by independent public accountants, such air carrier shall file with the Office of Airline Information, in duplicate, a special report consisting of a true and complete copy of the audit report submitted by such independent public accountants, including all schedules, exhibits, and certificates included in, attached to, or submitted with or separately as a part of, the audit report.

(b) Each air carrier subject to § 248.1 that does not cause an annual audit to be made of its books, records, and accounts for any fiscal year shall, at the close of such fiscal year file with the Board's Office of the Comptroller, as a part of its periodic reports, a statement that no such audit has been performed.

(Approved by the Office of Management and Budget under control number 2138–0004)

[ER–1351, 48 FR 32756, July 19, 1983, as amended by ER–1362, 48 FR 46265, Oct. 12, 1983; 60 FR 66725, Dec. 26, 1995]

§ 248.4 Time for filing reports.

The report required by this part shall be filed with the Office of Airline Information within 15 days after the due date of the appropriate periodic BTS Form 41 Report, filed for the 12-month period covered by the audit report, or the date the accountant submits its audit report to the air carrier, whichever is later.

[ER–1351, 48 FR 32756, July 19, 1983, as amended at 60 FR 66725, Dec. 26, 1995]

§ 248.5 Withholding from public disclosure.

The special reports required to be filed by § 248.2 shall be withheld from public disclosure, until further order of the BTS, if such treatment is requested by the air carrier at the time of filing.

[ER–420, 29 FR 13799, Oct. 7, 1964, as amended at 60 FR 66725, Dec. 26, 1995]

PART 249—PRESERVATION OF AIR CARRIER RECORDS

Subpart A—General Instructions

Sec.
249.1 Applicability.
249.2 Definitions.
249.3 Preservation of records.
249.4 Photographic copies.
249.5 Storage of records.
249.6 Destruction of records.
249.7 Restrictions on record destruction.
249.8 Premature loss or destruction of records.
249.9 Carriers going out of business.
249.10 Waiver of requirements.

Subpart B—Preservation of Records by Carrier

249.20 Preservation of records by certificated air carriers.
249.21 Preservation of records by public charter operators and overseas military personnel charter operators.

Subpart C—Regulations Relating to the Truth-in-Lending Act

249.30 Applicability.
249.31 Preservation and inspection of evidence of compliance.

AUTHORITY: 49 U.S.C. 329 and chapters 401, 411, 413, 417.

SOURCE: ER–1214, 46 FR 25415, May 6, 1981, unless otherwise noted.

NOTE: The recordkeeping requirements contained in this part have been approved by the Office of Management and Budget under control number 2138–0006.

Subpart A—General Instructions

§ 249.1 Applicability.

Subparts A and B of this part apply to:

(a) Air carriers, as defined in 49 U.S.C. 40102, that hold either certificates of public convenience and necessity or certificates for all-cargo air service.

(b) Public charter operators, as defined in part 380 of this chapter.

(c) Overseas military personnel charter operators, as defined in part 372 of this chapter.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.2 Definitions.

For the purposes of this part:

Authorized representatives of the DOT means any persons, including special agents and auditors, designated by the DOT to perform inspections, audits, or examinations within the purview of the DOT's authority.

Certificated air carrier means the holder of a certificate of public convenience and necessity issued by the Department of Transportation under 49 U.S.C. 41102 or a certificate for all-cargo air service issued by the Department of Transportation under 49 U.S.C. 41103.

Final adjudication means the expiration date of the last possible period of review or reconsideration of a given case, by the DOT or by a court, that is provided by applicable statute or regulation.

Open mail rate period means the time interval between the date of institution of a new mail rate proceeding or the start of service over a new route for which no mail rate has previously been fixed, and the date upon which a DOT order setting the final mail rate becomes legally effective.

Pending case means any case that the DOT is empowered to hear before its final adjudication.

Records include all documents that are related to, or constitute integral links in developing the history of, or facts regarding, financial transactions

or physical operations of a particular segment, operating division, or entire system of the carrier's operations. The term includes any copy of initially prepared documents which bear approvals, comments, or notations which were added and are of significance to a full explanation of recorded facts or information. The term *records* means not only accounting records in a limited technical sense but all other evidentiary accounts of events such as memoranda, correspondence, working sheets, tabulating equipment listings punched cards, computer-produced listings, microfilm, and magnetic storage media (*i.e.*, magnetic tapes, disks). The term *records* also means microform and/or tape reproductions of documents made as authorized by this subpart. In addition, the term *records* includes any of the above-described materials coming into the possession of the air carrier through merger, consolidation, succession, transfer, or other acquisition.

Supporting papers (records) means any group of documentary papers, such as memoranda, correspondence, working sheets, etc., that assist in upholding the accuracy or clarity of related records.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.3 Preservation of records.

(a) All records listed in §§ 249.20 and 249.21 may be preserved on either paper or nonerasable microfilm (see § 249.4). However, a paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in a machine-readable medium such as punched cards, magnetic tapes, and disks. The records maintained in machine-readable media and the underlying data used in their preparation shall be preserved for the periods prescribed in §§ 249.20 and 249.21. A paper or microfilm record shall not be destroyed after transfer to a machine-readable medium before expiration of the prescribed period: however, a waiver permitting the early destruction of paper or microfilm records transferred to a machine-readable medium may be granted by the Director, Office of Airline Information, when it is demonstrated by the requesting carrier that the substantive purpose of the retention requirement will be met by retention of the information in machine-readable form (see § 249.10).

(b) Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it is complete and accurate. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner so that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity. Authorized representatives of the DOT shall be given immediate access to the carrier's facilities upon request.

(c) If any record which must be retained under the provisions of §§ 249.20 and 249.21 is included as an exhibit to another document which must also be retained, the carrier need only keep in its files one copy of the record to satisfy these record retention requirements. In these cases, the carrier shall establish adequate cross-references to assist in locating the record.

(d) The provisions in this part do not excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any records.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.4 Photographic copies.

(a) Any record may be transferred to nonerasable microfilm (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained on microfilm shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The microfilm shall be of a quality that can be easily read and that can be reproduced in paper similar in size to an original without loss of clarity or detail during the periods the records are required to be retained in §§ 249.20 and 249.21.

(c) Microfilm records shall be indexed and retained in such a manner as will render them readily accessible, and the

company shall have facilities available to locate, identify and read the microfilm and reproduce in paper form. Authorized representatives of the DOT shall be given immediate access to these facilities upon request.

(d) Any significant characteristic, feature, or other attribute which microfilm will not preserve shall be clearly indicated at the beginning of each roll of film or series of microfilm records if applicable to all records on the roll or series, or on the individual record, as appropriate.

(e) The printed side of printed forms need not be microfilmed for each record if nothing has been added to the printed matter common to all such forms, but an identified specimen of the form shall be on the film for reference.

(f) Each roll of film or series of microfilm records shall include a microfilm of a certificate stating that the photographs are direct and facsimile reproductions of the original records and they have been made in accordance with prescribed regulations. Such a certificate shall be executed by a person having personal knowledge of these facts. Where the microfilm is computer output, the microfilm certificate shall state that the information is complete and accurate. [ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.5 Storage of records.

Each carrier shall provide reasonable protection from damage by fire, floods, and other hazards for records subject to the provisions of this part.

§ 249.6 Destruction of records.

(a) Upon the expiration of the period of preservation prescribed in this regulation, records may be destroyed at the option of the carrier.

(b) Unless otherwise specified, duplicate copies of records may be destroyed at any time if they contain no significant information not shown on the originals.

§ 249.7 Restrictions on record destruction.

(a) Each carrier that has been named a party to a pending mail rate case shall retain all records remaining in its custody as of the beginning of an ''open mail rate period'' until the occurrence of one of the following contingencies, whichever is first:

(1) Final adjudication of a DOT order fixing the final mail compensation payable for services rendered during an ''open mail rate period.''

(2) Receipt of a notice issued by the Director, Office of Airline Information in response to a written application filed by the carrier, authorizing the destruction of specifically identified categories of records. An application should be filed when the carrier believes that certain categories of records are not relevant to the proper processing of a pending mail proceeding. The application should list those categories of records which the carrier wants to destroy and its reasons for believing that the records are not necessary or useful in determining its satutory mail pay.

(b) Each carrier shall preserve records supporting the computation of subsidy mail pay in accordance with the provisions of § 249.20 unless the carrier has been advised that these computations are subject to further review and disposition by the Board. When the DOT is still reviewing the compensation amount after expiration of the normal retention period specified in § 249.20, these records must be retained until the carrier is notified by the Director, Office of Airline Information, that the records may be destroyed.

(c) Each carrier that has been named a party to an enforcement proceeding or against whom a third-party complaint has been filed shall retain all records relating to the case until the receipt of formal notification from the Director, Office of Airline Information, following a written application from the carrier, which authorizes the destruction of these records.

(d) Each carrier that has been named a party to a pending case which is not of a type discussed in paragraphs (a), (b), and (c) of this section, shall preserve all records according to the provisions of § 249.20 unless the Director, Office of Airline Information, notifies the carrier in writing that specific records shall be preserved until final adjudication of the pending case.

(e) Each carrier that is a party to litigation in a Federal court of which the DOT is also a party shall retain all records relating to the case until the receipt of formal notification from the Director, Office of Airline Information, following a written application from the carrier, which authorizes the destruction of these records.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.8 Premature loss or destruction of records.

If records are destroyed or lost before the expiration of the prescribed retention period, a statement shall be prepared and submitted to the Director, Office of Airline Information, which lists, as accurately as possible, the unavailable records and describes the circumstances under which they became unavailable.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.9 Carriers going out of business.

The records referred to in these regulations may be destroyed after the business is discontinued and the carrier is completely liquidated. The records may not be destroyed until dissolution is final and all transactions and litigations are completed. When a carrier is merged with another company which is regulated by the DOT, the successor company shall preserve records of the merged company in accordance with these regulations.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

§ 249.10 Waiver of requirements.

A waiver from any provision of this regulation may be made by the Director, Office of Airline Information, upon the Director's own initiative or upon submission of a written request by a carrier or group of carriers. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with the prescribed requirements would impose an unreasonable burden on the carrier, and that granting the waiver would be in the public interest.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

Subpart B—Preservation of Records by Carrier

§ 249.20 Preservation of records by certificated air carriers.

Each certificated air carrier shall retain its records according to the provisions of this section. Unless otherwise specified in the ''Schedule of Records,'' each retention period shall begin on the date when the records are created or otherwise come into the possession of the carrier.

SCHEDULE OF RECORDS

[See footnote at end of table]

Category of records	Retention period
1. General and subsidiary ledgers or their equivalents:	
(a) General ledgers; subsidiary or auxiliary ledgers	3 years.
(b) Indexes to general and subsidiary ledgers	Do.
2. Journals and journal vouchers:	
(a) General and subsidiary journals, and journal vouchers	3 years.
(b) Papers forming a part of, or necessary to explain, journal entries; entry numbers	Do.
3. Voucher distribution registers or their equivalent	Do.
4. Accounts receivables and payables:	
(a) Traffic accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.	Do.
(b) General accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.	Do.
(c) Copies of invoices issued by the carrier which have been settled and all supporting papers.	1 year.
(d) Copies of Postal Service Forms: Weekly Summary of Airmail Dispatch (No. 2729) and POD Airmail Exemption Record (No. 2734) supporting mail pay claims which have been settled.	30 days.

SCHEDULE OF RECORDS—Continued

[See footnote at end of table]

Category of records	Retention period
5. Subsidy records:	
(a) For each calendar year, all monthly records of operations, such as tabulations and summaries of miles flown and passenger-miles flown, pertaining to or part of operational records relevant to computation of subsidy mail pay.	3 years.
(b) For each calendar year, all basic original documents, such as pilots' flight logs and passenger lists relevant to a determination of the validity of a carrier's operations described in item (a) above.	Do.
6. The papers, records, or other evidence supporting financial and statistical reports to the BTS. These should include among others the following specific records: Internal administrative or operating reports; system reports of aircraft movements by trip number, showing arrivals, departures, flight delays and related information; bonds and other long-term debt records; stock records; corporate organization records; financial data in support of subsidy claims; minutes of meetings; carrier internal reports on internal controls and other internal audits and procedural studies; operational, management, accounting, financial, and legal service contracts and agreements; records and agreements relating to the lease or purchase and sale of company assets, including title papers, deeds, and similar records; insurance records; property and equipment records; tax records; accountants' and auditors' reports; records of receipts and disbursements including bank statements, check registers and cancelled checks; payroll registers of salaries and wages paid; cost accounting records for work orders; inventories of materials and supplies; and other source documents.	Do.
7. Funds reports and estimates of funds	1 year.
8. Consumer complaints:	
(a) Initial correspondence and record of action taken	3 years.
(b) Initial trip reports:	
(1) Traffic Data: Basic documents showing the number of passengers, and pounds of mail and property carried.	([1]).
(c) Reservations reports and records:	
(1) Cards and charts constituting original source of passengers' names, telephone numbers, etc.	2 months.
(2) Telegrams and radio messages relating to the clearance of space, passenger dispatching, etc.	1 month.
(d) System report of airplane movements by trip number showing arrivals, departures, delays and related information.	3 years.
(e) Sales reports:	
(1) Sales ticket or other similar reports from stations, offices and agents	2 years.
(f) Auditors' coupons	1 year.
(g) Air waybills	Do.
(h) Flight coupons	Do.
(i) Ticket refund claims records and reports	Do.
(j) Records and reports relating to errors, oversales, irregularities and delays in handling passengers.	Do.
9. All documents which relate to the furnishing of transportation to candidates for political office or persons acting on their behalf which are required to be maintained following § 374a.7 of the subchapter.	2 years.
10. Correspondence and working papers relating to rate and route proceedings	3 years.

[1] One year-mail-property; 2 years-passengers.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

§ 249.21 Preservation of records by public charter operators and overseas military personnel charter operators.

Each operator authorized under parts 372 and 380 of this chapter shall retain the following records for 6 months after completion or cancellation of the flight or series of flights. The records shall be made available upon request of an authorized representative of the DOT.

(a) All receipts and statements of travel agents and all other documents which show deposits made by each charter participant or which show refunds to charter participants.

(b) All receipts and statements of travel agents and all other documents which show or reflect commissions received, paid to, or deducted by travel agents in connection with the flight or series of flights.

(c) All statements, invoices, bills, and receipts from suppliers for furnishing of goods or services in connection with the tour or series of tours.

(d) All customer reservations records for each flight.

(e) All contracts with individual tour participants.

(f) All bank statements and reconciliations for escrow bank accounts opened and maintained in accordance with DOT regulations.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

Subpart C—Regulations Relating to the Truth-in-Lending Act

§ 249.30 Applicability.

This subpart is applicable to all air carriers and foreign air carriers as defined in 49 U.S.C. 40102, including, without limitation, direct carriers, air taxi operators registered under part 298 of this chapter, indirect air carriers registered under part 296 of this chapter, charter operators authorized under parts 372 and 380 of this chapter, and foreign air carriers holding permits to engage in indirect foreign air transportation issued under 49 U.S.C. 41302.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

§ 249.31 Preservation and inspection of evidence of compliance.

Air carriers and foreign air carriers shall preserve evidence of compliance with the requirements imposed under Regulation Z of the Board of Governors of the Federal Reserve System (12 CFR part 226), implementing the provisions of Title I (Truth in Lending) and Title V (General Provisions) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*) other than the advertising requirements under § 226.10 of regulation Z. This evidence shall be preserved for no less than 2 years after the date each disclosure is required to be made and shall be made available for inspection by authorized representatives of the DOT.

[ER–1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

PART 250—OVERSALES

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250.10 Report of passengers denied confirmed space.
250.11 Public disclosure of deliberate overbooking and boarding procedures.

AUTHORITY: 49 U.S.C. chapters 401, 411, 413, 417.

SOURCE: ER–1306, 47 FR 52985, Nov. 24, 1982, unless otherwise noted.

§ 250.1 Definitions.

Airport means the airport at which the direct or connecting flight, on which the passenger holds confirmed reserved space, is planned to arrive or some other airport serving the same metropolitan area, provided that transportation to the other airport is accepted (i.e., used) by the passenger.

Carrier means (a) a direct air carrier, except a helicopter operator, holding a certificate issued by the Board pursuant to sections 401(d)(1), 401(d)(2), 401(d)(5), or 401(d)(8) of the Act, or an exemption from section 401(a) of the Act, authorizing the transportation of persons, or (b) a foreign route air carrier holding a permit issued by the Board pursuant to section 402 of the Act, or an exemption from section 402 of the Act, authorizing the scheduled foreign air transportation or persons.

Comparable air transportation means transportation provided to passengers at no extra cost by a carrier as defined above.

Confirmed reserved space, means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier, as being reserved for the accommodation of the passenger.

Large aircraft means any aircraft that has a passenger capacity of more than 60 seats.

Stopover means a deliberate interruption of a journey by the passenger, scheduled to exceed 4 hours, at a point between the place of departure and the final destination.

Sum of the values of the remaining flight coupons means the sum of the applicable one-way fares, including any surcharges and air transportation taxes, less any applicable discounts.

[ER–1306, 47 FR 52985, Nov. 24, 1982, as amended by ER–1337, 48 FR 29680, June 28, 1983]

§ 250.2 Applicability.

This part applies to every carrier, as defined in § 250.1, with respect to flight segments with large aircraft in (1) interstate or overseas air transportation and (2) foreign air transportation originating at a point within the United States.

§ 250.2a Policy regarding denied boarding.

In the event of an oversold flight, every carrier shall ensure that the smallest practicable number of persons holding confirmed reserved space on that flight are denied boarding involuntarily.

§ 250.2b Carriers to request volunteers for denied boarding.

(a) In the event of an oversold flight, every carrier shall request volunteers for denied boarding before using any other boarding priority. A ''volunteer'' is a person who responds to the carrier's request for volunteers and who willingly accepts the carriers' offer of compensation, in any amount, in exchange for relinquishing the confirmed reserved space. Any other passenger denied boarding is considered for purposes of this part to have been denied boarding involuntarily, even if that passenger accepts the denied boarding compensation.

(b) If an insufficient number of volunteers come forward, the carrier may deny boarding to other passengers in accordance with its boarding priority rules. However, the carrier may not deny boarding to any passenger involuntarily who was earlier asked to volunteer without having been informed about the danger of being denied boarding involuntarily and the amount of Board-mandated compensation.

[ER–1337, 48 FR 29680, June 28, 1983]

§ 250.3 Boarding priority rules.

(a) Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight in the event that an insufficient number of volunteers come forward. Such rules and criteria shall reflect the obligations of the carrier set forth in §§ 250.2a and 250.2b to minimize involuntary denied boarding and to request volunteers, and shall be written in such manner as to be understandable and meaningful to the average passenger. Such rules and criteria shall not make, give, or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust or unreasonable prejudice or disadvantage in any respect whatsoever.

(b) [Reserved]

[ER–1306, 47 FR 52985, Nov. 24, 1982, as amended by ER–1337, 48 FR 29680, June 28, 1983]

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier as defined in § 250.1, shall pay compensation to passengers denied boarding involuntarily from an oversold flight at the rate of 200 percent of the sum of the values of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to the passenger's final destination, with a maximum of $400. However, the compensation shall be one-half the amount described above, with a $200 maximum, if the carrier arranges for comparable air

transporation, or other transportation used by the passenger that, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover or if none, at the airport of the passenger's destination, not later than 2 hours after the time the direct or connecting flight on which confirmed space is held is planned to arrive in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation.

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if (1) the value of the transportation benefit offered is equal to or greater than the cash payment otherwise required, and (2) the carrier informs the passenger of the amount of cash compensation that would otherwise be due and that the passenger may decline the transportation benefit and receive the cash payment.

[ER–1337, 48 FR 29680, June 28, 1983]

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

(a) The passenger does not comply fully with the carrier's contract of carriage or tariff provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation;

(b) The flight for which the passenger holds confirmed reserved space is unable to accommodate that passenger because of substitution of equipment of lesser capacity when required by operational or safety reasons;

(c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on the ticket at no extra charge, except that a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund; or

(d) The carrier arranges comparable air transportation, or other transportation used by the passenger at no extra cost to the passenger, that at the time such arrangements are made is planned to arrive at the airport of the passenger's next stopover or, if none, at the airport of the final destination not later than 1 hour after the planned arrival time of the passenger's original flight or flights.

[ER–1337, 48 FR 29680, June 28, 1983]

§ 250.7 [Reserved]

§ 250.8 Denied boarding compensation.

(a) Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, except as provided in paragraph (b), cash or an immediately negotiable check for the appropriate amount of compensation provided in § 250.5.

