

(Signature—person within organization in charge of charter arrangements)

(Signature and title of officer. This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by school official not directly involved in charter.)

#### WARRANTY OF AIR CARRIER<sup>5</sup>

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts warranted by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with part 207 of the Board's economic regulations.

(Date) \_\_\_\_\_

(Signature and title of authorized official of air carrier)

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both. Title 18 U.S.C. 1001.

(Secs. 102, 204, 403, and 416 of the Federal Aviation Act of 1958, as amended by Pub. L. 95-504, 72 Stat. 740, 743, 758, 771, 92 Stat. 1731, 1732; 49 U.S.C. 1302, 1324, 1373, and 1386)

[ER-802, 38 FR 14157, May 30, 1973, as amended by ER-1126, 44 FR 33054, June 8, 1979. Re-designated by ER-1221, 46 FR 28378, May 26, 1981]

<sup>5</sup> Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse \* \* \* to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board \* \* \*, or shall, knowingly and willfully, falsify, mutilate, or alter any such 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. Title 49 U.S.C. 1472(e).

## PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

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766, 769, 771, 788; 76 Stat. 145; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

208.200 Applicability of subpart.

SOURCE: ER-803, 38 FR 14272, May 31, 1973, unless otherwise noted.

REQUIREMENTS RELATING TO AIR CARRIERS

208.200a Solicitation and formation of a chartering group.

Subpart A—General Provisions

208.201 Pretrip notification and charter contract.

§ 208.1 Applicability.

208.202 [Reserved]

This part contains terms, conditions, and limitations on the operating authority of supplemental air carriers, including substantive regulations implementing paragraphs (1), (2), and (3) of section 401(n) of the Act. The requirements of this part shall constitute terms, conditions, and limitations attached to certificates issued pursuant to section 401(d)(3) of the Act. The requirements shall also attach to special operating authorizations issued under section 417 or to exemptions issued under section 416 of the Act.

208.202a Statement of Supporting Information.

208.202b Charter trips originating in the United States.

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REQUIREMENTS RELATING TO TRAVEL AGENTS

208.203 [Reserved]

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208.210 Solicitation of charter participants.

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208.217 Statement of Supporting Information.

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§ 208.2 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of persons, or circumstance is held invalid, neither the remainder of the part nor the application of such provision to other air transportation, persons, classes of persons, or circumstances shall be affected thereby.

208.300 Applicability of subpart.

208.301 Terms of service.

208.302 [Reserved]

208.303 Statement of Supporting Information.

§ 208.3 Definitions.

For the purposes of this part:

(a) *Filing* shall mean filing in compliance with § 302.3(a) of this chapter except that provisions in this part which require filing with Board offices other than the Docket Section shall be controlling.

Subpart E—Provisions Relating to Mixed Charters

208.400 Applicable rules.

Subpart F—Direct Sales by Air Carriers

208.500 Applicability of subpart.

208.501 Terms of service.

208.502 Board powers.

(b) *Supplemental air carrier* means an air carrier holding a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

(c) *Supplemental air transportation* means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act (1) authorizing the holder to engage in supplemental air transportation of persons and property between any point in any State of the United States or the District of Columbia, and any other point in any State of the

APPENDIX A TO PART 208—SUPPLEMENTAL AIR CARRIERS' SURETY BOND UNDER PART 208 OF THE ECONOMIC REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 208)

APPENDIX B TO PART 208—STATEMENT OF SUPPORTING INFORMATION

AUTHORITY: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760,

United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental air transportation, or (2) authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

(d) *Agreement* means any oral or written agreement, contract, understanding, or arrangement, and any amendment, revision, modification, renewal, extension, cancellation, or termination thereof.

(e) *Cargo agent* means any person (other than a supplemental air carrier 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 Board) 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 supplemental air carriers; or (2) procures or arranges for air transportation of property or consolidated shipments of property upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(f) [Reserved]

(g) *Ticket agent* means any person (other than a supplemental air carrier or one of its bona fide regular employees) 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 a supplemental air carrier; or (2) procures or arranges for air transportation of passengers or groups of passengers upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(h) *Pro rata charter* means a charter, the cost of which is divided among the passengers transported.