(b) Where a carrier arranges, for the passenger's convenience, alternate means of transportation that departs before the payment can be prepared and given to the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

[ER–1394, 49 FR 43625, Oct. 31, 1984]

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

(a) Every carrier shall furnish passengers who are denied boarding involuntarily from flights on which they hold confirmed reserved space immediately after the denied boarding occurs, a written statement explaining the terms, conditions, and limitations of denied boarding compensation, and describing the carriers' boarding priority rules and criteria. The carrier shall also furnish the statement to any person upon request at all airport ticket selling positions which are in the charge of a person employed exclusively by the carrier, or by it jointly with another person or persons, and at all boarding locations being used by the carrier.

(b) The statement shall read as follows:

COMPENSATION FOR DENIED BOARDING

If you have been denied a reserved seat on (name of air carrier), you are probably entitled to monetary compensation. This notice explains the airline's obligation and the passenger's rights in the case of an oversold flight, in accordance with regulations of the U.S. Civil Aeronautics Board.

VOLUNTEERS AND BOARDING PRIORITIES

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until airline personnel first ask for volunteers who will give up their reservation willingly, in exchange for a payment of the airline's choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily in accordance with the following boarding priority of (name of air carrier): (In this space carrier inserts its boarding priority rules or a summary thereof, in a manner to be understandable to the average passenger.)

COMPENSATION OF INVOLUNTARY DENIED BOARDING

If you are denied boarding involuntarily, you are entitled to a payment of ''denied boarding compensation'' from the airline unless:

(1) You have not fully complied with the airline's ticketing, check-in, and reconfirmation requirements, or you are not acceptable for transportation under the airline's usual rules and practices, or (2) you are denied boarding because the flight is canceled; or (3) you are denied boarding because a smaller capacity aircraft was substituted for safety or operational reasons; or (4) you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge, (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or (5) the airline is able to place you on another flight or flights that are planned to reach your final destination within one hour of the scheduled arrival of your original flight.

AMOUNT OF DENIED BOARDING COMPENSATION

Passengers who are eligible for denied boarding compensation must be offered a payment equal to the sum of the face values of their ticket coupons, with a $200 maximum. However, if the airline cannot arrange ''alternate transportation'' (see below) for the passenger, the compensation is doubled ($400 maximum). The ''value'' of a ticket coupon is the one-way fare for the flight shown on the coupon including any surcharge and air transportation tax, minus any applicable discount. All flight coupons, including connecting flights, to the passenger's final destination or first 4-hour stopover are used to compute the compensation.

''Alternate transportation'' is air transportation (by an airline licensed by the CAB) or other transportation used by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's next scheduled stopover (of 4 hours or longer) or final destination no later than 2 hours (for flights within U.S. points, including territories and possessions) or 4 hours (for international flights) after the passenger's originally scheduled arrival time.

METHOD OF PAYMENT

The airline must give each passenger who qualifies for denied boarding compensation a payment by cash or check for the amount specified above, on the day and place the involuntary denied boarding occurs. However, if the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment will be sent to the passenger within 24 hours. The air carrier may offer free tickets in place of the cash payment. The passenger may, however, insist on the cash payment, or refuse all compensation and bring private legal action.

PASSENGER'S OPTIONS

Acceptance of the compensation may relieve (name of air carrier) from any further liability to the passenger caused by its failure to honor the confirmed reservation. However, the passenger may decline the payment and seek to recover damages in a court of law or in some other manner.

(Approved by the Office of Management and Budget under control number 3024–0003)

[ER–1306, 47 FR 52985, Nov. 24, 1982, as amended by ER–1337, 48 FR 29681, June 28, 1983; ER–1392, 49 FR 40401, Oct. 16, 1984; ER–1394, 49 FR 43625, Oct. 31, 1984]

§ 250.10 Report of passengers denied confirmed space.

Every carrier shall file, on a quarterly basis, the information specified in BTS Form 251. The reporting basis shall be flights originating or terminating at, or servicing, a point within the United States. The reports are to be submitted within 30 days after the quarter covered by the report. The calendar quarters end March 31, June 30, September 30 and December 31. ''Total Boardings'' on line 7 of Form 251 shall include only passengers on flights for which confirmed reservations are offered. No reports need be filed for inbound international flights on which the protections of this part do not apply.

(Approved by the Office of Management and Budget under control number 2138–0018)

[Doc. No. 43872, 51 FR 30475, Aug. 27, 1986, as amended at 60 FR 66726, Dec. 26, 1995]

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

(a) Every carrier shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers, a sign located so as to be clearly visible and clearly readable to the traveling public, which shall have printed thereon the following statement in boldface type at least one-fourth of an inch high:

NOTICE—OVERBOOKING OF FLIGHTS

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

(b) Every carrier shall include with each ticket sold in the United States the notices set forth in paragraph (a) of this section, printed in at least 12-point type. The notice may be printed on a separate piece of paper, on the ticket stock, or on the ticket envelope. The last two sentences of the notice shall be printed in a type face contrasting with that of the rest of the notice.

(c) It shall be the responsibility of each carrier to ensure that travel agents authorized to sell air transportation for that carrier comply with the notice provisions of paragraphs (a) and (b) of this section.

(d) [Reserved]

(e) Any air carrier or foreign air carrier engaged in foreign air transportation that complies fully with this part for inbound traffic to the United States need not use the last two sentences of the notices required by paragraph (a) of this subsection.

(Approved by the Office of Management and Budget under control number 3024–0018)

[ER–1306, 47 FR 52985, Nov. 24, 1982, as amended by ER–1392, 49 FR 40401, Oct. 16, 1984]

PART 252—SMOKING ABOARD AIRCRAFT

Sec.

252.1 Purpose.
252.2 Applicability.
252.3 Smoking ban: air carriers
252.5 Smoking ban: foreign air carriers.
252.7 No-smoking sections.
252.8 Extent of smoking restrictions.
252.9 Ventilation systems.
252.11 Aircraft on the ground.
252.13 Small aircraft.
252.15 Cigars and pipes.
252.17 Enforcement.
252.19 Single-entity charters.

AUTHORITY: Pub. L 101–164; 49 U.S.C. 40102, 40109, 40113, 41701, 41702, 41706, as amended by section 708 of Pub. L 106–181, 41711, and 46301.

CROSS REFERENCE: For smoking rules of the Federal Aviation Administration, see 14 CFR 121.317(c), 121.571(a)(1)(i), 129.29, 135.117(a)(1), and 135.127(a).

SOURCE: Docket No. OST–2000–7473, 65 FR 36775, June 9, 2000, unless otherwise noted.

§ 252.1 Purpose.

This part implements a ban on smoking of tobacco products on air carrier and foreign air carrier flights in scheduled intrastate, interstate and foreign air transportation, as required by 49 USC 41706. It also addresses smoking on charter flights. Nothing in this regulation shall be deemed to require air carriers or foreign air carriers to permit the smoking of tobacco products aboard aircraft.

NOTE TO § 252.1: As defined in 49 U.S.C. 40102, an ''air carrier'' is a citizen of the United States undertaking to provide air transportation, and a ''foreign air carrier'' is a person, not a citizen of the United States, undertaking to provide foreign air transportation.

§ 252.2 Applicability.

This part applies to all operations of air carriers engaged in interstate,

intrastate and foreign air transportation and to foreign air carriers engaged in foreign air transportation, but does not apply to the on-demand services of air taxi operators.

§ 252.3 Smoking ban: air carriers.

Air carriers shall prohibit smoking on all scheduled passenger flights.

§ 252.5 Smoking ban: foreign air carriers.

(a) Foreign air carriers shall prohibit smoking on all scheduled passenger flight segments:

(1) Between points in the United States, and

(2) Between the U.S. and any foreign point.

(b) A foreign government objecting to the application of paragraph (a) of this section on the basis that paragraph (a) provides for extraterritorial application of the laws of the United States may request and obtain a waiver of paragraph (a) from the Assistant Secretary of Transportation for Transportation Policy, provided that an alternative smoking prohibition resulting from bilateral negotiations is in effect.

§ 252.7 No-smoking sections.

(a) Except as provided in paragraph (b) of this section, air carriers operating nonstop flight segments to which §§ 252.3 and 252.13 do not apply shall provide, at a minimum:

(1) A no-smoking section for each class of service;

(2) A sufficient number of seats in each no-smoking section to accommodate all persons in that class of service who wish to be seated there;

(3) Expansion of no-smoking sections to meet passenger demand; and

(4) Special provisions to ensure that if a no-smoking section is placed between smoking sections, the nonsmoking passengers are not unreasonably burdened.

(b) On flights for which passengers may make confirmed reservations and on which seats are assigned before boarding, an air carrier need not provide a seat in a no-smoking section to a passenger who has not met the carrier's requirements as to time and method of obtaining a seat on the flight, or who does not have a confirmed reservation. If a seat is available in the established no-smoking section, however, an air carrier shall seat there any enplaning passenger who so requests, regardless of boarding time or reservation status.

§ 252.8 Extent of smoking restrictions.

The restrictions on smoking described in §§ 252.3 through 252.7 shall apply to all locations within the aircraft.

§ 252.9 Ventilation systems.

Air carriers shall prohibit smoking whenever the ventilation system is not fully functioning. Fully functioning for this purpose means operating so as to provide the level and quality of ventilation specified and designed by the manufacturer for the number of persons currently in the passenger compartment.

§ 252.11 Aircraft on the ground.

(a) Air carriers shall prohibit smoking whenever the aircraft is on the ground.

(b) With respect to the restrictions on smoking described in § 252.5, foreign air carriers shall prohibit smoking from the time an aircraft begins enplaning passengers until the time passengers complete deplaning.

§ 252.13 Small aircraft.

Air carriers shall prohibit smoking on aircraft designed to have a passenger capacity of 30 or fewer seats.

NOTE TO § 252.13: This section, like the rest of this part, does not apply to on-demand services of air taxi operators; see § 252.2 in this part.

§ 252.15 Cigars and pipes.

Air carriers shall prohibit the smoking of cigars and pipes aboard aircraft.

§ 252.17 Enforcement.

Air carriers and foreign air carriers shall take such action as is necessary to ensure that smoking by passengers or crew is not permitted in the passenger cabin or lavatories on no-smoking flight segments. Air carriers shall take such action as is necessary to ensure that smoking by passengers or crew is not permitted in no-smoking

sections or at other times or places where smoking is prohibited by this part, and to maintain required separation of passengers in smoking and no-smoking areas.

§ 252.19 Single-entity charters.

On single-entity charters operated pursuant to §§ 207.50 or 208.300 of this title, air carriers need not comply with the procedures of this part 252 if such a request is made by the charterer, provided that each passenger on such flights is given notice of the smoking procedures for the flight at the time he or she first makes arrangements to take the flight.

PART 253—NOTICE OF TERMS OF CONTRACT OF CARRIAGE

Sec.
253.1 Purpose.
253.2 Applicability.
253.3 Definitions.
253.4 Incorporation by reference in the contract of carriage.
253.5 Notice of incorporated terms.
253.6 Explanation of incorporated terms.
253.7 Direct notice of certain terms.
253.8 Qualifications to notice requirements.

AUTHORITY: Secs. 204, 403, 404, and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

SOURCE: ER–1302, 47 FR 52134, Nov. 19, 1982, unless otherwise noted.

§ 253.1 Purpose.

The purpose of this rule is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for scheduled service in interstate and overseas passenger air transportation.

§ 253.2 Applicability.

This rule applies to all scheduled direct air carrier operations in interstate and overseas air transportation. It applies to all contracts with passengers, for those operations, that incorporate terms by reference.

[ER–1323, 48 FR 6318, Feb. 11, 1983]

§ 253.3 Definitions.

Large aircraft means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

Passenger means any person who purchases, or who contacts a ticket office or travel agent for the purpose of purchasing, or considering the purchase of, air transportation.

Ticket office means station, office, or other location where tickets are sold that is under the charge of a person employed exclusively by the carrier, or by it jointly with another person.

§ 253.4 Incorporation by reference in the contract of carriage.

(a) A ticket or other written instrument that embodies the contract of carriage may incorporate contract terms by reference (i.e., without stating their full text), and if it does so shall contain or be accompanied by notice to the passenger as required by this part. In addition to other remedies at law, an air carrier may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if notice of the term has not been provided to that passenger in accordance with this part.

(b) Each air carrier shall make the full text of each term that it incorporates by reference in a contract of carriage available for public inspection at each of its airport and city ticket offices.

(c) Each air carrier shall provide free of charge by mail or other delivery service to passengers, upon their request, a copy of the full text of its terms incorporated by reference in the contract. Each carrier shall keep available at all times, free of charge, at all locations where its tickets are sold within the United States information sufficient to enable passengers to order the full text of such terms.

(The notice requirements contained in paragraphs (b) and (c) were approved by the Office of Management and Budget under control number 3024–0061)

[ER–1302, 47 FR 52134, Nov. 19, 1982, as amended by ER–1309, 47 FR 54764, Dec. 6, 1982]

§ 253.5 Notice of incorporated terms.

Except as provided in § 253.8, each air carrier shall include on or with a ticket, or other written instrument given to a passenger, that embodies the contract of carriage and incorporates

terms by reference in that contract, a conspicuous notice that:

(a) Any terms incorporated by reference are part of the contract, passengers may inspect the full text of each term incorporated by reference at the carrier's airport or city ticket offices, and passengers have the right, upon request at any location where the carrier's tickets are sold within the United States, to receive free of charge by mail or other delivery service the full text of each such incorporated term;

(b) The incorporated terms may include and passengers may obtain from any location where the carrier's tickets are sold within the United States further information concerning:

(1) Limits on the air carrier's liability for personal injury or death of passengers, and for loss, damage, or delay of goods and baggage, including fragile or perishable goods;

(2) Claim restrictions, including time periods within which passengers must file a claim or bring an action against the carrier for its acts or omissions or those of its agents;

(3) Rights of the carrier to change terms of the contract. (Rights to change the price, however, are governed by § 253.7);

(4) Rules about reconfirmation of reservations, check-in times, and refusal to carry;

(5) Rights of the carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate air carrier or aircraft, and rerouting.

(Approved by the Office of Management and Budget under control number 3024–0061)

[ER–1302, 47 FR 52134, Nov. 19, 1982, as amended by ER–1309, 47 FR 54764, Dec. 6, 1982; ER–1370, 48 FR 54591, Dec. 6, 1983; ER–1375, 49 FR 5064, Feb. 10, 1984]

§ 253.6 Explanation of incorporated terms.

Each air carrier shall ensure that any passenger can obtain from any location where its tickets are sold within the United States a concise and immediate explanation of any terms incorporated by reference, concerning the subjects listed in § 253.5(b).

(Approved by the Office of Management and Budget under control number 3024–0061)

[ER–1302, 47 FR 52134, Nov. 19, 1982, as amended by ER–1309, 47 FR 54764, Dec. 6, 1982]

§ 253.7 Direct notice of certain terms.

A passenger shall not be bound by any terms restricting refunds of the ticket price, imposing monetary penalties on passengers, or permitting the carrier to raise the price, unless the passenger receives conspicuous written notice of the salient features of those terms on or with the ticket.

(Approved by the Office of Management and Budget under control number 3024–0061)

[ER–1302, 47 FR 52134, Nov. 19, 1982, as amended by ER–1309, 47 FR 54764, Dec. 6, 1982]

§ 253.8 Qualifications to notice requirements.

(a) If notice is not provided in accordance with § 253.5 at a ticket sales location outside of the United States that is not a U.S. air carrier ticket office, the price paid for the portion of such ticket that is for interstate and overseas air transportation shall be refundable without penalty if the passenger refuses transportation by the carrier. Each air carrier shall ensure that passengers who have bought tickets at those locations without the notice required in § 253.5 are given that notice not later than check-in for the travel in interstate or overseas air transportation, and that conspicuous notice is included on or with the ticket stating that the price for that travel is refundable without penalty.

(b) An air taxi operator (including a commuter air carrier) not operating under subpart I of part 298 of this chapter shall not be considered to have incorporated terms by reference into its contract of carriage merely because a passenger has purchased a flight segment on that carrier that appears on ticket stock that contains a statement that terms have been incorporated by reference. However, such an air taxi operator may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if

notice of the term has not been provided to the passenger in accordance with this part.

[ER–1370, 48 FR 54591, Dec. 6, 1983]

PART 254—DOMESTIC BAGGAGE LIABILITY

Sec.
254.1 Purpose.
254.2 Applicability.
254.3 Definitions.
254.4 Carrier liability.
254.5 Notice requirement.
254.6 Periodic adjustments.

AUTHORITY: 49 U.S.C. 40113, 41501, 41504, 41510, 41702, and 41707.

SOURCE: ER–1374, 49 FR 5071, Feb. 10, 1984, unless otherwise noted.

§ 254.1 Purpose.

The purpose of this part is to establish rules for the carriage of baggage in interstate and intrastate air transportation. The part sets permissible limitations of air carrier liability for loss, damage, or delay in the carriage of passenger baggage and requires air carriers to provide certain types of notice to passengers.

[ER–1374, 49 FR 5071, Feb. 10, 1984, as amended at 64 FR 70575, Dec. 17, 1999]

§ 254.2 Applicability.

This part applies to any air carrier that provides charter or scheduled passenger service in interstate or intrastate air transportation.

[ER–1374, 49 FR 5071, Feb. 10, 1984, as amended at 64 FR 70575, Dec. 17, 1999]

§ 254.3 Definitions.

Large aircraft means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

§ 254.4 Carrier liability.

On any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than $2500 for each passenger.

[64 FR 70575, Dec. 17, 1999]

§ 254.5 Notice requirement.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall provide to passengers, by conspicuous written material included on or with its ticket, either:

(a) Notice of any monetary limitation on its baggage liability to passengers; or

(b) The following notice: ''Federal rules require any limit on an airline's baggage liability to be at least $2500 per passenger.''

[ER–1374, 49 FR 5071, Feb. 10, 1984, as amended at 64 FR 70575, Dec. 17, 1999]

§ 254.6 Periodic adjustments.

The Department of Transportation will review the minimum limit of liability prescribed in this part every two years. The Department will use the Consumer Price Index for All Urban Consumers as of July of each review year to calculate the revised minimum liability amount. The Department will use the following formula:

$2500 × (a/b) rounded to the nearest $100 where:

a = July CPI–U of year of current adjustment

b = Most current CPI–U figure when final rule is issued.

[64 FR 70575, Dec. 17, 1999]

PART 255—CARRIER-OWNED COMPUTER RESERVATIONS SYSTEMS

255.1 Purpose.
255.2 Applicability.
255.3 Definitions.
255.4 Display of information.
255.5 Defaults and service enhancements.
255.6 Contracts with participating carriers.
255.7 System owner participation in other systems.
255.8 Contracts with subscribers.
255.9 Use of third-party hardware, software and databases.
255.10 Marketing and booking information.
255.11 Exceptions.
255.12 Termination.

AUTHORITY: 49 U.S.C. 40101, 40102, 40105, 40113, 41712.

SOURCE: Amdt. 255–9, 57 FR 43834, Sept. 22, 1992, unless otherwise noted.

EFFECTIVE DATE NOTE: At 57 FR 43834, Sept. 22, 1992, part 255 was revised, effective December 7, 1992 and will terminate December 31, 1997. At 62 FR 66274, Dec. 18, 1997, the effectiveness of part 255 was extended until Mar. 31, 1999. At 64 FR 15129, Mar. 30, 1999, the effectiveness of part 255 was extended until Mar. 31, 2000. At 65 FR 16811, Mar. 30, 2000, the effectiveness of part 255 was extended until Mar. 31, 2001.

§ 255.1 Purpose.

(a) The purpose of this part is to set forth requirements for the operation by air carriers and their affiliates of computer reservations systems used by travel agents so as to prevent unfair, deceptive, predatory, and anticompetitive practices in air transportation.

(b) Nothing in this part operates to exempt any person from the operation of the antitrust laws set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12).

§ 255.2 Applicability.

This rule applies to air carriers and foreign air carriers that themselves or through an affiliate own, control, operate, or market computerized reservations systems for travel agents in the United States, and to the sale in the United States of interstate, overseas, and foreign air transportation and of other airline services through such systems. Each carrier that owns, controls, operates, or markets a system shall ensure that the system's operations comply with the requirements of this part.

§ 255.3 Definitions.

Affiliate means any person controlling, owned by, controlled by, or under common control with a carrier.

Availability means information provided in displays with respect to the seats carrier holds out as available for sale on a particular flight.

Carrier means any air carrier, any foreign air carrier, and any commuter air carrier, as defined in 49 U.S.C. 1301(3), 49 U.S.C. 1301(22), and 14 CFR 298.2(f), respectively, that is engaged directly in the operation of aircraft in passenger air transportation.

Discriminate, *discrimination*, and *discriminatory* mean, respectively, to discriminate unjustly, unjust discrimination, and unjustly discriminatory.

Display means that system's presentation of carrier schedules, fares, rules or availability to a subscriber by means of a computer terminal.

Integrated display means any display that includes the schedules, fares, rules, or availability of all or a significant proportion of the system's participating carriers.

On-time performance code means a single-character code supplied by a carrier to the vendor in accordance with the provisions of 14 CFR part 234 that reflects the monthly on-time performance history of a nonstop flight or one-stop or multi-stop single plane operation held out by the carrier in a CRS.

Participating carrier means a carrier, including a system owner, that has an agreement with a system for display of its schedules, fares, or seat availability, or for the making of reservations or issuance of tickets through a system.

Service enhancement means any product or service offered to subscribers or participating carriers in conjunction with a system other than the basic display of information on schedules, fares, rules, and availability, and the basic ability to make reservations or issue tickets for air transportation.

Subscriber means a ticket agent, as defined in 49 U.S.C. 1301(40), that holds itself out as a neutral source of information about, or tickets for, the air transportation industry and that uses a system.

System means a computerized reservations system offered by a carrier or its affiliate to subscribers for use in the United States that contains information about schedules, fares, rules or availability of other carriers and provides subscribers with the ability to make reservations and to issue tickets, if it charges any other carrier a fee for system services.

System owner means a carrier that holds five percent or more of the equity of a system, that has one or more affiliates that hold such an equity interest, or that together with affiliates holds such an interest.

§ 255.4 Display of information.

(a) All systems shall provide at least one integrated display that includes the schedules, fares, rules and availability of all participating carriers in accordance with the provisions of this section. This display shall be at least as useful for subscribers, in terms of functions or enhancements offered and the ease with which such functions or enhancements can be performed or implemented, as any other displays maintained by the system vendor. No system shall make available to subscribers any integrated display unless that display complies with the requirements of this section.

(1) Each system must offer an integrated display that uses the same editing and ranking criteria for both online and interline connections and does not give on-line connections a system-imposed preference over interline connections. This display shall be at least as useful for subscribers, in terms of functions or enhancements offered and the ease with which such functions or enhancements can be performed or implemented, as any other display maintained by the system vendor.

(2) Each integrated display offered by a system must either use elapsed time as a significant factor in selecting service options from the database or give single-plane flights a preference over connecting services in ranking services in displays.

(b) In ordering the information contained in an integrated display, systems shall not use any factors directly or indirectly relating to carrier identity.

(1) Systems may order the display of information on the basis of any service criteria that do not reflect carrier identity and that are consistently applied to all carriers, including each system owner, and to all markets.

(2) When a flight involves a change of aircraft at a point before the final destination, the display shall indicate that passengers on the flight will change from one aircraft to another.

(3) Each system shall provide to any person upon request the current criteria used in editing and ordering flights for the integrated displays and the weight given to each criterion and the specifications used by the system's programmers in constructing the algorithm.

(c) Systems shall not use any factors directly or indirectly relating to carrier identity in constructing the display of connecting flights in an integrated display.

(1) Systems shall select the connecting points (and double connect points) to be used in the construction of connecting flights for each city pair on the basis of service criteria that do not reflect carrier identity and that are applied consistently to all carriers, including each system owner, and to all markets.

(2) Systems shall select connecting flights for inclusion (''edit'') on the basis of service criteria that do not reflect carrier identity and that are applied consistently to all carriers, including each system owner.

(3) Systems shall provide to any person upon request current information on:

(i) All connecting points and double connect points used for each market;

(ii) All criteria used to select connecting points and double connect points;

(iii) All criteria used to ''edit'' connecting flights; and

(iv) The weight given to each criterion on paragraphs (c)(3) (ii) and (iii) of this section.

(4) Participating carriers shall be entitled to request that a system use up to five connect points (and double connect points) in constructing connecting flights for the display of service in a market. The system may require participating carriers to use specified procedures for such requests, but no such procedures may be unreasonably burdensome, and any procedures required of participating carriers also must be used by any system owner when it requests or causes its system to use specific points as connect points (or double connect points).

(5) When a system selects connecting points and double connect points for use in constructing connecting flights it shall use at least fifteen points and, after September 15, 1993, six double connect points, for each city-pair, except that a system may select fewer such connect or double connect points for a city-pair where:

(i) Fewer than fifteen connecting points and six double connect points meet the service criteria described in paragraph (c)(1) of this section; and

(ii) The system has used all the points that meet those criteria, along with all additional connecting points and double connect points requested by participating carriers.

(6) If a system selects connecting points and double connect points for use in constructing connecting flights it shall use every point requested by itself or a participating carrier up to the maximum number of points that the system can use. The system may use fewer than all the connect points requested by itself and participating carriers to the extent that:

(i) Points requested by the system and participating carriers do not meet the service criteria described in paragraph (c)(1) of this section; and

(ii) The system has used all the points that meet those criteria.

(d) Each system shall apply the same standards of care and timeliness to loading information concerning participating carriers as it applies to the loading of its own information or the information of a system owner. No system owner may use procedures for providing information on its own services to its system that are not available to participating carriers. Each system shall provide to any person upon request all current data base update procedures and data formats.

(e) Systems shall use or display information concerning on-time performance of flights as follows.

(1) Within 10 days after receiving the information from participating carriers or third parties, each system shall include in all integrated schedule and availability displays the on-time performance code for each nonstop flight segment and one-stop or multi-stop single plane flight, for which a participating carrier provides a code.

(2) A system shall not use on-time flight performance as a ranking factor in ordering information contained in an integrated display.

(f) Each participating carrier shall ensure that complete and accurate information is provided each system in a form such that the system is able to display its flights in accordance with this section.

(g) A system may make available to subscribers the internal reservations system display of a system owner or other participating carrier, provided that all participating carriers are offered the ability to make their internal reservations displays available to subscribers, and provided further that a subscriber and its employees may see any such display only by requesting it for a specific transaction.

[Amdt. 255–9, 57 FR 43834, Sept. 22, 1992, as amended at 62 FR 63847, Dec. 3, 1997]

§ 255.5 Defaults and service enhancements.

(a) In the event that a system offers a service enhancement to a system owner or other participating carrier, it shall offer the enhancement to all participating carriers on nondiscriminatory terms, except to the extent that such service enhancement is still in the development stage or that participation is not immediately feasible for technical reasons, in which event the system shall make it available to all participating carriers as soon as possible.

(b) After October 1, 1993, no system may create or maintain a default in any system feature that automatically prefers one or more system owners over other participating carriers.

§ 255.6 Contracts with participating carriers.

(a) No system may discriminate among participating carriers in the fees for participation in its system, or for system-related services. Differing fees to participating carriers for the same or similar levels of service shall be presumed to be discriminatory.

(b) No system may condition participation in its system on the purchase or sale of any other goods or services.

(c) Notwithstanding paragraph (b) of this section, a system may condition participation in its system in the United States on a participating carrier's agreement to participate in the system or affiliated systems in other countries, if the system and such affiliates agree that:

(1) The display of services in such system and its affiliates will not use

any factors related to carrier identity and

(2) Any fees charged the carrier shall not be discriminatory.

(d) A system shall provide upon request to carriers current information on its fee levels and fee arrangements with other participating carriers. A system's bill to a participating carrier for any fee must contain adequate information and be on magnetic media so that the participating carrier can determine whether the bill is accurate. At a minimum, booking fee bills must include the following information for each segment: PNR record locator number, passenger name, booking status, agency ARC number, pseudo-city code, CRS transaction date, city-pair information, flight number, flight date, class of service, and type of CRS booking.

(e) No system may require a carrier (other than a carrier that owns or markets, or is an affiliate of a person that owns or markets, a foreign or domestic computerized reservations system) to maintain any particular level of participation or buy any enhancements in its system on the basis of participation levels or enhancements selected by that carrier in any other foreign or domestic computerized reservations system. A system may not compel a carrier that owns or markets, or is an affiliate of a person that owns or markets, a foreign or domestic computerized reservations system, to maintain a particular level of participation or buy an enhancements in its system on the basis of participation levels or enhancements selected by that carrier in another foreign or domestic computerized reservations system, until 14 days after it has given the Department and such carrier written notice of its intent to take such action.

[Amdt. 255–9, 57 FR 43834, Sept. 22, 1992, as amended at 62 FR 59802, Nov. 5,1997]

§ 255.7 System owner participation in other systems.

(a) Each system owner shall participate in each other system and each of its enhancements (to the extent that such owner participates in such an enhancement in its own system) if the other system offers commercially reasonable terms for such participation. Fees shall be presumed commercially reasonable if:

(1) They do not exceed the fees charged by the system of such system owner in the United States or

(2) They do not exceed the fees being paid by such system owner to another system in the United States.

(b) Each system owner shall provide complete, timely, and accurate information on its airline schedules, fares, and seat availability to each other system in which it participates on the same basis and at the same time that it provides such information to the system that it owns, controls, markets, or is affiliated with. If a system owner offers a fare or service that is commonly available to subscribers to its own system, it must make that fare or service equally available for sale through each other system in which it participates.

§ 255.8 Contracts with subscribers.

(a) No subscriber contract may have a term in excess of five years. No system may offer a subscriber or potential subscriber a subscriber contract with a term in excess of three years unless the system simultaneously offers such subscriber or potential subscriber a subscriber contract with a term no longer than three years. No contract may contain any provision that automatically extends the contract beyond its stated date of termination, whether because of the addition or deletion of equipment or because of some other event.

(b) No system may directly or indirectly impede a subscriber from obtaining or using any other system. Among other things, no subscriber contract or contract offer may require the subscriber to use a system for a minimum volume of transactions, and no subscriber contract or contract offer may require the subscriber to lease a minimum number or ratio of system components based upon or related to:

(1) The number of system components leased from another system vendor or

(2) The volume of transactions conducted on any other system.

(c) No system owner may require use of its system by the subscriber in any sale of its air transportation services.

(d) No system owner may require that a travel agent use or subscribe to

its system as a condition for the receipt of any commission for the sale of its air transportation services.

(e) No system may charge prices to subscribers conditioned in whole or in part on the identity of carriers whose flights are sold by the subscriber.

§ 255.9 Use of third-party hardware, software and databases.

(a) No system may prohibit or restrict, directly or indirectly, the use of:

(1) Third-party computer hardware or software in conjunction with CRS services, except as necessary to protect the integrity of the system, or

(2) A CRS terminal to access directly any other system or database providing information on airline services, unless the terminal is owned by the system.

(b) This section prohibits, among other things, a system's:

(1) Imposition of fees in excess of commercially reasonable levels to certify third-party equipment;

(2) Undue delays or redundant or unnecessary testing before certifying such equipment;

(3) Refusal to provide any services normally provided subscribers because of a subscriber's use of third-party equipment or because of the subscriber's using the same equipment (unless owned by the system) for access to both the system and to another system or database; and

(4) Termination of a subscriber contract because of the subscriber's use of third-party equipment or use of the same equipment for access to the system and to another system or database.

(c) A system shall make available to developers of third-party hardware and software on commercially reasonable terms the nonproprietary system architecture specifications and other nonproprietary technical information needed to enable such developers to create products that will be compatible with the system.

(d) Nothing in this section shall be construed to require any system or system owner to:

(1) Develop or supply any particular product, device, hardware or software to enable a subscriber to use another system, or

(2) Provide service or support with respect to any product, device, hardware, software, or service not provided to a subscriber by the system or system owner.

§ 255.10 Marketing and booking information.

(a) Each system shall make available to all U.S. participating carriers on nondiscriminatory terms all marketing, booking, and sales data relating to carriers that it elects to generate from its system. The data made available shall be as complete and accurate as the data provided a system owner.

(b) Each system shall make available to all foreign participating carriers on nondiscriminatory terms all marketing, booking, and sales data relating to bookings on international services that it elects to generate from its system, provided that no system may provide such data to a foreign carrier if the foreign carrier or an affiliate owns, operates, or controls a system in a foreign country, unless such carrier or system provides comparable data to all U.S. carriers on nondiscriminatory terms. Before a system provides such data to a foreign carrier, it shall give written notice to each of the U.S. participating carriers in its system that it will provide such data to such foreign carrier. The data made available by a system shall be as complete and accurate as the data provided a system owner.

(c) Any U.S. or foreign carrier receiving data on international bookings from a system must ensure that no one has access to the data except its own personnel and the personnel of any outside firm used for processing the data on its behalf, except to the extent that the system or a system owner provides such access to other persons.

§ 255.11 Exceptions.

(a) The obligations of a system under § 255.4 shall not apply with respect to a carrier that refuses to enter into a contract that complies with this part or fails to pay a nondiscriminatory fee. A system shall apply its policy concerning treatment of non-paying carriers on a uniform basis to all such carriers, and shall not receive payment

from any carrier for system-related services unless such payments are made pursuant to a contract complying with this part.

(b) The obligations of a system under this part shall not apply to any foreign carrier that operates or whose affiliate operates an airline computer reservations system for travel agents outside the United States, if that system discriminates against the display of flights of any United States carrier or imposes discriminatory terms for participation by any United States carrier in its computer reservations system, provided that a system must continue complying with its obligations under this part until 14 days after it has given the Department and such foreign carrier written notice of its intent to deny such foreign carrier any or all of the protections of this part.

§ 255.12 Termination.

The rules in this part terminate on March 31, 2001.

[Doc. No. OST–2000–6984, 65 FR 16811, Mar. 30, 2000]

PART 256—DISPLAY OF JOINT OPERATIONS IN CARRIER-OWNED COMPUTER RESERVATIONS SYSTEMS

Sec.
256.1 Purpose.
256.2 Applicability.
256.3 Definitions.
256.4 Display of information.

AUTHORITY: Secs. 102, 204, 404, 411, 412, 419, 1102 Pub. L. 85–726 as amended, 72 Stat. 740, 743, 760, 769, 770, 797; 92 Stat. 1732; 94 Stat. 42; 49 U.S.C. 1302, 1324, 1374, 1381, 1382, 1389, 1502.

SOURCE: ER–1377, 49 FR 12677, Mar. 30, 1984, unless otherwise noted.

§ 256.1 Purpose.

The purpose of this part is to set forth a requirement for operation by air carriers of computer reservation systems used by travel agents so as to prevent unfair, predatory, and anticompetitive practices in air transportation.

§ 256.2 Applicability.

This rule applies to air carriers or foreign air carriers that own, control, or operate computerized reservation systems for travel agent subscribers in the United States, and the sale in the United States of interstate, overseas, and foreign passenger air transportation through such systems.

§ 256.3 Definitions.

Carrier means any air carrier, any foreign air carrier, and any commuter air carrier, as defined in 49 U.S.C. 1301(3), 49 U.S.C 1301(22), and § 298.2(f) of this chapter, respectively that is engaged directly in the operation of aircraft in passenger air transportation.

Display means the system's presentation of carrier schedules, fares, rules or availability to a subscriber by means of computer terminal.

Subscriber means a ticket agent, as defined in 49 U.S.C. 1301(40) of the Act, that holds itself out as a neutral source of information about, or tickets for, the air transportation industry in general, and that has entered into an agreement for the use of a system.

System means a computerized airline reservation system offered by a carrier to subscribers, for use in the United States that contains information about schedules, fares, rules or availability of other carriers and that provides subscribers with the ability to issue tickets.

System vendor means a carrier that owns, controls or operates a system.

Designator code means the airline designations allotted and administered pursuant to Agreements CAB 24606 and 26056.

§ 256.4 Display of information.

(a) A system vendor shall not deny access to its system to two or more carriers whose flights share a single designator code, absent a determination by the Board that the use of the code constitutes a violation of 49 U.S.C. 1381.

(b) A system vendor shall not discriminate against any carrier on the basis of that carrier's using the same designator code as another carrier, either by display bias, or any other means relating to providing the system.

PART 257—DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Sec.
257.1 Purpose.
257.2 Applicability.
257.3 Definitions.
257.4 Unfair and deceptive practice.
257.5 Notice requirement.
257.6 Effective and compliance dates.

AUTHORITY: 49 U.S.C. 40113(a) and 41712.

SOURCE: 64 FR 12851, Mar. 15, 1999, unless otherwise noted.

§ 257.1 Purpose.

The purpose of this part is to ensure that ticket agents doing business in the United States, air carriers, and foreign air carriers tell consumers clearly when the air transportation they are buying or considering buying involves a code-sharing arrangement or a long-term wet lease, and that they disclose to consumers the transporting carrier's identity.

§ 257.2 Applicability.

This part applies to the following:

(a) Direct air carriers and foreign air carriers that participate in code-sharing arrangements or long-term wet leases involving scheduled passenger air transportation; and

(b) Ticket agents doing business in the United States that sell scheduled passenger air transportation services involving code-sharing arrangements or long-term wet leases.

§ 257.3 Definitions.

As used in this part:

(a) *Air transportation* means foreign air transportation or interstate air transportation as defined in 49 U.S.C. 40102 (a)(23) and (25) respectively.

(b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that is engaged directly in scheduled passenger air transportation, including by wet lease.

(c) *Code-sharing arrangement* means an arrangement whereby a carrier's designator code is used to identify a flight operated by another carrier.

(d) *Designator code* means the airline designations originally allotted and administered pursuant to Agreements CAB 24606 and 26056.

(e) *Long-term wet lease* means a lease by which the lessor provides both an aircraft and crew dedicated to a particular route(s), and which either:

(1) Lasts more than 60 days; or

(2) Is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

(f) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(40).

(g) *Transporting carrier* means the carrier that is operating the aircraft in a code-sharing arrangement or long-term wet lease.

§ 257.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation involving a code-sharing arrangement or long-term wet lease is prohibited as unfair and deceptive in violation of 49 U.S.C. 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

§ 257.5 Notice requirement.

(a) *Notice in schedules*. In written or electronic schedule information provided by carriers in the United States to the public, the Official Airline Guides and comparable publications, and, where applicable, computer reservations systems, carriers involved in code-sharing arrangements or long-term wet leases shall ensure that each flight in scheduled passenger air transportation on which the designator code is not that of the transporting carrier is identified by an asterisk or other easily identifiable mark and that the corporate name of the transporting carrier and any other name under which that service is held out to the public is also disclosed.

(b) *Oral notice to prospective consumers*. In any direct oral communication in the United States with a prospective consumer and in any telephone calls placed from the United States concerning a flight that is part of a code-sharing arrangement or long-term wet lease, a ticket agent doing business in the United States or a carrier shall tell the consumer, before booking transportation, that the transporting carrier is not the carrier whose

designator code will appear on the ticket and shall identify the transporting carrier by its corporate name and any other name under which that service is held out to the public.

(c) *Written notice.* Except as specified in paragraph (c)(3) of this section, at the time of purchase, each selling carrier or ticket agent shall provide each consumer of scheduled passenger air transportation sold in the United States that involves a code-sharing arrangement or long-term wet lease with the following notice:

(1) If an itinerary is issued, there shall appear in conjunction with the listing of any flight segment on which the designator code is not that of the transporting carrier a legend that states ''Operated by'' followed by the corporate name of the transporting carrier and any other name in which that service is held out to the public. In the case of single-flight-number service involving a segment or segments on which the designator code is not that of the transporting carrier, the notice shall clearly identify the segment or segments and the transporting carrier by its corporate name and any other name in which that service is held out to the public. The following form of statement will satisfy the requirement of this paragraph (c)(1):

IMPORTANT NOTICE: Service between XYZ City and ABC City will be operated by Jane Doe Airlines d/b/a QRS Express.

(2) If no itinerary is issued, the selling carrier or ticket agent shall provide a separate written notice that clearly identifies the transporting carrier by its corporate name and any other name under which that service is held out to the public for any flight segment on which the designator code is not that of the transporting carrier. The following form of notice will satisfy the requirement of this paragraph (c)(2):

IMPORTANT NOTICE: Service between XYZ City and ABC City will be operated by Jane Doe Airlines d/b/a QRS Express.

(3) If transportation is purchased far enough in advance of travel to allow for advance delivery of the ticket by mail or otherwise, the written notice required by this part shall be delivered in advance along with the ticket. If time does not allow for advance delivery of the ticket, or in the case of ticketless travel, the written notice required by this part shall be provided no later than the time that they check in at the airport for the first flight in their itinerary.

(4) At the purchaser's request, the notice required by this part may be delivered in person or by telecopier, electronic mail, or any other reliable method of transmitting written material.

(d) *Advertising.* In any printed advertisement published in or mailed to or from the United States for service in a city-pair market that is provided under a code-sharing arrangement or long-term wet lease, the advertisement shall clearly indicate the nature of the service in reasonably sized type and shall identify the transporting carrier[s] by corporate name and by any other name under which that service is held out to the public. In any radio or television advertisement broadcast in the United States for service in a city-pair market that is provided under a code-sharing arrangement or long-term wet lease, the advertisement shall include at least a generic disclosure statement, such as ''Some services are provided by other airlines.''

§ 257.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999:

(1) § 257.1, § 257.2, § 257.3, § 257.4, § 257.5(d), and § 257.6.

(2) § 257.5(b) to the extent that it requires sellers of air transportation to give consumers oral notice before booking transportation involving a code-share arrangement

(i) Of the fact that the selling carrier is not the transporting carrier and

(ii) Of the transporting carrier's identity (as shown by its two-letter designator code in CRS displays).

(c) Compliance with the following sections is mandatory as of March 15, 2000:

(1) § 257.5(a) and § 257.5(c) in their entirety.