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

(j) *Mixed charter* means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

(k) *Person* means any individual, firm, association, partnership, or corporation.

(l) *Travel agent* means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(m) *Charter group* means that body of individuals who shall actually participate in the charter flight.

(n) *Charter organization* means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

(o)-(r) [Reserved]

(s) *Charter flight* means air transportation performed by supplemental air carriers in accordance with § 208.6.

(t) *Substitute service* means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligations to perform such air transportation for the Department of Defense.

(u) *Indirect air carrier* means any citizen of the United States authorized to engage indirectly in air transportation.

(v) *Net worth* means the net stockholder equity as specified in form 41 balance sheet account 2995 of the *Uniform System of Accounts and Reports*.

(w) *Long-term wet lease* means a lease by which the lessor provides both an aircraft and its crew, 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.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1096, 44 FR 6645, Feb. 1, 1979; ER-1249, 46 FR 47767, Sept. 30, 1981]

#### § 208.3a Waiver.

(a) A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor

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not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

(b) A request for a waiver of any of the provisions of § 208.202b shall be accompanied by a list of the names, addresses, and telephone numbers of all the passengers on the flight to which the request relates.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1340, 48 FR 31013, July 6, 1983]

**§ 208.4 [Reserved]**

**§ 208.5 Prior authorization of long-term wet leases to foreign air carriers.**

(a) A direct air carrier shall not perform any flights for a direct foreign air carrier under a long-term wet lease unless it has obtained a statement of authorization under this section.

(b) Applications for a statement of authorization shall be submitted in letter form in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. A copy of the application shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed transportation is to be performed.

(c) The application shall describe the purpose and terms of the wet lease agreement. It shall also include documentation to establish the extent to which the country of the lessee's nationality deals with United States air carriers on the basis of reciprocity for similar wet leases, if such wet leases are not subject to a bilateral agreement and:

(1) The Board has not established that the country accords reciprocity,

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

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

(d) Applications for a statement of authorization under this section shall be filed at least 45 calendar days before the date of the first proposed flight.

(e) Any party 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, and a copy shall be served on the applicant air carrier. Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response will be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications will be published in the Board'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 Board 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.

(g) The Board will issue a statement of authorization if it finds that the proposed wet lease is in the public interest. Statements of authorization may be conditioned or limited. In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party, or should be so covered;

(2) The extent to which the foreign country involved deals with United States carriers on the basis of substantial reciprocity; and

(3) Whether the applicant (lessor) or its agent has previously violated the provisions of this part, or the lessee or its agent has previously violated the provisions of part 212 or 218 of this chapter.

(h) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Applications attachment to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters advising applicants of action taken on their applications.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-1249, 46 FR 47767, Sept. 30, 1981, as amended by ER-1340, 48 FR 31013, July 6, 1983]

#### §208.6 Charter flight limitations.

(a) Passenger charter flights in air transportation shall be limited to the following:

(1) Air transportation pursuant to contracts with the Department of Defense where all of that portion of the capacity configured for passengers of an aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage, or trip basis where all or part of the capacity of an aircraft has been engaged by any of the following persons:

(i) By a person for his or her own use, including a direct air carrier or a direct foreign air carrier, except that long-term wet leases to foreign air carriers are subject to prior authorization under §208.5.

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in part 380 of this chapter.

(3) Air transportation performed on a time, mileage, or trip basis by a direct air carrier in accordance with subpart F of this part.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2) of this section shall contract and pay for 20 or more seats.

(2) [Reserved]

(3) This section permits the carriage of charter cargo on the main deck or in the belly of a passenger charter flight.