(2) § 257.5(b) insofar as it requires sellers of air transportation to give consumers

(i) Oral notice before booking transportation involving a code-share arrangement of the transporting carrier's corporate name and any other name under which the service is held out to the public and

(ii) The same disclosures for long-term wet leases as for code-sharing arrangements.

[64 FR 46821, Aug. 27, 1999]

PART 258—DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Sec.
258.1 Purpose.
258.2 Applicability.
258.3 Definitions.
258.4 Unfair and deceptive practice.
258.5 Notice requirement.
258.6 Effective and compliance dates.

AUTHORITY: 49 U.S.C. 40113(a) and 41712.

SOURCE: 64 FR 12860, Mar. 15, 1999, unless otherwise noted.

§ 258.1 Purpose.

The purpose of this part is to ensure that consumers are adequately informed before they book air transportation or embark on travel involving change-of-gauge services that these services require a change of aircraft en route.

§ 258.2 Applicability.

This part applies to the following:

(a) Direct air carriers and foreign air carriers that sell or issue tickets in the United States for scheduled passenger air transportation on change-of-gauge services or that operate such transportation; and

(b) Ticket agents doing business in the United States that sell or issue tickets for scheduled passenger air transportation on change-of-gauge services.

§ 258.3 Definitions.

As used in this part:

(a) *Air transportation* has the meaning ascribed to it in 49 U.S.C. 40102(5).

(b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that engages directly in scheduled passenger air transportation.

(c) *Change-of-gauge service* means a service that requires a change of aircraft en route but has only a single flight number.

(d) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(40).

§ 258.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation that involves change-of-gauge service is prohibited as an unfair or deceptive practice or an unfair method of competition within the meaning of 49 U.S.C. 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

§ 258.5 Notice requirement.

(a) *Notice in schedules.* Carriers holding out or operating change-of-gauge services to, from, or within the United States shall ensure that in the written and electronic schedule information they provide to the public, to the Official Airline Guide and comparable publications, and to computer reservations systems, these services are shown as requiring a change of aircraft.

(b) *Oral notice to prospective consumers.* In any direct oral communication with a consumer in the United States concerning a change-of-gauge service, any carrier or ticket agent doing business in the United States shall tell the consumer before booking scheduled passenger air transportation to, from, or within the United States that the service requires a change of aircraft en route.

(c) *Written notice.* At the time of sale in the United States of transportation that includes a change-of-gauge service to, from, or within the United States, or, if no ticket is issued, no later than the time when the passenger checks in at the airport for the first flight in an itinerary that includes such a service, the selling carrier or ticket agent shall provide the following written notice:

NOTICE: CHANGE OF AIRCRAFT REQUIRED

For at least one of your flights, you must change aircraft en route even though your ticket may show only one flight number and have only one flight coupon for that flight.

Further, in the case of some travel, one of your flights may not be identified at the airport by the number on your ticket, or it may be identified by other flight numbers in addition to the one on your ticket. At your request, the seller of this ticket will give you details of your change of aircraft, such as where it will occur and what aircraft types are involved.

§ 258.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999: § 258.1, § 258.2, § 258.3, § 258.4, § 258.5(a), § 258.5(b), and § 258.6.

(c) Compliance with § 258.5(c) is mandatory as of March 15, 2000.

[64 FR 46821, Aug. 27, 1999]

PART 271—GUIDELINES FOR SUBSIDIZING AIR CARRIERS PROVIDING ESSENTIAL AIR TRANSPORTATION

Sec.
271.1 Purpose.
271.2 Definitions.
271.3 Carrier subsidy need.
271.4 Carrier costs.
271.5 Carrier revenues.
271.6 Profit element.
271.7 Subsidy payout formula.
271.8 Rate period.
271.9 Discrimination prohibited.

AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER–1398, 49 FR 49846, Dec. 24, 1984, unless otherwise noted.

§ 271.1 Purpose.

This part establishes the guidelines required by 49 U.S.C. 41736 to be used by the Department in establishing the fair and reasonable amount of compensation needed to ensure the continuation of essential air service to an eligible place under 49 U.S.C. 41731 and 41734. These guidelines are intended to cover normal carrier selection cases and rate renewal cases, and not necessarily emergency carrier selection cases.

[60 FR 43524, Aug. 22, 1995]

§ 271.2 Definitions.

As used in this part:

Eligible place means a place in the United States that—

(1) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(2) Received scheduled air transportation at any time between January 1, 1990, and November 4, 1990; and

(3) Is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute.

Essential air service is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of the Statute.

[60 FR 43524, Aug. 22, 1995]

§ 271.3 Carrier subsidy need.

In establishing the subsidy for an air carrier providing essential air service at an eligible place, the Department will consider the following:

(a) The reasonable projected costs of a carrier in serving that place;

(b) The carrier's reasonable projected revenues for serving that place;

(c) The appropriate size of aircraft for providing essential air service at that place; and

(d) A reasonable profit for a carrier serving that place.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, Aug. 22, 1995]

§ 271.4 Carrier costs.

(a) The reasonable costs projected for a carrier providing essential air service at an eligible place will be evaluated:

(1) For costs attributable to the carrier's flying operations (direct expenses), by comparing the projected costs submitted by the carrier with the following:

(i) The carrier's historical direct operating costs with the same or similar aircraft types;

(ii) The direct operating unit costs of similar carriers using the same or similar equipment; and

(iii) Data supplied by the manufacturer of the carrier's aircraft.

(2) For other costs, by one or more of the following methods:

(i) By direct assignment where the indirect costs are attributable to the carrier's operations at the eligible place;

(ii) By comparing the carrier's systemwide indirect operating expenses to those submitted by the carrier for the eligible place; or

(iii) By comparing the indirect operating expenses submitted by the carrier with the ratio of indirect to direct costs that have been experienced by the carrier in other markets or to costs that are representative of the industry.

(3) By considering the unique circumstances of the carrier or the community being served that justify deviations from the costs that would otherwise be established for that carrier under this paragraph.

(4) By determining whether the aircraft to be used by the carrier at the eligible place, and on which its costs are derived, are appropriate for providing essential air service there. The appropriateness of the aircraft to be used is based on the following characteristics of the eligible place:

(i) Traffic levels;

(ii) The level of air service that the Department has decided is essential for the eligible place;

(iii) Distance to the designated hub;

(iv) The altitude at which the carrier must fly to the designated hub; and

(v) Other operational elements involved.

(b) When the essential air service would be made part of the carrier's linear system, the Department might, instead of the factors in paragraph (a) of this section, consider only the incremental costs that the carrier will incur in adding that service to its system.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.5 Carrier revenues.

(a) The projected passenger revenue for a carrier providing essential air service at an eligible place will be calculated by multiplying the following:

(1) A reasonable projected net fare, which is the standard fare expected to be charged for service between the eligible place and the designated hub less any dilution caused by joint fare arrangements, discount fares that it offers, or prorates of fares for through one-line passengers; and

(2) The traffic (including both local and beyond traffic) projected to flow between the eligible place and the designated hub or hubs, which is based on the carrier's own estimates, Department estimates, and on traffic levels in the market at issue when such data are available.

(b) The reasonableness of a carrier's passenger revenue projections will be evaluated by:

(1) Comparing the carrier's proposed fare with the fare charged in other city-pair markets of similar distances and traffic densities; and

(2) Comparing the carrier's proposed pricing structure with historical pricing practices in the market at issue, with the pricing practices of that carrier in other markets, and with any standard industry pricing guidelines that may be available.

(c) An estimate of freight and other transport-related revenue will be included as a component of projected revenues and will be based on recent experience in the market involved and on the experience of the carrier involved in other markets.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, Aug. 22, 1995]

§ 271.6 Profit element.

The reasonable return for a carrier for providing essential air service at an eligible place generally will be set at a flat percentage, typically 5 percent of that carrier's projected operating costs as established under § 271.4, plus any applicable interest expenses on flight equipment.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§ 271.7 Subsidy payout formula.

(a) Subsidy will be paid by the Department to the air carrier monthly, based on the subsidy rate established by the Department for the carrier under this part. Payments will not vary except as provided in this section.

(b) While a carrier's subsidy rate will not vary even if actual revenues or costs differ from projections, the actual amount of each payment may vary depending on the following factors:

(1) Seasonal characteristics of the carrier's operations at the eligible place;

(2) The actual number of flights completed, aircraft miles flown, available

seat-miles flown, or variations in other operational elements upon which the subsidy rate is based; or

(3) Adjustments to the carrier's subsidy required by §271.8(b).

(c) Payments will continue for the duration of the rate term established under §271.8 provided that the carrier continues to provide the required service.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§271.8 Rate period.

(a) The subsidy rate generally will be set for a 2-year period, or two consecutive 1-year periods. The Department may set the rate for a shorter period in the following situations:

(1) A commuter air carrier is replacing a larger certificated carrier at the eligible place;

(2) Traffic at the eligible place has substantially decreased;

(3) The Department considers the cost or revenue projections of the carrier for the second year to be unrealistic;

(4) It is likely that there will be changes in the eligible place essential air service level; or

(5) The uncertainties of the market or other circumstances warrant a shorter rate period.

(b) The subsidy rate established for a carrier under this part will not be changed during the rate period unless an adjustment is required in the public interest.

(c) At the end of the rate period, the carrier will not have a continuing right to receive subsidy for providing essential air service at the eligible place.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43524, 43525, Aug. 22, 1995]

§271.9 Discrimination prohibited.

(a) All air carriers receiving subsidy under this part shall comply with the following:

(1) The Age Discrimination Act of 1975;

(2) The Civil Rights Act of 1964 and 49 CFR part 21; and

(3) The Rehabilitation Act of 1973, 49 CFR part 27, and part 382 of this chapter.

(b) Within 1 year after it first receives a subsidy under this part, the carrier shall evaluate its practices and procedures for accommodating the handicapped in accordance with §382.23 of this chapter.

(c) All air carriers seeking a subsidy under this part shall include in their subsidy application the assurances required by 49 CFR parts 20, 21, 27 and 29, and §382.21 of this chapter.

[ER–1398, 49 FR 49846, Dec. 24, 1984, as amended at 60 FR 43525, Aug. 22, 1995]

PART 272—ESSENTIAL AIR SERVICE TO THE FREELY ASSOCIATED STATES

Sec.

272.1 Purpose.
272.2 Applicability.
272.3 Places eligible for guaranteed essential air service.
272.4 Applicability of procedures and policies under 49 U.S.C. 41731–42.
272.5 Determination of essential air service.
272.6 Considerations in the determination of essential air service.
272.7 Notice of discontinuance of service.
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272.9 Selection of a carrier to provide essential air service and payment of compensation.
272.10 Conditions applicable to carriers serving a subsidized market.
272.11 Effective date of provisions.
272.12 Termination.

AUTHORITY: 49 U.S.C. Chapters 401, 402, 416, 461, 1102; sec. 221(a)(5) of the Compact of Free Association, and paragraph 5 of Article IX of the Federal Programs and Services Agreement in implementation of that Compact (Pub. L. 99–239; Pub. L. 99–658); Pub. L. 101–219.

SOURCE: Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, unless otherwise noted.

§272.1 Purpose.

Paragraph 5 of Article IX of the Federal Programs and Services Agreement implementing section 221(a)(5) of the Compact of Free Association between the United States and the Governments of the Federated States of Micronesia, the Marshall Islands and Palau (the Freely Associated States) provides, among other things, for the Department of Transportation (Department), as successor to the Civil Aeronautics Board (Board), to guarantee essential air service, with compensation if necessary, to certain places in these

islands. Subparagraph 5(h) of the Agreement provides that the Department shall adopt rules to implement the provisions of paragraph 5 as it in its discretion deems appropriate. Section 221(a)(5) of the Compact, which was adopted by Congress as public laws (Pub. L. 99–239, Jan. 14, 1986; Pub. L. 99–658, Nov. 14, 1986), provides that the Department (as successor to the Board) has the authority to implement the provisions of paragraph 5 of the Agreement. This part implements these provisions of paragraph 5.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.2 Applicability.

This part establishes the provisions applicable to the Department's guarantee of essential air service to places in the Federated States of Micronesia, the Marshall Islands and Palau, and the payment of compensation for such services. The rule applies to U.S. air carriers and Freely Associated State Air Carriers providing essential air service to these places.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.3 Places eligible for guaranteed essential air service.

(a) Subject to the provisions of this part, and paragraph 5 of Article IX of the Federal Programs and Services Agreement, the Department will make provision for the operation of essential air service, with compensation if necessary, to the following places in the Freely Associated States:

In the *Federated States of Micronesia:* Ponape, Truk and Yap.

In the *Marshall Islands:* Majuro and Kwajalein.

In *Palau:* Koror.

(b) The places specified herein in the Federated States of Micronesia, the Marshall Islands or Palau, respectively, shall cease to be eligible places under this part if any of those Governments withdraw from the subsidy provisions of Article IX of the Federal Programs and Services Agreement in accordance with paragraph 8 of Article IX or Article XII of that Agreement.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.4 Applicability of procedures and policies under 49 U.S.C. 41731–42.

Since the authority of the Department to guarantee essential air service is derived from the Federal Programs and Services Agreement and the Compact of Free Association, the provisions and procedures utilized by the Department in implementation of 49 U.S.C. 41731–42 will be followed only to the extent determined by the Department to be consistent with the obligations assumed by the United States in the Agreement and Compact, and the provisions of this part.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.5 Determination of essential air service.

Procedures for the determination of essential air service under this section, and review of that determination, shall, except to the extent otherwise directed by the Department, be governed by § 325.4 (except the application of 49 U.S.C. 41737 in § 325.4(b)); § 325.6(a); §§ 325.8–325.11; § 325.12 (provided that all documents shall be served on the President and the designated authorities of the Freely Associated State concerned); and §§ 325.13 and 325.14 of this chapter.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.6 Considerations in the determination of essential air service.

(a) In the determination of essential air service to an eligible Freely Associated State place, the Department shall consider, among other factors, the following:

(1) The demonstrated level of traffic demand;

(2) The amount of compensation necessary to maintain a level of service sufficient to meet that demand;

(3) The extent to which the demand may be accommodated by connecting or other services of U.S., Freely Associated State, or foreign carriers by air—through U.S., Freely Associated State, or foreign places—that provide access to the U.S. air transportation system;

(4) Alternative modes of transportation that may be available; and

(5) The peculiar needs of the Freely Associated States for air transportation services.

(b) The Guidelines for Individual Determinations of essential air service set forth in part 398 of this chapter shall be applied only to the extent the Department concludes that they are applicable to the special circumstances affecting transportation to the Freely Associated States and reflective of the provisions of this part.

(c) Nothing in this part shall be construed as providing for a level of essential air service that would exceed the level of service justified by the considerations set forth in paragraph (a) of this section.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.7 Notice of discontinuance of service.

(a) An air carrier or Freely Associated State Air Carrier shall not terminate, suspend, or reduce air service to any eligible Freely Associated State place, unless it has given notice as specified in this section, if as a result of the reduction of such service the aggregate of the remaining air service provided to such place would be below:

(1) If the Department has not made a determination of essential air service for such place, the level of service specified in Order 80–9–63; and

(2) If the Department has made a determination of essential air service for such place, that level of essential air service.

(b) An air carrier or Freely Associated State Air Carrier wishing to terminate, suspend or reduce air service under paragraph (a) shall file a notice of such proposed reduction in service at least 90 days prior to such service reduction, in accordance with the procedures specified in §§ 323.4, 323.6, and 323.7 of this chapter.

(c) The notice shall be served on the President and the designated Authorities of the Freely Associated State concerned, in addition to the persons specified in § 323.7.

(d) The procedures specified in §§ 323.9–323.18, to the extent applicable to 90-day notices filed by certificated air carriers, shall also be applicable to notices of terminations, suspensions or reductions in service filed under this section.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.8 Obligation to continue service.

(a) If the Department finds that a proposed termination, suspension, or reduction in service by an air carrier or Freely Associated State Air Carrier will, or may, reduce service to an eligible Freely Associated State place below the level of essential air service to such place, whether or not the Department has previously determined the level of essential air service to such place, the Department may direct the air carrier or Freely Associated State Air Carrier concerned to maintain service to such place at a level the Department determines will ensure essential air service to such place, pending the commencement of alternative service as required to maintain the level of essential air service previously, or thereafter, determined by the Department.

(b) During any period the Department requires an air carrier or Freely Associated State Air Carrier to maintain a level of service proposed to be terminated, suspended or reduced, following the filing of a 90 day notice in accordance with § 272.7, the Department will provide for the payment of compensation to such carrier for any losses incurred by that carrier as a result of such required continuation of service in accordance with the procedures set forth in part 271 of this chapter. If the carrier is already receiving compensation pursuant to § 272.9 of this part, the Department will continue to direct payment of such compensation during any period the carrier is required to maintain service. Such payments shall be made by the Department of Interior from funds appropriated for this purpose.

(c) The Department will review its order from time to time and will revise the level of required service as necessary to maintain only the level of essential air service determined by the Department for that place, considering all other service to such place in accordance with § 272.6(a)(3).

(d) During the period any such air carrier or Freely Associated State Air

Carrier is required to maintain service under this section, the Department will make every effort to obtain alternative service, with compensation if necessary, as required to maintain essential air service to such place.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.9 Selection of a carrier to provide essential air service and payment of compensation.

(a) If the Department finds that essential air service will not be maintained to an eligible Freely Associated State place, the Department shall invite applications to provide the service required to maintain essential air service to such place.

(b) If the Department determines that essential air service will not be provided to such place in the absence of the payment of subsidy compensation to a carrier or carriers, the Department shall determine the compensation necessary, considering all other service to such place in accordance with § 272.6(a)(3), to maintain the level of essential air service determined by the Department under § 272.5, and the times and manner of the payment of such compensation.

(c) The compensation determined by the Department to be necessary to maintain essential air service to such place shall be paid by the Department of Interior out of funds appropriated for that purpose, to the carrier or carriers selected by the Department.

(d) The Department shall continue to specify compensation to be paid to a carrier or carriers under this section only as long as the Department determines that essential air service will not be provided to the Freely Associated State in the absence of the payment of such compensation.

(e) Except as permitted in paragraph (f) of this section, the Department shall select a U.S. air carrier or carriers to provide essential air service for compensation.

(f) The Department may select a Freely Associated State Air Carrier, holding a foreign air carrier permit issued in accordance with subpart D of part 211 of this chapter, to provide essential air service for compensation, only if—

(1) No U.S. air carrier is available to provide the required essential air service; or

(2) The compensation necessary for the provision of the required essential air service would be substantially less than the compensation necessary if such essential air service were to be provided by a U.S. air carrier.

(g) Any order of the Department selecting a Freely Associated State Air Carrier to provide such essential air service shall be submitted to the President of the United States not less than 10 days prior to its effective date and shall be subject to stay or disapproval by the President.

(h) Among the criteria that will be considered by the Department in its determination of the carrier or carriers to be selected to perform the required essential air service are:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the Freely Associated States concerned;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the Freely Associated States for which essential air service is proposed to be provided;

(3) The amount of compensation that will be required to provide the proposed essential air service;

(4) The impact of the proposed service on service provided to other Freely Associated State points; and

(5) The views of the Governments of the Freely Associated States concerned.

(i) The Department may from time to time, on its own motion, or upon application of any carrier or government, review and change its selection of a carrier to provide essential air service, or its determination as to the compensation necessary to provide such essential air service.

(j) All applications or other documents filed or issued in proceedings under this section shall be served upon the President of the Freely Associated State concerned and the Authorities designated by that Government(s) in accordance with Article II, paragraph 10, of the Federal Programs and Services Agreement supplemental to the

Compact of Free Association, and such Government shall be a party to any such proceeding. In reaching its determination, the Department will carefully consider any views of such Government that have been submitted.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.10 Conditions applicable to carriers serving a subsidized market.

(a) The Department may, after providing an opportunity for comment by the carrier or carriers affected, impose service, fare or rate conditions on any U.S., Freely Associated State, foreign air carrier, or foreign carrier by air as a precondition to the payment of compensation necessary to maintain essential air service, whether or not the affected carrier is itself receiving subsidy compensation in the market, if it finds that:

(1) Essential air service in a Freely Associated State market or markets will not be provided in the absence of the payment of compensation;

(2) Specified service, rate or fare conditions are or will be necessary or desirable to minimize the required subsidy compensation; and

(3) The imposition of such conditions will not unduly impair the service provided in the market.

(b) To the extent the carrier or carriers upon whom the conditions are imposed pursuant to paragraph (a) of this section do not hold a certificate, permit, or other authority from the Department that may be amended to effectively implement the specified conditions, the Department may notify the Government(s) of the Freely Associated States concerned that the imposition of such conditions on those carriers by those Governments shall be a precondition to the payment of the subsidy compensation required to maintain essential air service in the market in question.

(c) The Department may withhold or suspend its provision for the payment of subsidy compensation required to maintain essential air service unless and until the Freely Associated State(s) concerned take the necessary action to impose the specified conditions on the carriers referred to in paragraph (b) of this section, and those carriers have complied with the specified conditions.

(d) Any order of the Department imposing conditions, or requiring the imposition of conditions, pursuant to this paragraph shall be submitted to the President for review not less than 10 days prior to its effective date, and shall be subject to stay or disapproval by the President.

[Amdt. No. 272–1, 52 FR 5443, Feb. 23, 1987, as amended at 60 FR 43525, Aug. 22, 1995]

§ 272.11 Effective date of provisions.

The provisions of this part shall not become effective for Palau until the Compact of Free Association and Article IX of the Federal Programs and Services Agreement become effective for Palau.

§ 272.12 Termination.

These provisions shall terminate on October 1, 1998, unless the program of essential air service to the Federated States of Micronesia, the Marshall Islands, and Palau is specifically extended by Congress.

This amendment is issued under the authority of 49 CFR 1.57(l).

[Amdt. 272–2, 56 FR 1732, Jan. 7, 1991, as amended at 60 FR 43525, Aug. 22, 1995]

PART 291—CARGO OPERATIONS IN INTERSTATE AIR TRANSPORTATION

Subpart A—General

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Subpart F—Enforcement

291.50 Enforcement.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 415, 417.

SOURCE: ER–1080, 43 FR 53635, Nov. 16, 1978, unless otherwise noted.

Subpart A—General

§ 291.1 Applicability.

This part applies to cargo operations in interstate air transportation by air carriers certificated under section 41102 or 41103 of the Statute. It also applies to applicants for an all-cargo air transportation certificate under section 41103 of the Statute.

[60 FR 43525, Aug. 22, 1995]

§ 291.2 Definitions.

All-cargo air transportation means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

Interstate air transportation means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(1) Between a place in—

(i) A State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) The District of Columbia and another place in the District of Columbia; or

(iv) A territory or possession of the United States and another place in the same territory or possession; and

(2) When any part of the transportation is by aircraft.

Section 41102 carrier means an air carrier certificated under section 41102 of the Statute to transport persons, property and mail or property and mail only.

Section 41103 carrier means an air carrier holding a certificate issued under section 41103 of the Statute to provide all-cargo air transportation.

[60 FR 43525, Aug. 22, 1995

Subpart B—All-Cargo Air Transportation Certificates

§ 291.10 Applications.

Applications for all-cargo air service certificates shall comply with the provisions of part 201 and subpart B of part 302 of this chapter with regard to filing procedures, and with the provisions of part 204 of this chapter with regard to evidentiary requirements.

(Approved by the Office of Management and Budget under control number 2106–0023)

[Docket No. 47582, 57 FR 38770, Aug. 27, 1992, as amended at 65 FR 6456, Feb. 9, 2000]

Subpart C—General Rules for All-Cargo Air Transportation

§ 291.20 Applicability.

The rules in this subpart apply to cargo operations in interstate air transportation performed by air carriers certificated under sections 41102 or 41103 of the Statute. Section 41103 carriers that operate passenger-only or combination aircraft under section 41102, part 298 of this chapter, or other Department authority, must comply with the rules in this subpart in connection with cargo operations in interstate air transportation, whether provided on all-cargo or combination aircraft, operated pursuant to this authority or otherwise. In case a carrier may operate a particular flight under either a section 41102 certificate or a section 41103 certificate, the flight is presumed to be operated under the carrier's section 41103 authority.

[60 FR 43526, Aug. 22, 1995]

§ 291.22 Aircraft accident liability insurance requirement.

No air carrier shall operate all-cargo aircraft or provide all-cargo air transportation unless such carrier has and maintains in effect aircraft accident liability coverage that meets the requirements of part 205 of this chapter.

[ER–1255, 46 FR 52583, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995]

§ 291.23 Record retention.

(a) The provisions of 14 CFR part 249, *Preservation of air carrier accounts, records and memoranda,* shall apply to all carriers, except that records pertaining to transportation provided on aircraft eligible to be operated under part 298 of this title, and records concerning transportation outside the geographic scope of interstate air transportation, need not be maintained unless required by other Department regulations.

(b) Each carrier shall retain for 1 year a copy of each rate sheet, airwaybill contract, and other document reflecting changed, new, or other previously unreported general or special prices or rules governing the carriage of freight in interstate air transportation (except mail), unless the transportation was performed in accordance with an effective tariff on file with the Department. Each carrier shall retain for 1 year a copy of any formula based on standard weight, mileage, or other method used to determine an individual airbill or contract.

(Approved by the Office of Management and Budget under control number 3024–0022)

[ER–1080, 43 FR 53635, Nov. 16, 1978, as amended by ER–1270, 46 FR 63220, Dec. 31, 1981; Docket No. 47582, 57 FR 38770, Aug. 27, 1992; 60 FR 43526, Aug. 22, 1995]

§ 291.24 Waiver of Department Economic Regulations.

Except for this part and those parts of the Department's Economic Regulations (parts 200 through 299 of this title) specifically referred to in this part, carriers providing cargo operations in interstate air transportation are, with respect to that transportation, relieved from all obligations imposed on air carriers by those economic regulations. Flights operated entirely within interstate air transportation shall be free from those obligations, even though they may also carry shipments to or from points outside that geographic area. This waiver shall not apply to the requirements of part 239 of this title.

[ER–1080, 43 FR 53635, Nov. 16, 1978, as amended by Docket No. 47582, 57 FR 38770, Aug. 27, 1992; 60 FR 43526, Aug. 22, 1995]

Subpart D—Exemptions for Cargo Operations in Interstate Air Transportation

§ 291.30 General.

The following exemptions, except as otherwise specifically noted, apply only to cargo operations in interstate air transportation. They do not relieve a carrier from obligations derived from other transportation.

[ER–1080, 43 FR 53635, Nov. 16, 1978, as amended at 60 FR 43526, Aug. 22, 1995]

§ 291.31 Exemptions from the Statute.

(a) Each section 41102 or 41103 air carrier providing cargo operations in interstate air transportation is, with respect to such transportation, exempted from the following portions of the Statute only if and so long as it complies with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit it to conduct cargo operations in interstate air transportation:

(1) Sections 41310, 41705,

(2) Chapter 415, and

(3) Chapter 419 for all-cargo operations under section 41103.

(b) Each air carrier providing cargo operations in interstate air transportation under section 41103 of the Statute is exempted from the provisions of section 41106(a) of the Statute to the extent necessary to permit it to compete for and operate cargo charters in interstate air transportation for the Department of Defense under contracts of more than 30 days' duration.

(c) The Department of Defense is exempted from section 41106(a) of the Statute to the extent necessary to permit it to negotiate and enter into contracts of more than 30 days' duration

with any section 41103 carrier for operation of cargo charters in interstate air transportation.

[60 FR 43526, Aug. 22, 1995]

Subpart E—Reporting Rules

§ 291.40 [Reserved]

§ 291.41 Financial and statistical reporting—general.

(a) Carriers providing cargo operations in interstate air transportation that also conduct other operations under section 41102 shall comply with the provisions of part 241 of this title.

(b) Carriers providing cargo operations in interstate air transportation under section 41103 certificates shall comply with § 291.42.

(c) Carriers providing cargo operations in interstate air transportation under section 41103, and also providing other services under part 298 of this title, shall report their cargo operations in interstate air transportation operations in accordance with § 291.42, and shall report all other traffic in accordance with the provisions of subpart F of part 298.

[ER–1080, 43 FR 53635, Nov. 16, 1978, as amended at 60 FR 43526, Aug. 22, 1995]

§ 291.42 Section 41103 financial and statistical reporting.

(a) *General instructions.* (1) Carriers operating under section 41103 certificates that are not subject to part 241 of this chapter shall file Form 291-A, Statement of Operations and Statistics Summary, for section 41103 operations.

(2) The form required by this section shall be filed annually on February 10 covering the 12 months ending December 31. It shall be filed at the Office of Airline Information , K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(3) The carrier's chief accounting officer shall sign a certification attesting to the truth and completeness of the reports required by this section.

(b) *Statement of Operations and Statistics Summary for section 41103 operations.* This statement shall include the following elements:

(1) Total operating revenue, categorized as follows:

(i) Transport revenues from the carriage of property in scheduled and nonscheduled service;

(ii) Transport revenue from the carriage of mail in scheduled and nonscheduled service; and

(iii) Transport-related revenues.

(2) Total operating expenses;

(3) Operating profit or loss, computed by subtracting the total operating expenses from the total operating revenues; and

(4) Net income, computed by subtracting the total operating and nonoperating expenses, including interest expenses and income taxes, from the total operating and nonoperating revenues.

(c) *Summary of traffic and capacity statistics.* This summary shall include the following elements:

(1) Total revenue ton-miles, which are the aircraft miles flown on each flight stage times the number of tons of revenue traffic carried on that stage. They shall be categorized as follows:

(i) Property; and

(ii) Mail.

(2) Revenue tons enplaned, reflecting the total revenue tons of cargo loaded on aircraft during the annual period;

(3) Available ton-miles, reflecting the total revenue ton-miles available for all-cargo service during the annual period, and computed by multiplying aircraft miles flown on each flight stage by the number of tons of aircraft capacity available for that stage;

(4) Aircraft miles flown, reflecting the total number of aircraft miles flown in cargo service during the annual period;

(5) Aircraft departures performed, reflecting the total number of take-offs performed in cargo service during the annual period; and

(6) Aircraft hours airborne, reflecting the aircraft hours of flight (from take-off to landing) performed in cargo service during the annual period.

[ER–1350, 48 FR 32757, July 19, 1983, as amended by Docket No. 47582, 57 FR 38770, Aug. 27, 1992; 60 FR 43526, Aug. 22, 1995; 60 FR 66726, Dec. 26, 1995]

Subpart F—Enforcement

§ 291.50 Enforcement.

In case of any violation of any of the provisions of the Statute, or this part, or any other rule, regulation, or order issued under the Statute, the violator may be subject to a proceeding pursuant to section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel compliance therewith; or to civil penalties pursuant to the provisions of section 46301 of the Statute.

[60 FR 43526, Aug. 22, 1995]

PART 292—INTERNATIONAL CARGO TRANSPORTATION

Subpart A—General

Sec.
292.1 Applicability.
292.2 Definitions.

Subpart B—Exemption From Filing Tariffs

292.10 Exemption.
292.11 Revocation of exemption.

Subpart C—Effect of Exemption

292.20 Rule of construction.
292.21 Incorporation of contract terms by reference.
292.22 Effectiveness of tariffs on file.

AUTHORITY: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

SOURCE: Docket No. 48827, 60 FR 61478, Nov. 30, 1995, unless otherwise noted.

Subpart A—General

§ 292.1 Applicability.

This part applies to direct air carriers providing scheduled transportation of cargo in foreign air transportation.

§ 292.2 Definitions.

For purposes of this part:

Cargo means property other than baggage accompanied or checked by passengers, or mail.

Cargo tariff means a tariff containing rates, charges or provisions governing the application of such rates or charges, or the conditions of service, applicable to the scheduled transportation of cargo in foreign air transportation.

Direct air carrier means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, exemption or permit issued by the Department or its predecessor, the Civil Aeronautics Board.

Subpart B—Exemption From Filing Tariffs

§ 292.10 Exemption.

Direct air carriers are exempted from the requirement to file cargo tariffs with the Department of Transportation provided in 49 U.S.C. 41504 and 14 CFR Part 221.

§ 292.11 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in an order issued by the Assistant Secretary for Aviation and International Affairs, and will identify:

(1) The tariff matter to be filed; and

(2) The deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's regulations for the tariff material to be filed, unless otherwise specified by Department order.

Subpart C—Effect of Exemption

§ 292.20 Rule of construction.

Carriers holding an effective exemption from the duty to file tariffs under this part shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, *except* as provided in § 292.21 of this part.

§ 292.21 Incorporation of contract terms by reference.

(a) Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.* without stating their full text) into the waybill or other document embodying the contract of carriage for the scheduled transportation of cargo in foreign air transportation, *provided that:*

(1) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.177(a)(1), (a)(2), (a)(4), (b), (c) and (d) are complied with, to the extent applicable, except that the notice required under 14 CFR 221.177(b)(1) shall refer to the title or general nature of the publication(s) or document(s) containing the full text of the referenced terms rather than to ''terms and conditions filed in public tariffs with U.S. authorities'';

(b) In addition to other remedies at law, a carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any contract term which is incorporated by reference under this part unless the requirements of paragraph (a)(1) of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for the scheduled transportation of cargo in foreign air transportation.

§ 292.22 Effectiveness of tariffs on file.

(a) Cargo rate tariffs on file with the Department, including related classification and/or applicability rules, cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, as well as under the provisions of 14 CFR Part 221, and they are canceled by operation of law.

(b) As of March 1, 1996, all remaining cargo tariffs on file with the Department cease to be effective as tariffs under 49 USC 41504 and the provisions of 14 CFR part 221, and are cancelled by operation of law. Any such tariffs may be cancelled voluntarily prior to that date. With respect to terms expressly agreed in the contract of carriage, carriers, agents and other persons are relieved from the requirement of adherence to filed tariffs in 49 USC 41510 and the related provisions of 14 CFR part 221 as of November 30, 1995.

(c) Applications for filing and/or effectiveness of any cargo tariffs pending on November 30, 1995 are dismissed by operation of law. No new filings or applications will be permitted except as provided under § 292.11.

PART 293—INTERNATIONAL PASSENGER TRANSPORTATION

Subpart A—General

Sec.
293.1 Applicability.
293.2 Definitions.

Subpart B—Exemption From Filing of Tariffs

293.10 Exemption.
293.11 Required statement.
293.12 Revocation of exemption.

Subpart C—Effect of Exemption

293.20 Rule of construction.
293.21 Incorporation of contract terms by reference.
293.22 Effectiveness of tariffs on file.

AUTHORITY: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

SOURCE: 64 FR 40674, July 27, 1999, unless otherwise noted.

Subpart A—General

§ 293.1 Applicability.

This part applies to air carriers and foreign air carriers providing scheduled transportation of passengers and their baggage in foreign air transportation.

§ 293.2 Definitions.

For purposes of this part the definitions in § 221.3 of this chapter apply.

Subpart B—Exemption From Filing Tariffs

§ 293.10 Exemption.

(a) Air carriers and foreign air carriers are exempted from the duty to file passenger tariffs with the Department of Transportation, as required by

49 U.S.C. 41504 and 14 CFR part 221, as follows:

(1) The Assistant Secretary for Aviation and International Affairs will, by notice, issue and periodically update a list establishing the following categories of markets:

(i) In Category A markets, carriers are exempted from the duty to file all passenger tariffs unless they are nationals of countries listed in Category C, or are subject to the provisions of paragraph (c) of this section.

(ii) In Category B markets, carriers are exempted from the duty to file all passenger tariffs except those setting forth one-way economy-class fares and governing provisions thereto, unless they are nationals of countries listed in Category C, or are subject to the provisions of paragraph (c) of this section.

(iii) In Category C markets, carriers shall continue to file all passenger tariffs, except as provided in § 293.10(b);

(2) The Assistant Secretary will list country-pair markets falling in Categories A and C, taking into consideration the factors in paragraphs (a)(2) (i) through (iv) of this section. All country-pair markets not listed in Categories A or C shall be considered to be in Category B and need not be specifically listed.

(i) Whether the U.S. has an aviation agreement in force with that country providing double-disapproval treatment of prices filed by the carriers of the Parties;

(ii) Whether the country's Government has disapproved or deterred U.S. carrier price leadership or matching tariff filings in any market;

(iii) Whether the country's Government has placed significant restrictions on carrier entry or capacity in any market; and

(iv) Whether the country's government is honoring the provisions of the bilateral aviation agreement and there are no significant bilateral problems.

(b) By notice of the Assistant Secretary, new country-pair markets will be listed in the appropriate category, and existing country-pair markets may be transferred between categories.

(c) Notwithstanding a determination that a country is in Category A or B, if the Assistant Secretary finds that effective price leadership opportunities for U.S. carriers are not available between that country and any third country, carriers that are nationals of such country may be required to file tariffs, as provided under part 221 or as otherwise directed in the notice, for some or all of their services between the U.S. and third countries.

(d) Air carriers and foreign air carriers are exempted from the duty to file governing rules tariffs containing general conditions of carriage with the Department of Transportation, as required by 49 U.S.C. 41504 and 14 CFR part 221. A description of the general conditions of carriage will be included in the Assistant Secretary's initial notice.

(e) Notwithstanding paragraph (d) of this section, air carriers and foreign air carriers shall file and maintain a tariff with the Department to the extent required by 14 CFR 203.4 and other implementing regulations.

(f) Authority for determining what rules are covered by paragraph (d) of this section and for determining the filing format for the tariffs required by paragraph (e) of this section is delegated to the Director of the Office of International Aviation.

§ 293.11 Required statement.

Each governing rules tariff shall include the following statements:

(a) ''Rules herein containing general conditions of carriage are not part of the official U.S. D.O.T. tariff.''

(b) ''The rules and provisions contained herein apply only to the passenger fares and charges that the U.S. Department of Transportation requires to be filed as tariffs.''

§ 293.12 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in a notice issued by the Assistant Secretary for Aviation and International Affairs, and will identify the tariff matter to be filed, and the deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's Regulations for the tariff material to be filed, unless otherwise specified by the Department.

Subpart C—Effect of Exemption

§ 293.20 Rule of construction.

To the extent that a carrier holds an effective exemption from the duty to file tariffs under this part, it shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, except as provided in § 293.21.

§ 293.21 Incorporation of contract terms by reference.

Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.*, without stating their full text) into the passenger ticket or other document embodying the contract of carriage for the scheduled transportation of passengers in foreign air transportation, provided that:

(a) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.107, paragraphs (a), (b), (c) and (d) are complied with, to the extent applicable;

(b) In addition to other remedies at law, a carrier may not claim the benefit under this section as against a passenger, and a passenger shall not be bound by incorporation of any contract term by reference under this part, unless the requirements of paragraph (a), of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for incorporation of terms by reference into contracts of carriage for the scheduled transportation of passengers in foreign air transportation.

§ 293.22 Effectiveness of tariffs on file.

(a) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, passenger tariffs on file with the Department covered by the scope of the exemption will cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, and the provisions of 14 CFR part 221, and will be canceled by operation of law.

(b) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, pending applications for filing and/or effectiveness of any passenger tariffs covered by the scope of the exemption, will be dismissed by operation of law. No new filings or applications will be permitted after the date of effectiveness of the Assistant Secretary's notice except as provided under § 293.12.

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

Subpart A—General

Sec.
294.1 Applicability and purpose.
294.2 Definitions.
294.3 General requirements for Canadian charter air taxi operators.

Subpart B—Exemption

294.10 Exemption authority.

Subpart C—Registration for Exemption

294.20 Applying for registration.
294.21 Procedure on receipt of registration form.
294.22 Notification to the Department of change in operations or identifying information.

Subpart D—General Rules for Registrants

294.30 Scope of service and equipment authorized.
294.31 Use of business name.
294.32 Security arrangements for operating Public Charters.
294.33 Compliance with the regulations of the Federal Aviation Administration.
294.34 Advance approval by the Department.

Subpart E—Insurance Requirements

294.40 Aircraft accident liability insurance requirements.

Subpart F—Cancellation of Registration and Presidential Review

294.50 Cancellation, revocation, or suspension of registration.
294.51 Presidential review.

Subpart G—Authorizations and Waivers

294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.
294.61 Waivers.

Subpart H—Violations

294.70 Enforcement.

Subpart I—Terms, Conditions, and Limitations of This Part

294.80 Waiver of sovereign immunity.
294.81 Local traffic prohibited.
294.82 Third-country traffic prohibited.
294.83 Compliance with certain international agreements.
294.84 Air competency requirements.
294.85 Charterworthiness standards.
294.86 Industrial/agricultural/other non-transport air operations prohibited.
294.87 Compliance with Canadian licenses.
294.88 Northwest Ontario restriction.
294.89 Uplift ratio.

AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER–1257, 46 FR 52591, Oct. 27, 1981, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 294 appear at 57 FR 40102, Sept. 2, 1992.

Subpart A—General

§ 294.1 Applicability and purpose.

This part establishes a classification of foreign air carriers known as ''Canadian charter air taxi operators,'' and establishes registration procedures for these carriers operating or seeking to operate transborder services between Canada and the United States. This part also exempts Canadian charter air taxi operators from certain provisions of the Subtitle VII of Title 49 of the United States Code (Transportation), and establishes rules applicable to their operations in the United States. This part does not provide exemption from the safety regulatory provisions of the Statute that are administered by the U.S. Department of Transportation through the Federal Aviation Administration (FAA), and Canadian charter air taxi operators in the conduct of their operations must observe all applicable safety standards and requirements.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995]

§ 294.2 Definitions.