(c) Cargo charter flights in air transportation are permitted without limitation, except that long-term wet leases to foreign air carriers are subject to prior authorization under §208.5. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually-waybilled traffic and on flights carrying charter traffic only.

[ER-1190, 45 FR 53363, Aug. 11, 1980, as amended by ER-1249, 46 FR 47768, Sept. 30, 1981; ER-1277, 47 FR 134, Jan. 5, 1982]

#### LIABILITY INSURANCE REQUIREMENTS; WAIVER OF WARSAW CONVENTION LIABILITY LIMITS

#### §208.10 Applicability of liability insurance requirements.

No charter air carrier shall engage in 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-1254, 46 FR 52583, Oct. 27, 1981]

#### §208.11 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a certificate or other authority authorizing air transportation that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263), and comply with all other requirements in part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

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

[ER-1327, 48 FR 8048, Feb. 25, 1983, as amended by ER-1340, 48 FR 31013, July 6, 1983]

## MINIMUM EXTENT OF SERVICE

**§ 208.25 Minimum service requirements.**

Each supplemental air carrier shall perform services authorized by its certificate or authority to engage in supplemental air transportation for at least 500 hours of revenue flight in any two consecutive calendar quarters. Failure to perform such minimum services will be deemed to constitute a prima facie case for suspension of the carrier's operating authority pursuant to the provisions of section 401(n)(5) of the Act: *Provided*, That the carrier may, within 15 days after the end of the two consecutive calendar quarters in which such failure occurred, show unusual circumstances constituting good cause why its operating authority should not be suspended.

## OPERATIONS

**§ 208.30 Baggage liability.**

Air carriers shall not limit their baggage liability for interstate and overseas charter flights except as set forth in 14 CFR part 254.

[ER-1312, 48 FR 227, Jan. 4, 1983; 48 FR 3584, Jan. 26, 1983]

**§ 208.31 Transportation of persons who may need help during aircraft evacuation.**

Except as set forth in part 121 of the Federal Aviation Regulations (14 CFR part 121), air carriers shall not 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.

[ER-1172, 44 FR 33054, June 8, 1979]

**§ 208.31a Written agreements with ticket agents.**

Each agreement between a supplemental air carrier and any ticket or cargo agent shall be reduced to writing and signed by all the parties thereto, if it relates to any of the following subjects:

- (a) The furnishing of persons or property for transportation;
- (b) The arranging for flights for the accommodation of persons or property;

- (c) The solicitation or generation of passenger or cargo traffic to be transported;

- (d) The charter or lease of aircraft.

**§ 208.31b Written contract with charterers.**

Every agreement to perform a charter trip, except charters for the Department of Defense, shall be in writing and signed by an authorized representative of the supplemental air carrier and the charterer prior to operation of a charter flight: *Provided*, That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within seven (7) days after commencement of the flight. The written agreement shall include without limitation:

- (a) Date and place of execution of the contract or agreement;

- (b) Signature, printed or typed name of each signatory, and official position of each;

- (c) Dates of flights and points involved;

- (d) Type and capacity of aircraft: Number of passenger seats available or pounds of cargo capacity;

- (e) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other non-flight charges;

- (f) 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 advance charter payments are to be made payable, as escrow holder pending completion of the charter trip; and

- (g) A statement that unless the charterer files a claim with the carrier, or, if he is unavailable, with the surety, within sixty (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 charter trip. (see § 208.40(e)).

[ER-810, 38 FR 20256, July 30, 1973, as amended by ER-1127, 44 FR 33054, June 8, 1979; 44 FR 40884, July 13, 1979]

**§ 208.32 Terms of service.**

(a)-(b) [Reserved]

(c) Payments for a U.S.-originating charter flight made to any person to whom the carrier, directly or indirectly, has paid a commission or has agreed to pay a commission for that flight shall be considered payments to the carrier.

(d) Each and every contract for a charter to be operated hereunder shall incorporate the provisions of §§ 208.32a, 208.33, and 208.33a, where applicable, concerning insurance and substitute transportation.

(e) The carrier 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 capacity 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 passenger 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 paragraph, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(f) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 208.6(a)(3)), shall move as a unit in both directions, except as provided in § 208.36. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in

order to avoid the 5-percent limitation aforesaid.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1127, 44 FR 33054, June 8, 1979; ER-1145, 44 FR 50597, Aug. 29, 1979; ER-1277, 47 FR 134, Jan. 5, 1982; ER-1286, 47 FR 9819, Mar. 8, 1982]

**§ 208.32a Flight delays and substitute air transportation (foreign).**

Charter air carriers shall comply with the following requirements for passenger service in foreign air transportation. These requirements shall be without prejudice and in addition to any other rights or remedies of passengers under applicable law:

(a) *Substitute air transportation.* (1) On all charter flights, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 48th hour following the time scheduled for the departure of such flight, it shall provide substitute transportation in accordance with the provisions of this paragraph.

(2) As soon as the air carrier discovers, or should have discovered by the exercise of reasonable prudence and forethought, that the departure of any such charter flight will be delayed more than 48 hours, such air carrier shall arrange for and pay the costs of substitute air transportation for the charter group on another charter flight, operated by any other carrier or foreign air carrier.

(3) When neither the charter transportation contracted for nor substitute transportation has been performed before the expiration of 48 hours following the scheduled departure time of any such charter flight, the charterer, or his duly authorized agent, may arrange for substitute air transportation of the members of the charter group, at economy or tourist class fares, on individually ticketed flights and the chartered air carrier shall pay the cost of such air transportation to the substitute air carrier or foreign air carrier.

(4) In determining the period of time during which the departure of a charter flight has been delayed within the purview of this paragraph, periods of delay caused by the prohibition of flights to

or from the airport of departure because of weather or other operational conditions affecting such airport shall be excluded if, and while, the air carrier has available an airworthy aircraft which is capable of transporting the charter group in a condition of operational readiness.

(b) *Incidental expenses.*<sup>2</sup> (1) On the return leg of a charter flight bound from a point outside the country where the charter originated and is to terminate, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 6th hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this paragraph. Such payments shall be made at the airport of departure as soon as they become due to the charterer, or its duly authorized agent, for the account of each passenger, including infants and children traveling at reduced fares. In the case of charter flights bound to or from the United States on the return leg, “country” as used in this paragraph means the 48 contiguous States of the United States.

(2) Such payments shall be made at the rate of \$16 for each full 24-hour period of delay following the scheduled departure time. However, the sum of \$8 shall be paid for each passenger delayed 6 hours following the scheduled departure time. Thereafter, during the succeeding 18 hours of delay, an additional sum of \$8 shall be paid for each passenger delayed in installments of \$4 for the first and second succeeding 6-hour period of delay, or any fractional part thereof. If the delay continues beyond a period of 24 hours following the scheduled departure time, such payments shall be made in equal installments of \$4 for each further 6-hour period of delay, or any fractional part

<sup>2</sup>Although the requirements with respect to providing incidental expenses are made expressly applicable only to the return leg of a charter flight, the air carriers are expected in the case of delay in departure of the originating leg of a flight, to furnish such incidental expenses to charter passengers whose homes are not located within a reasonable distance from the point of origination of the charter.

thereof: *Provided, however,* That the air carrier may, at its option, discharge this obligation by providing free meals and lodging in lieu of making such payments. The obligation of the air carrier to pay incidental expenses or provide free meals and lodging shall cease when substitute air transportation is provided in accordance with the provisions of paragraph (a) of this section.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1127, 44 FR 33055, June 8, 1979]

**§208.33 Flight delays and substitute air transportation (interstate and overseas).**

Charter air carriers shall comply with the following requirements for passenger service in interstate and overseas transportation. These requirements shall be without prejudice and in addition to any other rights or remedies of passengers under applicable law:

(a) In case of flight delays of more than 6 hours beyond the departure time stated in the charter contract or 4 hours beyond the time of departure stated on an individual flight ticket, the carrier, upon request and at the passenger’s or charterer’s option (or in case of the engagement by one charterer of less than the capacity of an aircraft, at the option of any one charterer), must provide alternative air transportation at no additional cost to the passenger or charterer, or immediately refund the full value of the unused ticket or the unperformed charter contract.