As used in this part:

(a) *Agreement* means the U.S.—Canada Nonscheduled Air Services Agreement signed May 8, 1974, and any amendments, supplements, reservations, or supersessions to it.

(b) *Canadian charter air taxi operator* means a foreign air carrier that is substantially owned and effectively controlled by Canadian citizens, the Government of Canada, or both, whose foreign air transportation operations are limited to charter air service between points in Canada and points in the United States, and that does not use large aircraft in those operations.

(c) *Charter air service* means nonscheduled commercial air transportation of persons and their accompanied baggage, and of property, on a time, mileage, or trip basis where the entire planeload capacity of one or more aircraft has been engaged, or the transportation of mail by aircraft.

(d) *Large aircraft* means any aircraft that are not *small aircraft* as defined in this section.

(e) *Maximum authorized takeoff weight* has the meaning assigned to it in regulations of the Canadian Transport Commission.

(f) *Maximum certificated takeoff weight* means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate. This weight may be found in the airplane operating record or in the airplane flight manual that is incorporated by regulation into the airworthiness certificate.

(g) *Maximum passenger capacity* means the maximum number of passenger seats for which an aircraft is configured.

(h) *Maximum payload capacity* means the maximum certificated takeoff weight of an aircraft less the empty weight as defined in section 03 of part 241 of this chapter, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for weight of the crew, oil and fuel is as follows:

(1) Crew—200 pounds per crew member required under FAA regulations, (2) oil—350 pounds, (3) fuel—the minimum

weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart, assuming VFR weather conditions and flights not involving extended overwater operations. However, in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA, maximum payload capacity means the maximum zero fuel weight less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(2) [Reserved]

(i) *Small aircraft* means any aircraft designed to have:

(1) A maximum passenger capacity of not more than 30 seats and a maximum payload capacity of not more than 7,500 pounds, and/or

(2) maximum authorized takeoff weight on wheels not greater than 35,000 pounds.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

§ 294.3 General requirements for Canadian charter air taxi operators.

A Canadian charter air taxi operator shall conduct charter air service between the United States and Canada only if it:

(a) Has been registered by the Department under this part;

(b) Does not directly or indirectly utilize large aircraft in charter air services;

(c) Has and maintains in effect liability insurance coverage that complies with the requirements set forth in subpart E of this part and has and maintains a current certificate of insurance evidencing such coverage on file with the Department;

(d) Has and maintains in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523) and complies with all other requirements of part 203 of this chapter;

(e) Has been designated by the Canadian Government under the Agreement;

(f) Has been granted Federal Aviation Administration operations specifications required under part 129 of the Federal Aviation Regulations;

(g) Is substantially owned and effectively controlled by Canadian citizens, or the Government of Canada, or a combination of both; and

(h) Complies with the terms, conditions, and limitations of this part.

(The reporting requirements contained in paragraph (d) were approved by the Office of Management and Budget under control number 3024–0064)

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by ER–1332, 48 FR 8051, Feb. 25, 1983; ER–1342, 48 FR 31015, July 6, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

Subpart B—Exemption

§ 294.10 Exemption authority.

Canadian charter air taxi operators registered under this part are exempt from the following provisions of the Statute to the extent necessary to perform charter air service between the United States and Canada, and as long as they comply with the terms, conditions, and limitations of this part:

(a) Section 41302 (permits).

(b) Section 41501 (carrier's duty to observe reasonable rates).

(c) Section 41310 (discrimination).

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995]

Subpart C—Registration for Exemption

§ 294.20 Applying for registration.

To apply for registration under this part, a Canadian charter air taxi operator shall file with the Department's Office of Aviation Analysis, Special Authorities Division, the following:

(a) A currently effective certificate of insurance (see § 294.40); and

(b) Three copies of OST Forms 4523 and 4505, which may be obtained from the Department's Office of Aviation Analysis, Special Authorities Division. All the information required by OST Form 4505 shall be filled in, and it shall be certified by a responsible officer of

the applicant Canadian charter air taxi operator.

(Approved by the Office of Management and Budget under control number 3024–0051)

[ER–1257, 46 FR 52591, Oct. 27, 1981; 46 FR 62054, Dec. 22, 1981, as amended by ER–1363, 48 FR 46265, Oct. 12, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

§ 294.21 Procedure on receipt of registration form.

(a) The Department will list the names and addresses of all persons applying for registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air taxi operator shall file an objection with the Office of Aviation Analysis, Special Authorities Division and serve a copy on the registrant within 28 days after the Department receives the properly completed registration application. Objections shall include any facts and arguments upon which the person relies to support its objection.

(c) Any answers to objections shall be filed within 14 days after the date that the objections were due.

(d) After receipt of OST Form 4505, the Department may request additional information.

(e) After the period for objections and answers has expired, the Department will take one of the following actions:

(1) Issue the registration by stamping its effective date on OST Form 4505 and sending a copy of it to the carrier and to the FAA as evidence of registration under this part. The FAA will return its copy of OST Form 4505 to the Office of Aviation Analysis, Special Authorities Division, after the carrier has been granted FAA operations specifications under part 129 of the Federal Aviation Regulations;

(2) Reject the application for failure to comply with this part;

(3) Issue the registration subject to such terms, conditions, or limitations as may be consistent with the public interest; or

(4) Institute evidentiary proceedings to consider whether the registration should be issued.

(f) An action described in paragraph (e) of this section will normally be taken within 60 days after the registration application is received. The Department will consider requests for faster action that include a full explanation of the need for expedited action.

(g) A registration will not become effective until the United States Government receives from the Canadian Government written designation of the registrant under the Agreement.

(h) Rejection of an application for registration will not preclude the filing of a new application by the same carrier.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

§ 294.22 Notification to the Department of change in operations or identifying information.

Each Canadian charter air taxi operator shall refile three copies of OST Form 4505 with the Department's Office of Aviation Analysis, Special Authorities Division, upon any of the following events. The refilings shall be mailed, or otherwise delivered, so as to be received by the Department not later than 30 days after the reported event has occurred.

(a) The carrier changes its name. When a carrier refiles OST Form 4505 to indicate a change of name:

(1) The registration becomes ineffective unless the Canadian Government amends the carrier's designation under the Agreement to reflect the carrier's new name within 60 days of its name change;

(2) The registrant must also refile three copies of Agreement 18900 (OST Form 4523) under its new name;

(3) The registrant must also refile its certificate of insurance under its new name; and

(4) The registrant must also advise the appropriate FAA office referred to in § 294.33 of the carrier's new name.

(b) The carrier changes its designated agent.

(c) A change occurs in the carrier's ownership and control resulting in a person acquiring a beneficial or voting interest in the registrant of 10 percent or more. The name(s), address(es), citizenship(s), and percentages of ownership of the new owners shall be indicated on the form. Acquisition of ownership interest by persons who are not

citizens of the country of citizenship of the registrant may invalidate the registration.

(d) The carrier temporarily or permanently ceases operations.

(Approved by the Office of Management and Budget under control number 3024–0051)

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by ER–1363, 48 FR 46265, Oct. 12, 1983; Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

Subpart D—General Rules for Registrants

§ 294.30 Scope of service and equipment authorized.

(a) Upon fulfillment of the requirements of § 294.3 of this part, the registrant will have Department authority to engage in charter air services between any point or points in Canada and any point or points in the United States using small aircraft.

(b) Nothing in this part shall be construed as authorizing the operation of large aircraft in charter air service, and the exemption provided by this part to Canadian charter air taxi operators that register with the Department extends only to the direct operations of charter air service in accordance with the limitations and conditions of this part using aircraft designed to have:

(1) A maximum passenger capacity of no more than 30 seats and a maximum payload capacity of no more than 7,500 pounds, and/or

(2) A maximum authorized takeoff weight on wheels not greater than 35,000 pounds.

(c) A Canadian charter air taxi operator shall not use large aircraft for charter air service until it has been granted a permit by the Department under section 41302 of the Statute or granted an exemption under section 41701 of the Statute. Its application for such a permit or exemption should refer to the registration under this part. Registration under this part will be canceled when a section 41302 permit has been granted by the Department for the use of large aircraft in foreign charter air service.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

§ 294.31 Use of business name.

(a) A Canadian charter air taxi operator, in holding out charter air service to the public and performing its charter operations, shall do so only in the names in which its registration is issued under this part. The Department may require a Canadian charter air taxi operator to change such names where they appear to be inconsistent with the public interest.

(b) [Reserved]

§ 294.32 Security arrangements for operating Public Charters.

When a Canadian charter air taxi operator performs a Public Charter under part 380 of this chapter, either:

(a) The Canadian charter air taxi operator shall meet the bonding or escrow requirements applicable to foreign air carriers as set forth in § 212.12 of this chapter; or

(b) The Canadian charter air taxi operator shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall retain control of and responsibility for all participant funds intended for payment for charter air service until after the charter has been completed, notwithstanding any provision of part 380.

§ 294.33 Compliance with the regulations of the Federal Aviation Administration.

(a) Registrants under this part shall obtain FAA operations specifications required under part 129 or other applicable rules of the Federal Aviation Regulations prior to beginning operations into the United States. Registrants should write to the FAA office at one of the following addresses to obtain instructions on how to apply for FAA authority.

(b) If the registrant's business address is located on or east of 76 degrees West Longitude (in or east of Ottawa, Ontario) it should write to: Federal Aviation Administration, General Aviation District Office No. 1, Albany County Airport, Albany, New York 12211.

(c) If the registrant's business address is located on or east of 100 degrees West Longitude (in or east of Winnipeg, Manitoba) and west of 76 degrees West Longitude (west of, but not including, Ottawa, Ontario) it should write to: Federal Aviation Administration, Flight Standards District Office, 1 Airport Way, Rochester, New York 14624.

(d) If the registrant's business address is west of Winnipeg, Manitoba, it should write to: Federal Aviation Administration, General Aviation District Office, 1601 Lind Avenue, SW., Renton, Washington 98055.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

§ 294.34 Advance approval by the Department.

The Department, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the registrant under the authority granted by this part, if it finds such action to be consistent with the public interest.

Subpart E—Insurance Requirements

§ 294.40 Aircraft accident liability insurance requirements.

No Canadian charter air taxi operator shall engage in charter air service unless such carrier has and maintains in effect aircraft accident liability coverage that meets the requirements of part 205 of this chapter. Evidence of such insurance coverage, in the form of a certificate of insurance, as required in part 205 of this chapter, shall be maintained on file with the Department's Office of Aviation Analysis, Special Authorities Division, at all times.

(Approved by the Office of Management and Budget under control number 3024–0050)

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by ER–1342, 48 FR 31015, July 6, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

Subpart F—Cancellation of Registration and Presidential Review

§ 294.50 Cancellation, revocation, or suspension of registration.

The registration of a carrier subject to this part may be revoked, canceled, suspended, modified, or otherwise subjected to additional terms and conditions by the Department if:

(a) The carrier files with the Department a written notice that it is discontinuing operations;

(b) The carrier is the holder of a section 41302 permit to perform large aircraft charters under the Agreement;

(c) Substantial ownership or effective control is acquired by persons who are not (1) citizens of Canada, (2) the Government of Canada, or (3) a combination of both;

(d) The Canadian Government withdraws the registrant's designation under the Agreement;

(e) The Agreement between the two countries is terminated;

(f) The registrant fails to have proper insurance coverage, or fails to file or keep a current insurance certificate on file with the Department;

(g) The registrant fails to comply with the terms, conditions, or limitations of this part;

(h) The carrier's operations specifications issued by the FAA are suspended or terminated;

(i) The Department finds that it is in the public interest to do so.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995]

§ 294.51 Presidential review.

A Department order under § 294.50 (e), (g) or (i) shall be subject to stay or disapproval by the President within 60 days.

Subpart G—Authorizations and Waivers

§ 294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.

(a) Where the terms, conditions, or limitations of this part, particularly §§ 294.81, 294.82, 294.88, and 294.89, require prior approval of individual flights or charter programs, the registrant shall apply for such approval by filing three copies of OST Form 4540 with the Office of International Aviation, Foreign Air Carrier Licensing Division. OST Form 4540 may be obtained from the Foreign Air Carrier Licensing Division.

(b) Action on the application for authorization filed under paragraph (a) of this section will normally be taken within 30 days after the application is filed. The Department will consider requests for faster action that include a full explanation of the need for expedited action.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 294.61 Waivers.

The Department upon application or on its own initiative may waive any of the provisions of this part if it finds such action to be in the public interest.

Subpart H—Violations

§ 294.70 Enforcement.

In case of any violation of any of the provisions of the Statute, or this part, or any other rule, regulation, or order issued under the Statute, the violator may be subject to a proceeding under section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel compliance; or to impose civil penalties under the provisions of section 46301 of the Statute; or in the case of a willful violation, to impose criminal penalties under the provisions of section 46316 of the Statute; or to impose other lawful sanctions, including revocation of registration.

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43527, Aug. 22, 1995]

Subpart I—Terms, Conditions, and Limitations of This Part

§ 294.80 Waiver of sovereign immunity.

By accepting an approved registration under this part, a registrant waives any right it may possess to assert any defense of sovereign immunity in any action or proceeding instituted against it in any court or other tribunal in the United States based upon any claim arising out of its operations under this part.

§ 294.81 Local traffic prohibited.

(a) Except as set forth in paragraph (b) of this section or § 294.60, a registrant shall not carry passengers, cargo, or mail between two or more United States points for compensation or hire.

(b) A registrant may grant stopover privileges at any point or points in the United States to passengers and their accompanied baggage on a flight that originates in Canada, if:

(1) The flight is operated under a contract for round-trip charter transportation that is to be provided solely by the registrant; and

(2) The same aircraft stays with the passengers throughout the journey.

§ 294.82 Third-country traffic prohibited.

Except as set forth in § 294.60, a registrant shall not engage in foreign air transportation between the United States and any point that is not in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air to or from a point not in the United States or Canada. This prohibition does not apply to passengers who are not moving as part of any group.

§ 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it:

(a) Complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;

(b) Complies with all applicable provisions of the Agreement; and

(c) Complies with all applicable provisions of any treaty, convention, or agreement affecting international air transportation to which the United States and Canada are parties.

§ 294.84 Air competency requirements.

Registrants shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

§ 294.85 Charterworthiness standards.

(a) Registrants may perform U.S.-originating charters authorized under Annex B (III)(A) of the Agreement as follows: Commercial air transportation of passengers and their accompanied baggage, and of property, on a time, mileage, or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or other small aircraft operations as may be authorized under any amendments, supplements, reservations, or supersessions of the Agreement.

(b) Registrants may perform Canadian-originating charters authorized by Annex B (III)(B) of the Agreement and any amendments, supplements, reservations or supersessions of it. Such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft.

§ 294.86 Industrial/agricultural/other nontransport air operations prohibited.

A registrant shall not engage in flights for the purpose of industrial or agricultural operations (e.g., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photography) within the United States unless it has obtained a permit from the Department under part 375 of this chapter.

§ 294.87 Compliance with Canadian licenses.

A registrant shall not, in the performance of operations authorized by this part, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the registrant's applicable Canadian licenses.

§ 294.88 Northwest Ontario restriction.

(a) Except as set forth in § 294.60 or paragraph (b) of this section, registrants shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46° 11′ North Latitude, 82° 58′ West Longitude) and extending to the border between Ontario and Manitoba, unless:

(1) The point is a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, or the licensed base of a Canadian charter air carrier, or a Canadian Customs port of entry;

(2) The registrant is required on each flight out of the restricted area to make a stop at a Canadian Customs port of entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and

(3) The registrant has available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions.

(b) The prohibition set forth in paragraph (a) of this section does not apply to flights performed for medical evacuation or similar emergencies.

(c) A registrant shall clearly notify in writing all persons who contract for the registrant's service, and are affected by the restrictions of this section, of the limitations set forth in paragraph (a) of this section.

§ 294.89 Uplift ratio.

Except as set forth in § 294.60, the aggregate number of all United States-originating charter flights performed by a registrant on or after May 8, 1974, shall not, at the end of any calendar

quarter, exceed by more than one-third the aggregate number of all Canadian-originating charter flights performed by the registrant on or after May 8, 1974. For the purpose of making such computation, the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter is one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (1) ''small aircraft'' flights of persons; and (2) ''small aircraft'' flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the registrant is the lessee, and shall not be included if the registrant is the lessor.

(d) There shall be excluded from the computation:

(1) Flights with aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(2) Flights originating at a United States terminal point on a route listed in the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder. These flights may be excluded from the computation only if, pursuant to any such agreement, the registrant also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over that route, and provides some scheduled service on any route pursuant to any such agreement, and such flights serve either (i) a Canadian terminal point on such route, or (ii) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

PART 296—INDIRECT AIR TRANSPORTATION OF PROPERTY

Subpart A—General

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296.2 Applicability.
296.3 Indirect cargo air carrier.
296.4 Joint loading.
296.5 Agency relationships.
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Subpart B—Exemption for Indirect Air Transportation of Property

296.10 Exemption from the Statute.

Subpart C—Violations

296.20 Enforcement.

AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER–1261, 46 FR 54727, Nov. 4, 1981, unless otherwise noted.

Subpart A—General

§ 296.1 Purpose.

This part establishes rules for the indirect air transportation of property. It creates a class of air carriers to provide this air transportation and grants exemptions from certain provisions of the Subtitle VII of Title 49 of the United States Code (Transportation).

[ER–1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43527, Aug. 22, 1995]

§ 296.2 Applicability.

This part applies to air transportation of property by indirect cargo air carriers, and to persons entering into control relationships with indirect cargo air carriers.

§ 296.3 Indirect cargo air carrier.

An indirect cargo air carrier is any U.S. citizen who undertakes to engage indirectly in air transportation of property, and uses for the whole or any part of such transportation the services of an air carrier or a foreign air carrier that directly engages in the operation of aircraft under a certificate, regulation, order, or permit issued by the Department of Transportation or the Civil Aeronautics Board, or the

services of its agent, or of another indirect cargo air carrier.

[ER–1261, 46 FR 54727, Nov. 4, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 296.4 Joint loading.

Nothing in this part shall preclude joint loading, meaning the pooling of shipments and their delivery to a direct air carrier for transportation as one shipment, under an agreement between two or more indirect air carriers or foreign indirect air carriers.

§ 296.5 Agency relationships.

An indirect cargo air carrier may act as agent of a shipper, or of a direct air carrier that has authorized such agency, rather than as an air carrier, if it expressly reserves the option to do so when the shipment is accepted.

§ 296.6 Public disclosure of cargo liability limits and insurance.

Every indirect cargo air carrier shall give notice in writing to the shipper, when any shipment is accepted, of the existence or absence of cargo liability accident insurance, and of the limits on the extent of its liability, if any. The notice shall be clear and conspicuously included on or attached to all of its rate sheets and airwaybills.

Subpart B—Exemption for Indirect Air Transportation of Property

§ 296.10 Exemption from the Statute.

(a) Indirect cargo air carriers are exempted from the provisions of the Statute only if and so long as they comply with the provisions of this part and its conditions, and to the extent necessary to permit them to organize and arrange their air freight shipments to provide indirect air transportation, except for the following sections:

(1) Section 41510(b) (solicitation of rebates). However, indirect cargo air carriers are exempt from section 41510(b) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers.

(2) Section 41702 to the extent required to provide safe service, equipment, and facilities in connection with air transportation.

(3) Section 41310 (nondiscrimination) with respect to foreign air transportation.

(4) Section 41708 (accounts, records, and reports) and section 41709 (inspection of accounts and property);

(5) Section 41712 (unfair or deceptive practices or method of competition);

(6) Section 40102(b) (form of control); and

(7) Section 41711 (inquiry into air carrier management).

(b)—(c) [Reserved]

(d) Direct air carriers are exempted from Chapter 415 of the Statute to the extent necessary to permit them to pay, directly or indirectly, fees to indirect cargo air carriers.

[ER–1261, 46 FR 54727, Nov. 4, 1981, as amended by ER–1335, 48 FR 22705, May 20, 1983; ER–1381, 49 FR 25226, June 20, 1984, 50 FR 31142, July 31, 1985; 60 FR 43527, Aug. 22, 1995]

Subpart C—Violations

§ 296.20 Enforcement.

In case of any violation of any of the provisions of the Statute, or of this part, or any other rule, regulation, or order issued under the Statute, the violator may be subject to a proceeding under section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel compliance. The violator may also be subject to civil penalties under the provisions of section 46301 of the Statute, or other lawful sanctions.

[ER–1261, 46 FR 54727, Nov. 4, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

PART 297—FOREIGN AIR FREIGHT FORWARDERS AND FOREIGN COOPERATIVE SHIPPERS ASSOCIATIONS

Subpart A—General

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Subpart D—General Rules for Foreign Indirect Air Carriers

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297.31 Preparation of airwaybills and manifests.

Subpart E [Reserved]

Subpart F—Violations

297.50 Enforcement.

AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER–1159, 44 FR 69635, Dec. 4, 1979, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 297 appear at 57 FR 40103, Sept. 2, 1992.