(b) In case of additional flight delays en route exceeding 6 hours for charter flights or 2 hours for individually ticketed flights, the carrier must, upon request and at the passenger’s or charterer’s option (or in case of the engagement by one charterer of less than the capacity of an aircraft, at the option of any one charterer), furnish alternative transportation to the specified destination, or immediately refund the full value of unperformed transportation. The en route delays shall be calculated without inclusion of any delay at departure but all additional delays at intermediate stops en route shall be added up in determining whether the limit of delay has been reached.

(c) In case of flight cancellations or flight delays, refunds shall be paid immediately upon presentation of an unused flight coupon or upon demand of the charterer or his representative (or in case of the engagement by one charterer of less than the capacity of an aircraft, upon demand of any one charterer or his representative) to the air carrier or its agent.

(d) The requirements in paragraphs (a), (b), and (c) of this section for immediate refunds or alternative transportation shall not apply to the extent that there is an unavoidable delay due solely to weather.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1127, 44 FR 33055, June 8, 1979]

**§208.33a Substitution or subcontracting.**

Supplemental air carriers may subcontract the performance of services which they have contracted to perform only to air carriers authorized by the Board to perform such services.

**§§ 208.34—208.35 [Reserved]**

**§208.36 Substitute transportation in emergencies.**

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in §241.03 of this subchapter) under the following circumstances:

(1) [Reserved]

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall include illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays

in ground transportation or connecting air transportation.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1222, 46 FR 28379, May 26, 1981]

**§208.37 Exemption.**

Charter air carriers are hereby exempted from section 401(n)(4) of the Act.

[ER-1142, 44 FR 50825, Aug. 30, 1979]

**§208.38 Suspension of exemption authority.**

The Board reserves the power to suspend the exemption authority of any charter air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

[ER-1142, 44 FR 50825, Aug. 30, 1979]

PROTECTION OF CUSTOMERS' DEPOSITS

**§208.40 Protection of customers' deposits.**

(a) Except as provided in paragraph (c) of this section, no supplemental air carrier shall perform any air transportation services (other than a cargo charter trip) originating in the United States or any overseas military personnel charter trips, as defined in part 372 of this chapter, nor shall such air carrier accept any advance payment in connection with any such charter trip, unless there is on file with the Board 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 charter 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 his 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

his 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 his 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 written certification by the carrier that such segment has been completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or 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 charter for less than the entire capacity of an aircraft (see §208.6 (c)) 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, savings and loan institution, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Board. Claims against the escrow

may be made only with respect to 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 Board a surety bond which guarantees to the United States Government the performance of all air transportation services (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 the carrier pursuant to contracts entered into by such carrier after the execution date of the bond. The amount of such bond shall be unlimited. Claims under the bond may be made only with respect to the non-performance of air transportation.

(d) The bond permitted by paragraph (a) of this section shall be in the form set forth as Appendix A to this part. Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the carrier is incorporated or in which it maintains its principal place of business. 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 Board will notify the supplemental 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 he is unavailable, with the surety, within sixty (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.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-810, 38 FR 20256, July 30, 1973, as amended by ER-1340, 48 FR 31013, July 6, 1983]

### Subpart B—Provisions Relating to Military Charters

#### § 208.100 Applicability of subpart.

This subpart sets forth the special rules applicable to military charters.

#### § 208.101 [Reserved]

#### § 208.102 Substitute service.

Supplemental air carriers are authorized to provide "substitute service" as defined in this part, subject to the provisions of part 288 of this chapter.

#### § 208.103 Terms of service.

The provisions of § 208.32(d) shall apply to charters under this subpart.

[ER-1127, 44 FR 33055, June 8, 1979]

### Subpart B1—Provisions Relating to Military Backhaul Charters

#### § 208.150 Military backhaul exemption.

Subject to the provisions of this part and all other applicable rules, regulations, conditions, or requirements, supplemental air carriers are hereby exempted from the provisions of section 401 of the Act to the extent necessary to permit them to engage in overseas or foreign "supplemental air transportation" on the reverse leg of a charter performed in the opposite direction under a contract with the Department of Defense calling for one-way service.

### Subpart C—Provisions Relating to Pro Rata Charters

#### § 208.200 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

### REQUIREMENTS RELATING TO AIR CARRIERS

#### § 208.200a Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

#### § 208.201 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this part 208.<sup>3</sup> The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 208.215. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 208.217 and 208.204, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been

<sup>3</sup> Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written request to the Publications Service Section, Civil Aeronautics Board, Washington, D.C. 20428.

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filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, that authorizes the person who executes the contract to so do on behalf of the chartering organization. However, certification is not required where the charter is based on employment in one entity, or on employee or student status at a school. If the charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§208.215) of the outbound charter shall be attached to the charter contract.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1222, 46 FR 28379, May 26, 1981]

**§ 208.202 [Reserved]**

**§ 208.202a Statement of Supporting Information.**

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute a Statement of Supporting Information (Appendix B). If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however*, That separate financial data (see item 13 of statement) shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-1222, 46 FR 28379, May 26, 1981, as amended by ER-1340, 48 FR 31013, July 6, 1983]

**§ 208.202b Charter trips originating in the United States.**

(a) In the case of a charter trip originating in the United States which includes foreign air transportation, and where separate charter contracts cover the flight departing from the United States and the flight returning to the United States, the time by which the carrier to perform the returning flight, as well as the carrier to perform the

departing flight, must receive full payment of its charter price (or a satisfactory bond for such payment), in compliance with the requirements of §208.32(e), shall be not less than 10 days prior to the departing flight.

(b) In addition to requiring timely payment of its charter price (or the posting of a bond), pursuant to paragraph (a) of this section, the carrier performing the departing flight from the United States shall request in writing from the carrier performing the returning flight for the same chartering group, and the carrier performing the returning flight shall furnish, not later than 10 days prior to the scheduled departure, written confirmation that the latter carrier has also received timely payment of its charter price (or the posting of a bond), pursuant to paragraph (a) of this section. Both the request and the confirmation shall contain particulars sufficient to identify the charter trip, including such details as the date and point of origin of the departing flight, the date and point of origin of the returning flight, and the name of the chartering group; and both shall be accompanied by a passenger list. The confirmation shall also contain a statement to the effect that the carrier has not previously furnished such confirmation to any other carrier with respect to the same charter trip.

(c) The requirements of this section shall apply to all charter flights scheduled to depart after the effective date hereof: *Provided, however*, That with respect to planeload charter flights scheduled to depart less than 15 days after the effective date hereof, and with respect to less-than-planeload charter flights scheduled to depart less than 30 days after the effective date hereof, requirements hereunder as to advance payments and receipt of written confirmation thereof by the departing carrier, need not be met within the time specified in this section but may be met at any time before flight departure.

(d) Every carrier which has entered into a charter contract covering only one-way foreign air transportation from the United States, to be performed in connection with a pro rata charter trip originating in the United States, must obtain, before performing

such departing flight, either written confirmation from the returning carrier (as provided in paragraph (b) or (c) of this section, as the case may be), or a waiver granted by the Board pursuant to §208.3a, such waiver to be based either on the grounds set forth in said §208.3a, or on a showing that the arrangements between the chartering organization and the charter participants do not involve the provision of return transportation to the United States.