Subpart A—General

§ 297.1 Purpose.

This part establishes registration procedures and operating rules for foreign air carriers that engage indirectly in interstate or foreign air transportation of property. It relieves these carriers from certain provisions of Subtitle VII of Title 49 of the United States Code (Transportation), and establishes simplified reports for them.

[ER–1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

§ 297.2 Applicability.

This part applies to interstate air transportation of property and to foreign air transportation of property outbound from the United States by foreign indirect air carriers. It also applies to applications for registration as a foreign indirect air carrier of property.

[ER–1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

§ 297.3 Definitions.

For purpose of this part:

(a) *Foreign air freight forwarder* means a foreign indirect air carrier that is responsible for the transportation of property from the point of receipt to point of destination, and utilizes for the whole or any part of such transportation the services of a direct air carrier or its agent, of another foreign indirect cargo air carrier as defined in part 296 of this chapter.

(b) *Foreign cooperative shippers association* means a bona fide asociation of shippers operating as a foreign indirect air carrier on a nonprofit basis that undertakes to ship property by air for the account of such association or its members, and utilizes for the whole or any part of such transportation the services of a direct air carrier or its agent, of a foreign indirect cargo air carrier as defined in part 296 of this chapter.

(c) *Direct air carrier* means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, or permit issued by the Department of Transportation or the Civil Aeronautics Board.

(d) *Foreign indirect air carrier* means any person, not a citizen of the United States, who undertakes indirectly to engage in the air transportation of property.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by ER–1294, 47 FR 19684, May 7, 1982; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 297.4 Joint loading.

Nothing in this part shall preclude joint loading, meaning the pooling of shipments and their delivery to a direct air carrier for transportation as one shipment, under an agreement between two or more indirect air carriers or foreign indirect air carriers.

§ 297.5 Foreign air freight forwarder as agent.

A foreign air freight forwarder may act as agent of a shipper, or of a direct air carrier that has authorized such agency, if it expressly reserves the option to do so when the shipment is accepted. A foreign air freight forwarder shall not act as the agent of any direct air carrier with respect to shipments accepted for forwarding.

§ 297.6 Foreign cooperative shippers association as agent.

A foreign cooperative shippers association may act as agent of a shipper, or of a direct air carrier that has authorized such agency, if it expressly reserves the option to do so when the shipment is accepted. A cooperative shippers association shall not act as an agent of any direct air carrier with respect to shipments accepted in its capacity as an indirect air carrier.

[ER–1235, 46 FR 38496, July 28, 1981]

Subpart B—Exemption for Foreign Indirect Air Transportation of Property

§ 297.10 Exemption from the Statute.

(a) Foreign indirect air carriers with an effective registration under this part are exempted from the following provisions of the Statute only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to arrange their air freight shipments:

(1) Section 41302 (Permits);

(2) Sections 41504 and 41510(a) (Tariffs);

(3) Section 41510(b) (Solicitation of rebates) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers;

(4) Section 41501 (Carrier's duty to establish just and reasonable rates, etc.); and

(5) If awarded interstate air transportation operating rights, any other provision of the Statute that would otherwise prohibit them from engaging in the interstate indirect air transportation of property.

(6) Section 41310 (nondiscrimination) with respect to interstate and overseas air transportation.

(b) Direct air carriers are exempted from Chapter 415 of the Statute to the extent necessary to permit them to pay, directly or indirectly, fees to foreign air freight forwarders and foreign cooperative shippers associations on consolidated shipments.

[ER–1336, 48 FR 22705, May 20, 1983, as amended by ER–1382, 49 FR 25226, June 20, 1984; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.11 Disclaimer of jurisdiction.

The Department declines to exercise its jurisdiction over foreign indirect air carriers of property with respect to shipments that originate in a foreign country. The Department reserves the right to exercise its jurisdiction over any foreign indirect air carrier of property at any time it finds that such action is in the public interest.

§ 297.12 General requirements.

(a) The direct air transportation provided must be performed by direct air carriers that hold authority under section 41102, 41103, 41302, or 41701 of the Statute or are operating under part 298 of this chapter;

(b) Only U.S. citizen direct air carriers may provide direct air transportation operations in interstate air transportation.

(c) Foreign indirect air carriers that hold authority to engage in foreign air transportation must apply additionally for permission to consolidate freight in interstate air transportation.

[ER–1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

Subpart C—Registration for Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations

§ 297.20 Filing for registration.

(a) Not later than 60 days before the start of operations as a foreign indirect air carrier, every foreign air freight forwarder and foreign cooperative shippers association shall apply for registration with the Department, unless

upon a showing of good cause, the Director, Office of Aviation Analysis, allows application at a later time.

(b) Application shall consist of filing with the Department's Office of Aviation Analysis, Special Authorities Division, two copies of completed OST Form 4506, which may be obtained from the Department of Transportation, Special Authorities Division.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by ER–1265, 46 FR 56602, Nov. 18, 1981; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.21 Objections to registration application.

Persons objecting to registration by a foreign air freight forwarder or foreign cooperative shippers association shall file their objections with the Office of Aviation Analysis, Special Authorities Division, within 28 days of the filing date of the registration forms. The Department will list the names and nationality of all persons applying for registration in its Weekly Summary of Filings.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.22 Procedure on receipt of registration application.

After review of a registration form filed under § 297.20, the Department will take one or more of the following actions:

(a) Indicate by stamp on OST Form 4506 the effective date of registration, and return to the carrier the duplicate copy of OST Form 4506 as evidence of registration with the Department under this part;

(b) Reject an application for registration for failure to comply with this part, for reasons relating to the failure of effective reciprocity, or if the Department finds that it is in the public interest to do so.

(c) Request additional information from the applicant;

(d) Issue an order subjecting a carrier's exercise of authority under this part to such terms, conditions, or limitations as may be required by the public interest; or

(e) Institute a proceeding under section 41302 of the Statute.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by ER–1294, 47 FR 19685, May 7, 1982; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.23 Waiver of sovereign immunity.

By accepting an approval registration form under this part, a carrier waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the carrier in any court or other tribunal in the United States based upon any claim arising out of operations by the carrier under this part.

§ 297.24 Notification to the Department of change of operations.

(a) Not later than 30 days before any change in its name or address or any temporary or permanent cessation of operations, each foreign indirect air carrier shall notify the Department's Office of Aviation Analysis, Special Authorities Division, of the change by resubmitting OST Form 4506.

(b) The registrant shall apply for an amendment of its registration not later than 30 days after any person listed on its existing registration as owning or holding beneficial ownership of 10 percent or more of the registrant's stock no longer has an interest of 10 percent or more, or after any person not so listed becomes an owner or holder of 10 percent or more. Application for amendment shall be made by resubmitting OST Form 4506, but the existing registration shall remain valid pending Department action on the amendment.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.25 Cancellation or conditioning of registration.

The registration of a foreign indirect air carrier may be canceled or subjected to additional terms, conditions or limitations if:

(a) It files with the Department a written notice that it is discontinuing foreign indirect air carrier activities;

(b) It fails to perform air transportation services as authorized;

(c) It fails to file the reports required by this part;

(d) A substantial ownership or control interest is acquired by persons who are not citizens of the country of citizenship of the registrant;

(e) There is a failure of effective reciprocity; or

(f) The Department finds that it is in the public interest to do so.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended by ER–1294, 47 FR 19685, May 7, 1982]

Subpart D—General Rules for Foreign Indirect Air Carriers

§ 297.30 Public disclosure of cargo liability insurance.

Every foreign air freight forwarder shall give notice in writing to the shipper, when any shipment is accepted, of the limits of its cargo liability insurance, or of the absence of such insurance, and the limits of its liability, if any. The notice shall be included clearly and conspicuously on all of its rate sheets and airwaybills, and on any other documentation that is given to a shipper at the time of acceptance of the shipment.

§ 297.31 Preparation of airwaybills and manifests.

(a) Each registered foreign indirect air carrier shall prepare an accurate airwaybill describing completely all services rendered to or on behalf of the shipper, including the conditions under which the contract will be completed, in its capacity as a foreign indirect air carrier. A copy of the airwaybill shall be given to the consignor and to the consignee.

(b) Each registered foreign indirect air carrier shall prepare an accurate manifest showing every individual shipment included in each shipment consigned for transportation to a direct air carrier.

(c) A waiver of paragraph (a) of this section may be granted by the Department upon a written application by the foreign indirect air carrier not less than 30 days before the shipment to which it relates is transported, if the waiver is in the public interest, and is warranted by special or unusual circumstances.

Subpart E [Reserved]

Subpart F—Violations

§ 297.50 Enforcement.

In case of any violation of any of the provisions of the Statute, or this part, or any other rule, regulation or order issued under the Statute, the violator may be subject to a proceeding under section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel to compliance; or to civil penalties under the provisions of section 46301 of the Statute; or in the case of willful violation, to criminal penalties under the provisions of section 46316 of the Statute; or other lawful sanctions including cancellation of registration.

[ER–1159, 44 FR 69635, Dec. 4, 1979, as amended at 60 FR 43527, Aug. 22, 1995]

PART 298—EXEMPTIONS FOR AIR TAXI AND COMMUTER AIR CARRIER OPERATIONS

Subpart A—General

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298.2 Definitions.
298.3 Classification.
298.4 Requests for statement of authority.
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298.35 Limitations on carriage of mail.
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298.65 Requests for extensions of time within which to file reports or for waivers from reporting requirements.
298.66 Reporting exemption for State collection of data.

Subpart G [Reserved]

Subpart H—Violations

298.80 Enforcement.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 417.

SOURCE: ER–929, 40 FR 42855, Sept. 17, 1975, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 298 appear at 57 FR 40103, Sept. 2, 1992.

Subpart A—General

§ 298.1 Applicability of part.

This part establishes a classification of air carriers known as ''air taxi operators,'' provides certain exemptions to them from some of the economic regulatory provisions of Subtitle VII of Title 49 of the United States Code (Transportation) and specifies procedures by which such air carriers may obtain authority to conduct operations, and establishes rules applicable to their operations in interstate and/or foreign air transportation in all States, Territories and possessions of the United States. This part also establishes reporting requirements for commuter air carriers and small certificated air carriers.

[ER–1399, 50 FR 19, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 298.2 Definitions.

As used in this part:

(a) *Air taxi operator* means an air carrier coming within the classification of *air taxi operators* established by § 298.3.

(b) *Air Transportation* means interstate air transportation, foreign air transportation, or the transportation of mail by aircraft as defined by the Statute.[1]

(c) *Aircraft-hours* means the airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight stage.

(d) *Aircraft miles* means the miles (computed in airport-to-airport distances) for each flight stage actually completed, whether or not performed in accordance with the scheduled pattern.

[1] ''Interstate air transportation'' is defined in section 40102(a)(25) as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft (1) between a place in (i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States; (ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii; (iii) the District of Columbia and another place in the District of Columbia; or (iv) a territory or possession of the United States and another place in the same territory or possession; and (2) when any part of the transportation is by aircraft. NOTE: Operations wholly within the geographic limits of a single State are not considered ''interstate air transportation'' if in those operations the carrier transports no more than a *de minimus* volume of passengers or property moving as part of a continuous journey to or from a point outside the State.

''Foreign air transportation'' is defined in section 40102(a)(23) of the Statute as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

Air transportation also is defined to include ''the transportation of mail by aircraft.'' Section 5402 of the Postal Reorganization Act, 39 U.S.C. 5402, authorizes the carriage of mail by air taxi operators in some circumstances under contract with the Postal Service.

(d–1) *All-cargo air carrier or section 41103 carrier* means an air carrier holding an all-cargo air transportation certificate issued under section 41103 of the Statute authorizing the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(d–2) *Certificated carrier* means an air carrier holding a certificate issued under section 41102 of the Statute.

(e) *Commuter air carrier* means an air taxi operator that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

(f) *Departure* means takeoff from an airport.

(g) *Flight stage* means the operation of an aircraft from takeoff to landing.

(h) *Large aircraft* means any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(i) *Maximum certificated takeoff weight* means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate.[2]

(j) *Maximum passenger capacity* means the maximum number of passenger seats for which an aircraft is configured.

(k) *Maximum payload capacity* means the maximum certificated take- off weight of an aircraft, less the empty weight,[3] less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for the weight of the crew, oil, and fuel is as follows:

(1) Crew—200 pounds per crew member required under FAA regulations,

(2) Oil—350 pounds,

(3) Fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart,[4]

Provided, however, That in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA,[5] maximum payload capacity means the maximum zero fuel weight, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(l) *Mile* means a statute mile, i.e., 5,280 feet.

(m) *On-line origin-destination* means the points at which a passenger enters and leaves the system of an air carrier on a one-way trip or on each of the directional parts of a round, circle, or open-jaw trip, ignoring intermediate points of intra-line transfer.

(n) *Passengers carried* means passengers on board each flight stage.

(o) *Point* when used in connection with any territory or possession of the United States, or the States of Alaska and Hawaii, means any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place; when used in connection with the continental United States, except Alaska, it shall have the same meaning except be limited to the area within a 3-mile radius of such airport or place: *Provided*, That for the purposes of this part, West 30th Street Heliport and Pan Am Building Heliport, both located in New York City, shall be regarded as separate points.

(p) *Revenue passenger-mile* means one revenue passenger transported one mile. Revenue passenger-miles are computed by multiplying the aircraft miles flown on each flight stage by the

[2] This weight may be found in the airplane operating record or in the airplane flight manual which is incorporated by regulation into the airworthiness certificate.

[3] Empty weight is defined in section 03 of part 241 as follows: *the weight of the airframe, engines, propellers, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.*

[4] Assumes VFR weather conditions and flights not involving extended overwater operations.

[5] The maximum zero fuel weight is the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in the FAA's type certificate data sheets, and/or in FAA-approved flight manuals.

number of revenue passengers carried on that flight stage.

(q) *Revenue seat-miles available* means the aircraft-miles flown on each flight stage multiplied by the number of seats available for sale on that flight stage.

(r) *Revenue ton-mile* means one ton of revenue traffic transported one mile. Revenue ton-miles are computed by multiplying the aircraft-miles flown on each flight stage by the number of pounds of revenue traffic carried on that flight stage and converted to ton-miles by dividing total revenue pound-miles by 2,000 pounds.

(s) *Revenue ton-miles available* means the aircraft-miles flown on each flight stage multiplied by the number of pounds of aircraft capacity available for use on that stage and converted to ton-miles by dividing total pound-miles available by 2,000 pounds.

(t) *Scheduled service* means transport service operated over routes pursuant to published flight schedules or pursuant to mail contracts with the U.S. Postal Service.

(u) *Small aircraft* means any aircraft that is not a large aircraft, as defined in this section.

(v) *Ton* means a short ton, i.e., 2,000 pounds.

(w) *Small certificated air carrier* means an air carrier holding a certificate issued under section 41102 of the Statute that provides scheduled passenger air service within and between only the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands with small aircraft as defined in this section.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by ER–957, 41 FR 28512, July 12, 1976; ER–1039, 43 FR 1490, Jan. 10, 1978; ER–1123, 44 FR 30083, May 24, 1979; ER–1251, 46 FR 51374, Oct. 20, 1981; ER–1251, 46 FR 53023, Oct. 28, 1981; ER–1278, 47 FR 608, Jan. 6, 1982; ER–1289, 47 FR 12949, Mar. 26, 1982; ER–1399, 50 FR 19, Jan. 2, 1985; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, 43528, Aug. 22, 1995]

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated as ''air taxi operators,'' which directly engage in the air transportation of persons or property or mail or in any combination of such transportation and which:

(1) Except as provided in § 298.5, do not directly or indirectly utilize large aircraft in air transportation;

(2) Except as provided in § 298.5, do not hold a certificate of public convenience and necessity or economic authority issued by the Department or the CAB other than that provided by this part;

(3) Have registered with the Department in accordance with subpart C of this part;

(4) Have and maintain in effect liability insurance coverage in compliance with the requirements set forth in part 205 of this chapter and have and maintain a current certificate of insurance evidencing such coverage on file with the Department; and

(5) If operating as a commuter air carrier or in foreign air transportation or participating in an interline agreement, have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523 or OST Form 4506)) and comply with all other requirements of part 203 of this chapter.

(b) Except as provided in § 298.5, a person who does not observe the conditions set forth in paragraph (a) of this section shall not be an air taxi operator or commuter air carrier within the meaning of this part with respect to any operations conducted while such conditions are not being observed, and during such periods is not entitled to any of the exemptions set forth in this part.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by ER–1039, 43 FR 1490, Jan. 10, 1978; ER–1213, 46 FR 12478, Feb. 17, 1981; ER–1333, 48 FR 8051, Feb. 25, 1983; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.4 Requests for statement of authority.

In any instance where an air taxi operator or commuter air carrier is required by a foreign government to produce evidence of its authority to engage in foreign air transportation under the laws of the United States, the Director, Office of Aviation Analysis will, upon request, furnish the carrier with a written statement, outlining its general operating privileges

under this part for presentation to the proper authorities of the foreign government.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.5 Dual operations—air taxi or commuter air carrier and all-cargo air service.

Any person having or obtaining authority to operate as an all-cargo air service carrier shall not thereby lose, or be disqualified from obtaining, authority under this part to engage also in operations as an air taxi operator or commuter air carrier, regardless of the size of aircraft utilized in such all-cargo air service operations. The operations which such person conducts as an air taxi operator or commuter air carrier shall be subject to the conditions and entitled to the exemptions set forth in this part, and the operations which he conducts as an all-cargo air service carrier shall be subject to the conditions and entitled to the exemptions set forth in part 291 of this chapter.

[ER–1039, 43 FR 1490, Jan. 10, 1978, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart B—Exemptions

§ 298.11 Exemption authority.

Air taxi operators and commuter air carriers are hereby relieved from the following provisions of the Statute only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to conduct air taxi or commuter air carrier operations:

(a) Section 41101;

(b) Section 41504; except that the requirements of that section shall apply to: (1) Tariffs for through rates, fares, and charges filed jointly by air taxi operators or commuter air carriers with air carriers or with foreign air carriers subject to the tariff-filing requirements of Chapter 415; and (2) Tariffs required to be filed by air taxi operators or commuter air carriers which embody the provisions of the counterpart to Agreement 18900 as specified in part 203 of this chapter;

(c) Section 41702, except for the requirements that air taxi operators and commuter air carriers shall:

(1) Provide safe service, equipment, and facilities in connection with air transportation;

(2) Provide adequate service insofar as that requires them to comply with parts 252 and 382 of this chapter;

(3) Observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations and practices as provided in tariffs filed jointly by air taxi operators or commuter air carriers with certificated air carriers or with foreign air carriers; and

(4) Establish just, reasonable, and equitable divisions of such joint rates, fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers;

(d) Section 41310, except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators or commuter air carriers with certificated air carriers or with foreign air carriers and to transportation of the handicapped to the extent that that is required by part 382 of this chapter;

(e) Section 41902;

(f) Section 41708.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by ER–1251, 46 FR 51374, Oct. 20, 1981; ER–1278, 47 FR 608, Jan. 6, 1982; ER–1295, 47 FR 25936, June 16, 1982; ER–1389, 50 FR 31142, July 31, 1985; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.12 [Reserved]

§ 298.13 Duration of exemption.

The exemption from any provision of the Statute provided by this part shall continue in effect only until such time as the Department shall find that enforcement of that provision would be in the public interest, at which time the exemption shall terminate or be conditioned with respect to the person, class of persons, or service (*e.g.*, limited-entry foreign air transportation market) subject to the finding.

[ER–1278, 47 FR 608, Jan. 6, 1982, as amended at 60 FR 43528, Aug. 22, 1995]

Subpart C—Registration and Reregistration for Exemption

§ 298.21 Filing for registration by air taxi operators and commuter air carriers.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who plans to commence operations under this part shall register with the Department not later than 30 days prior to the commencement of such operations, unless, upon a showing of good cause satisfactory to the Director, Office of Aviation Analysis, registration within a lesser period of time is allowed.

(b) The registration of an air taxi operator or commuter air carrier shall remain in effect until it is amended by the carrier or canceled by the Department.