(e) 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.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-810, 38 FR 20257, July 30, 1973; ER-1064, 43 FR 36599, Aug. 18, 1978; ER-1340, 48 FR 31013, July 6, 1983]

**§208.202c Air carrier to identify enplanements.**

The carrier shall make reasonable efforts to assure that no person is enplaned whose name does not appear on the list of passengers supplied by the charterer under §208.215.

[ER-1222, 46 FR 28379, May 26, 1981]

REQUIREMENTS RELATING TO TRAVEL AGENTS

**§208.203 [Reserved]**

**§208.204 Statement of Supporting Information.**

Travel agents shall execute, and furnish to foreign air carriers, section A of part II of the Statement of Supporting Information (appendix B) at such time as required by the carrier to afford it due time for review thereof.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-1222, 46 FR 28379, May 26, 1981, as amended by ER-1340, 48 FR 31013, July 6, 1983]

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

**§208.210 Solicitation of charter participants.**

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in paragraph (a)(1)(i) of this section, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in paragraph (a)(1)(i) of this section: *Provided*, That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation of the members of an organization so constituted as to ease the admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who:

(1) Have not joined the organization merely to participate in the charter as the result of solicitation of the general

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public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in paragraph (b)(2) of this section is not applicable to:

(i) Students and employees of a single school, and immediate families thereof; or

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however,* That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

(e) 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 PROGRAM.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1177, 45 FR 40575, June 16, 1980]

**§208.211 Passengers on charter flights.**

Only bona fide members of the charterer, and their immediate families, may participate as passengers of a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the

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date each person became a member.<sup>5</sup> Where four or more round-trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, intermingling between flights or reforming of planeload groups, or less than planeload groups (see §208.6(c)), shall not be permitted, and each group must move as a unit in both directions, except as provided in §208.36.

**§208.212 Participation of immediate families in charter flights.**

(a) The immediate family of any bona fide member of a charter organization may participate in a charter flight.

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

**§208.213 Charter costs.**

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that: (1) Children under 12 years of age may be transported at a charge less than the equally prorated charge; (2) children under 2 years of age may be transported free of charge.

(b) The charter shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1225, 46 FR 31000, June 12, 1981]

<sup>5</sup>Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency or school will suffice to meet the requirements

**§ 208.214 Statements of charges.**

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available, and the type of aircraft to be used for the charter.

**§ 208.215 Passenger lists.**

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child, or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons employed by a single Government agency, industrial

plant, or mercantile company, or students and employees of a school or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger lists as "(3) special" or "(3) member" (where participants are from a school group or from a Government agency, industrial plant, or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household.<sup>6</sup>

\_\_\_\_\_(Signature)

**§ 208.216 Application for a charter.**

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, the dates of departure for each one-way or round-trip flight, and the number of round-trip flights which have been conducted for

<sup>6</sup>Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or documents knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both. Title 18, U.S.C. 1001.

the organization by any carrier or carriers during the calendar year.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1340, 48 FR 31013, July 6, 1983]

**§ 208.217 Statement of Supporting Information.**

Charterers shall execute and file with the foreign air carrier section B of part II of the Statement of Supporting Information (appendix B) at such time as required by the carrier to afford it due time for review thereof.

[ER-1222, 46 FR 28379, May 26, 1981]

**Subpart D—Provisions Relating to Single Entity Charters**

**§ 208.300 Applicability of subpart.**

This subpart sets forth the special rules applicable to single entity charters.

**§ 208.301 Terms of service.**

The provisions of subpart A of this part, except paragraph (f) of § 208.32, shall apply to charters under this subpart.

[ER-1210, 46 FR 10457, Feb. 3, 1981]

**§ 208.302 [Reserved]**

**§ 208.303 Statement of Supporting Information.**

Part I of the Statement of Supporting Information (appendix B) shall be applicable in the case of single entity charters.

[ER-1222, 46 FR 28379, May 26, 1981]

**Subpart E—Provisions Relating to Mixed Charters**

**§ 208.400 Applicable rules.**

The rules set forth in subpart C of this part shall apply in the case of mixed charters.