(c) Registration by all commuter air carriers, and by those air taxi operators with a mailing address in any U.S. State or Territory except Alaska, shall be accomplished by filing with the Department's Office of Aviation Analysis (or with the Department's Alaska Aviation Field Office, 222 West Seventh Street, Box 27, Anchorage, Alaska 99513, for air taxi operators that are not also commuter air carriers and that have a mailing address in the State of Alaska) the following:

(1) OST Form 4507, executed in duplicate.[6] This form shall be certified by a responsible official and shall include the following information:

(i) The name of the carrier and its mailing address;

(ii) The carrier's principal place of business, if different from its mailing address, and its area code and telephone number;

(iii) The carrier's FAA certificate number, if any, and the address and telephone number of the carrier's local FAA office;

(iv) The type of service the carrier will offer (scheduled passenger, scheduled cargo, mail under a U.S. Postal Service contract, on-demand passenger, on-demand cargo, or other service such as air ambulance operations, firefighting or seasonal operations);

(v) A list of the aircraft that the carrier proposes to operate, or, in the case of an amendment to the registration, the aircraft that it is currently operating in its air taxi or commuter air carrier operations, and the aircraft type, FAA registration number and passenger capacity of each aircraft;

(vi) For initial registration, the proposed date of commencement of air taxi or commuter air carrier operations;

(vii) For amendments, whether the carrier has carried passengers in foreign air transportation during the previous 12 months;

(viii) Whether the carrier is a U.S. citizen;

(2) A certificate of insurance which is currently effective (or in case of initial registration, is to become effective), as defined in part 205 of this chapter;

(3) An 8 (in the case of commuters, 670) dollar registration filing fee in the form of a check, draft, or postal money order payable to the Department of Transportation.

(4) For air taxi operators that (i) are commuter air carriers, (ii) engage in foreign air transportation, or (iii) participate in an interline agreement, a signed counterpart of Agreement 18900 (OST Form 4523), which may be the revised registration form (OST Form 4507)), as required by part 203 of this chapter. These forms can be obtained from the Office of Aviation Analysis, Special Authorities Division.

(d) No air taxi operator shall provide scheduled passenger service as a commuter air carrier at an eligible place unless it has registered with the Department as a commuter air carrier and has been found by the Department

[6] OST Form 4507 is filed as part of the original document and can be obtained from the Office of Aviation Analysis, Special Authorities Division.

to be fit, willing, and able to conduct such service.

(The reporting requirements contained in paragraph (c)(2) were approved by the Office of Management and Budget under control number 3024–0007. The reporting requirements contained in paragraph (c)(1) were approved under control number 3024–0008. The reporting requirements contained in paragraph (c)(4) were approved under control number 3024–0064.)

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by ER–954, 41 FR 25890, June 23, 1976; 41 FR 27314, July 2, 1976; 41 FR 28786, July 13, 1976; ER–1208, 46 FR 8444, Jan. 27, 1981; ER–1213, 46 FR 12478, Feb. 17, 1981; ER–1318, 48 FR 3718, Jan. 27, 1983; ER–1333, 48 FR 8051, Feb. 25, 1983; 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.22 Processing by the Department.

After examination of the Form 298–A submitted by the carrier, the Department will stamp the effective date of the registration on the form and return the duplicate copy to the carrier to confirm that it has registered with the Department as required by this part. The effective date of the registration shall not be earlier than the effective date of the insurance policy or policies named in the certificate of insurance filed by the carrier under § 298.21(c)(2).

[ER–1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992]

§ 298.23 Notifications to the Department of change in operations.

(a) An air taxi operator or commuter air carrier shall submit an amendment to its registration not later than 30 days after any of the following events:

(1) A change in its name or address;

(2) A change in its type of operations (passenger, cargo, mail, scheduled, etc.);

(3) A temporary or permanent cessation of its operations; or

(4) A change in the type of aircraft operated.

(b) An amendment shall be made by resubmitting OST Form 4507 to the Department's Office of Aviation Analysis. If the air taxi operator has a mailing address in the State of Alaska, the form shall be mailed to the Department's Alaska Aviation Field Office, 222 West Seventh Avenue, Box 27, Anchorage, Alaska 99513.

(The reporting requirements in paragraph (b) were approved by the Office of Management and Budget under control number 3024–0008.)

[ER–1213, 46 FR 12478, Feb. 17, 1981, as amended at 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992]

§ 298.24 Cancellation of the registration.

The registration of an air taxi operator or commuter air carrier may be canceled by the Department if any of the following occur:

(a) The operator notifies the Department that it is ceasing operations;

(b) The operator's insurance coverage changes or lapses;

(c) The operator fails to file an amended registration when required by § 298.23;

(d) The operator's operating authorization is revoked by the Federal Aviation Administration;

(e) In the case of a commuter air carrier, the Department finds that the carrier is not fit, willing, and able to conduct scheduled service.

[ER–1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart D—Limitations and Conditions on Exemptions and Operations

§ 298.30 Public disclosure of policy on consumer protection.

(a) Every air taxi and commuter air carrier shall cause to be displayed continuously in a conspicuous public place at each desk, station and position in the United States that is in charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by it to sell tickets to passengers, a sign located so as to be clearly visible and readable to the traveling public, containing a statement setting forth the air taxi and commuter air carrier's policy on baggage liability and denied boarding compensation.

(b) An air taxi or commuter air carrier shall provide a written notice on or with a passenger's ticket concerning baggage liability as provided in § 254.5

of this chapter. These ticket notices are required only for passengers whose ticket includes a flight segment that uses large aircraft (more than 60 seats).

(c) If the substantive terms of the counter sign and ticket notice required by this section differ, the terms contained in the required ticket notice govern.

(Approved by the Office of Management and Budget under control number 3024–0074)

[ER–1378, 49 FR 14086, Apr. 10, 1984, as amended at 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators and commuter air carriers that register with the Department extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

[ER–1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§§ 298.32–298.34 [Reserved]

§ 298.35 Limitations on carriage of mail.

An air taxi operator or commuter air carrier is not authorized to carry mail except pursuant to contract with the Postal Service entered into pursuant to section 5402 of the Postal Reorganization Act (39 U.S.C. 5402).

[Docket No. 47939, 57 FR 40104, Sept. 2, 1992]

§ 298.36 Limitation on use of business name.

(a) An air taxi operator or commuter air carrier in holding out to the public and in performing its services in air transportation shall do so only in the name or names in which its air carrier certificate is issued pursuant to section 44702 of the Statute by the Federal Aviation Administration, and in which it is registered with the Department under this part.

(b) Slogans shall not be considered names for the purposes of this section, and their use is not restricted hereby.

(c) Commuter air carriers are subject to the provisions of part 215 of this chapter with regard to the use and change of air carrier names.

(d) Neither the provisions of this section nor the grant of a permission hereunder shall be deemed to constitute a finding for purposes other than for this section, or to effect a waiver of, or exemption from, any provisions of the Act or orders, rules or regulations issued thereunder.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended at 53 FR 17924, May 19, 1988; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.37 Prohibition of services not covered by insurance.

An air taxi operator or commuter air carrier shall not operate in air transportation or provide or offer to provide air transportation unless there is in effect liability insurance which covers such transportation and which is evidenced by a current certificate of insurance on file with the Department as required by part 205 of this chapter.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended by Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992]

§ 298.38 Security arrangements for operating Public Charters.

When an air taxi operator or commuter air carrier performs a Public Charter under part 380 of this chapter, either:

(a) The air taxi operator or commuter air carrier shall meet the bonding or escrow requirements applicable to certificated carriers as set forth in § 207.17 of this chapter; or

(b) The air taxi operator or commuter air carrier shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall retain control of and responsibility for all participant funds intended for payment for

air transportation until after the charter has been completed, notwithstanding any provision of part 380.

[ER–1140, 44 FR 49444, Aug. 23, 1979, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart E [Reserved]

Subpart F—Reporting Requirements

§ 298.60 General reporting instructions.

(a) Each commuter air carrier and each small certificated air carrier shall file with the Department's Bureau of Transportation Statistics (BTS) the applicable schedules of BTS Form 298-C ''Report of Financial and Operating Statistics for Small Aircraft Operators'' as required in this section.

(b) A single copy of the BTS Form 298–C report be filed quarterly with the Office of Airline Information for the periods ended March 31, June 30, September 30 and December 31 of each year to be received on or before May 10, August 10, and February 10, respectively. Due dates falling on a Saturday, Sunday or national holiday will become effective on the first following working day.

(c) All reports should be addressed as follows: Office of Airline Information, K–25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(d) All information included in BTS Form 298–C schedules shall be typed or neatly printed.

(e) BTS Form 298–C schedules can be obtained from the above address or by telephone (202) 366–9059.

[ER–1399, 50 FR 19, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.61 Reporting of traffic statistics for scheduled passenger operations.

(a) Each commuter air carrier and each small certificated air carrier shall file BTS Form 298–C, Schedule A–1, ''Report of Flight and Traffic Statistics in Scheduled Passenger Operations'' and Schedule T–1, ''Report of Revenue Traffic by On-Line Origin and Destination.''

(b) Schedules A–1 and T–1 shall be filed quarterly as set forth in § 298.60.

(c) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(d) The information included in this report shall pertain only to flights performed in scheduled passenger service during the quarter for which the report is filed.

(e) Schedule A–1 shall be used to report the total flight and traffic statistics in scheduled passenger operations by commuter air carriers and small certificated air carriers. These statistics should cover only scheduled passenger services and should be compiled in accordance with the instructions below. All statistics shall be reported in whole numbers; do not use decimals.

(f) Schedule T–1 shall show the total on-line origin and destination traffic in scheduled passenger services for the period as follows:

(1) Each pair of origin and destination airports shall appear only once, *i.e.*, no entry shall have the same origin and destination airports as another entry. For example, DAL–HOU and HOU–DAL would each appear once, but either DAL or HOU could reappear with any other point.

(2) The origin and destination data shall be for the on-line movement of traffic rather than for flight stages or flight origin and destination. For example, if a flight operates from A to B to C with 5 passengers enplaning at A, 1 deplaning and 2 enplaning at B, and 6 deplaning at C, the applicable passenger data would be reported as follows:

Origin airport	Destination airport	Number of passengers
A	B	1
A	C	4
B	C	2

(3) Only the ultimate origins and destinations of the traffic moving on the reporting carrier's system shall be reported. Using the example given above, the traffic report would remain the same, even if the carrier operated one flight from A to B and a different flight from B to C, as long as the passengers' on-line origins and destinations remained the same.

(4) Only one grand total shall be shown in the space provided after the final traffic entry. Do not use subtotals.

(5) Columns (1) and (2) shall show the airport codes for the movement of traffic from the point of origin to the point of destination. Carriers shall use the airport codes in the *Official Airline Guide* (OAG). If an airport cannot be found in the OAG, the carrier shall, until otherwise instructed by the Department, insert its own code for the airport in column (1) or (2) followed by an asterisk, and shall identify the airport and its location in the space provided.

(6) Column (3) shall show the total number of revenue passengers transported from the point of on-line origin to the point of on-line destination.

(7) Columns (4) and (5) shall be completed only by intra-Alaskan carriers, and shall reflect the total pounds of cargo and pounds of mail, respectively, transported from the point of on-line origin to the point of on-line destination.

(g) The information requested in BTS Form 298–C may be submitted on any comparable form prepared on automatic data processing equipment if the substitute form has been approved by the Director, Office of Airline Information, Department of Transportation, Washington, D.C. 20590. Data in any approved format shall contain the same column headings arranged in the same sequence as in RSPA Form 298–C.

(h) Commuter air carriers serving or proposing to serve an eligible point shall comply with the applicable requirements in part 204 of this chapter.

(Approved by the Office of Management and Budget under control number 2138–0009)

[ER–1148, 44 FR 51799, Sept. 5, 1979, as amended by ER–1208, 46 FR 8444, Jan. 17, 1981; ER–1289, 47 FR 12949, Mar. 26, 1982; 49 FR 28240, July 11, 1984; ER–1399, 50 FR 19, Jan. 2, 1985; Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.62 Reporting of financial data.

(a) Each commuter air carrier and each small certificated air carrier shall file BTS Form 298–C, Schedule F–1 ''Report of Financial Data.'' This report shall be filed quarterly as set forth in § 298.60 of this part.

(b) Each carrier shall indicate in the space provided, its full corporate name and the quarter for which the report is filed.

(c) This schedule shall be used to report financial data for the overall or system operations of the carrier. At the option of the carrier, the data may be reported in whole dollars by dropping the cents. Financial data shall be reported in the following categories:

(1) Line 1 ''Total Operating Revenues'' shall include gross revenues accruing from services ordinarily associated with air transportation and air transportation-related services. This category shall include revenue derived from scheduled service operations, revenue derived from nonscheduled service operations, amounts of compensation paid to the carrier under section 41732 of the Statute and other transport-related revenue such as in-flight sales, restaurant and food service (ground), rental of property or equipment, limousine service, cargo pick-up and delivery charges, and fixed-base operations involving the selling or servicing of aircraft, flying instructions, charter flights, etc.

(2) Line 2 ''Total Operating Expenses'' shall include expenses of a character usually and ordinarily incurred in the performance of air transporation and air transportation services. This category shall include expenses incurred: directly in the in-flight operation of aircraft; in the holding of aircraft and aircraft personnel in readiness for assignment to an in-flight status; on the ground in controlling and protecting the in-flight movement of aircraft; landing, handling or servicing aircraft on the ground; selling transportation; servicing and handling traffic; promoting the development of traffic; and administering operations generally. This category shall also include expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation, all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services, all expenses associated with the transport-related revenues included on line 1 of this schedule, and all other expenses not specifically

mentioned which are related to transport operations. Interest expense and other nonoperating expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services shall not be included in this category.

(3) Line 3 ''Net Income or (Loss)'' shall reflect all operating and nonoperating items of profit and loss recognized during the period except for prior period adjustments.

(4) Line 4 ''Passenger Revenues-Scheduled Service'' shall include revenue generated from the transportation of passengers between pairs of points which are served on a regularly scheduled basis.

(d) Data reported on this form shall be withheld from public release for a period of 3 years after the close of the calendar quarter to which the report relates. Individual carrier financial data withheld from public disclosure may be disclosed by the Department to:

(1) Parties to any proceeding before the Department to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Department;

(2) Such persons and in such circumstances as the Department determines to be in the public interest or consistent with its regulatory functions and responsibilities; and

(3) Agencies and other components of the Federal Government for their internal use only. Aggregate data that does not identify individual carriers may be released prior to the aforementioned time.

[ER–1399, 50 FR 20, Jan. 2, 1985, as amended by 53 FR 48528, Dec. 1, 1988; 60 FR 43528, Aug. 22, 1995; 60 FR 66726, Dec. 26, 1995]

§ 298.63 Reporting of aircraft operating expenses and related statistics by small certificated air carriers.

(a) Each small certificated air carrier shall file BTS Form 298–C, Schedule F–2 ''Report of Aircraft Operating Expenses and Related Statistics.'' This schedule shall be filed quarterly as prescribed in § 298.60. Data reported on this report shall be for the overall or system operations of the air carrier.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) This schedule shall show the direct and indirect expenses incurred in aircraft operations. Direct expense data applicable to each aircraft type operated by the carrier shall be reported in separate columns of this schedule. Each aircraft type reported shall be identified at the head of each column in the space provided for ''Aircraft Type.'' ''Aircraft Type'' refers to aircraft models such as Beech–18, Piper PA–32, etc. Aircraft Type designations are prescribed in the *Accounting and Reporting Directives*, which is available from the BTS' Office of Airline Information. In the space provided for ''Aircraft Code'' carriers shall insert the three digit code prescribed in the *Accounting and Reporting Directives* for the reported aircraft type. (NOTE: Aircraft of the same type but different cabin configuration may be grouped into a single classification; therefore, carriers are not required to report the fourth digit of an aircraft code indicating cabin configuration.)

(d) Line 1 Direct aircraft operating expenses shall be reported in the following categories:

(1) Line 2 ''Flying Operations (Less Rental)'' shall be subdivided as follows:

(i) Line 3 ''Pilot and Copilot'' expense shall include pilots' and copilots' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(ii) Line 4 ''Aircraft Fuel and Oil'' expense shall include the cost of fuel and oil used in flight operations and nonrefundable aircraft fuel and oil taxes.

(iii) Line 5 ''Other'' expenses shall include general (hull) insurance, and all other expenses incurred in the in-flight operation of aircraft and holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status, which are not provided for otherwise on this schedule.

(2) Line 6 ''Total Flying Operations (Less Rentals)'' shall equal the sum of lines 3, 4 and 5.

(3) Line 7 ''Maintenance-Flight Equipment'' shall include the cost of

labor, material and related overhead expended by the carrier to maintain flight equipment, general services purchased for flight equipment maintenance from associated or other outside companies, and provisions for flight equipment overhauls.

(4) Line 8 ''Depreciation and Rental-Flight Equipment'' expense shall include depreciation of flight equipment, amortization of capitalized leases for flight equipment, provision for obsolescence and deterioration of spare parts, and rental expense of flight equipment.

(5) Line 9 ''Total Direct Expense'' shall equal the sum of lines 6, 7 and 8.

(e) Line 10 Indirect aircraft operating expenses shall be reported only in total for all aircraft types and shall be segregated according to the following categories:

(1) Line 11 ''Flight Attendant Expense'' shall include flight attendants' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(2) Line 12 ''Traffic Related Expense'' shall include traffic solicitor salaries, traffic commissions, passenger food expense, traffic liability insurance, advertising and other promotion and publicity expenses, and the fringe benefit expenses related to all salaries in this classification.

(3) Line 13 ''Departure Related (Station) Expense'' shall include aircraft and traffic handling salaries, landing fees, clearance, customs and duties, related fringe benefit expenses and maintenance and depreciation on ground property and equipment.

(4) Line 14 ''Capacity Related Expense'' shall include salaries and fringe benefits for general management personnel, recordkeeping and statistical personnel, lawyers and law clerks, and purchasing personnel; legal fees and expenses; stationery; printing; uncollectible accounts; insurance purchased-general; memberships; corporate and fiscal expenses; and all other expenses which cannot be identified or allocated to some other specifically identified indirect cost category.

(f) Line 15 ''Total Indirect Expense'' shall equal the sum of lines 11, 12, 13 and 14.

(g) Line 16 ''Total Operating Expense'' shall equal the sum of lines 9 and 15.

(h) Line 17 ''Total Block Hours (Revenue Service)'' shall be computed from the time an aircraft first moves under its own power for the purposes of flight in revenue service until it comes to rest at the next point of landing. Data shall be reported by individual aircraft type and total.

(i) Line 18 ''Total Departures (Revenue Service)'' shall include total take-offs in revenue service by individual aircraft type and total.

(j) Line 19 ''Total Gallons of Fuel Issued'' shall include the gallons of fuel used in flight operations related to fuel cost reported in total and by aircraft type on Line 4.

[ER–1399, 50 FR 20, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.64 Reporting of nonscheduled passenger enplanements by small certificated air carriers.

(a) Each small certificated air carrier shall file BTS Form 298–C, Schedule E–1 ''Report of Nonscheduled Passenger Enplanements by Small Certificated Air Carriers.'' This schedule shall be filed quarterly as prescribed in § 298.60.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) Enplaned passenger data shall be provided for each airport served in nonscheduled service. Nonscheduled service includes charter flights and other transportation services not constituting an integral part of services performed pursuant to published flight schedules, but does not include flights performed as extra sections to published flight schedules.

(d) In column 1, carriers shall report the full name of each airport served in nonscheduled service.

(e) In column 2, carriers shall report the three-letter airport code found in the ''Official Airline Guide'' (OAG). If the OAG contains no three-letter code for a point served by the carrier, a three-letter code will be provided by the BTS' Office of Airline Information upon request.

(f) In column 3, carriers shall report the total nonscheduled passengers enplaned at each airport reported in column 1. This column shall be totaled.

[ER–1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.65 Requests for extensions of time within which to file reports or for waivers from reporting requirements.

(a) If circumstances prevent the filing of BTS Form 298–C on or before the due date, a written request for an extension may be submitted. Except in cases of emergency, the request must be delivered to the BTS's Office of Airline Information in writing at least three days in advance of the due date. The request must state good and sufficient reason to justify the granting of the extension and the date when the reports can be filed. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(b) The Office of Airline Information may waive any reporting requirements contained in § 298.61, § 298.62, § 298.63 and § 298.64 of this part, upon its own initiative or upon written request from any air carrier if the waiver is in the public interest and the request demonstrates that:

(1) Unusual circumstances warrant such a departure;

(2) A specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal; and

(3) The application of the alternative procedure will maintain or improve uniformity in reporting between air carriers.

[ER–1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.66 Reporting exemption for State collection of data.

(a) The Office of Airline Information may exempt a commuter air carrier from the reporting requirements of § 298.61 of this part if a State government collects the information specified in that section and provides it to the Department by the dates specified. The data provided to the Department in this manner must be at least as reliable as if they were collected by the Department directly.

(b) The Office of Airline Information will provide assistance to any State agency interested in participating in this exemption program.

[ER–1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

Subpart G [Reserved]

Subpart H—Violations

§ 298.80 Enforcement.

In case of any violation of the provisions of the Statute, or this part, or any other rule, regulation, or order issued under the Statute, the violator may be subject to a proceeding pursuant to section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. District Court, as the case may be, to compel compliance therewith; or to civil penalties pursuant to the provisions of section 46301 of the Statute; or, in the case of a willful violation, to criminal penalties pursuant to the provisions of section 46316 of the Statute; or other lawful sanctions including revocation of operating authority.

[ER–929, 40 FR 42855, Sept. 17, 1975, as amended at 60 FR 43528, Aug. 22, 1995]