**Subpart F—Direct Sales by Air Carriers**

SOURCE: ER-1142, 44 FR 50825, Aug. 30, 1979, unless otherwise noted.

**§ 208.500 Applicability of subpart.**

This subpart applies to direct air carriers that provide charter trips, including trips with ground accommodations and services, directly to individuals.

**§ 208.501 Terms of service.**

(a) Charter trips under this subpart shall bear only such characteristics as are permitted for Public Charters under part 380 of this chapter, except:

(1) They may be arranged and sold by a direct air carrier;

(2) There is no minimum contract size; and

(3) Each participant contract shall be signed by or on behalf of the participant not less than 7 days before scheduled departure of the outbound flight.

(b) Each direct air carrier operating a charter trip under this subpart shall comply with all the requirements and limitations of part 380 of this chapter, *Public Charters*, applicable to direct carriers and to charter operators except that:

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

(2) Section 380.34 does not apply except as specified in paragraph (b)(4) of this section.

(3) If a depository agreement is used, it shall comply with § 380.34a (d) and (f); and

(4) If a security agreement is used, it shall comply with § 380.34 (c) and (d), and:

(i) If no depository agreement is used, protect charter participant deposits (including those for ground accommodations and services) and assure the direct 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 deposits (including those for ground accommodations and services) and assure the direct 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) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

**§ 208.502 Board powers.**

The Board retains, with respect to charters under this subpart, all powers that it has under part 380 of this chapter with respect to Public Charters.

APPENDIX A TO PART 208—SUPPLEMENTAL AIR CARRIERS' SURETY BOND UNDER PART 208 OF THE ECONOMIC REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 208)

Know all men by these presents, that we \_\_\_\_\_(Name of supplemental air carrier) of \_\_\_\_\_(City) \_\_\_\_\_(State) 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 § 208.40(c) of part 208, 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 supplemental air carrier holding a certificate of public convenience and necessity issued under section 401(d)(3) of the Federal Aviation Act, is subject to rules and regulations of the Board relating to security for the protection of charterers of civil aircraft and has elected to file with the Civil Aeronautics Board such a bond as will guarantee to the United States Government the performance of all air transportation services (other than cargo charter trips) originating in the United States and of all overseas military personnel charter trips, as defined in part 372 of the Board's regulations, to be performed, in whole or in part, by such 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 Board relating to security for the protection of charterers of civil aircraft for charter trips (other than cargo charter trips) originating in the United States and of overseas military personnel charters and shall inure to the benefit of any

and all such charters 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 charters 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 air transportation services (other than cargo charter trips) originating in the United States and of overseas military personnel charter trips, than this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety with respect to any charterer shall not exceed the total cost to such charterer for air transportation services in accordance with his contract with the Principal.

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 Civil Aeronautics Board forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, 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 Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of such notice by the Board. The Surety shall not be liable hereunder for the payment of any 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 prior to the date such termination 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 the claim to the supplemental air carrier, or, if he is unavailable, to the Surety, and all liability on the bond for such charter trip shall automatically terminate sixty (60) days after the cancellation date thereof except for claims filed within the time provided herein.

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In witness whereof, the said Principal and Surety have executed this instrument on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_.

PRINCIPAL
Name \_\_\_\_\_
By \_\_\_\_\_(Signature and Title)
Witness \_\_\_\_\_

SURETY
Name \_\_\_\_\_(SEAL)
By \_\_\_\_\_(Signature and Title)
Witness \_\_\_\_\_

Only corporations may qualify to act as Surety and they must meet the requirements set forth in §208.40(d) of part 208.

[ER-810, 38 FR 20257, July 30, 1973]

APPENDIX B TO PART 208—STATEMENT OF SUPPORTING INFORMATION 1

Part I—To be completed by air carrier for each single entity, mixed, or pro rata charter. (Where more than one round-trip flight is to be performed under the charter, clearly indicate applicability of answers.)

- 1. Name of transporting carrier: \_\_\_\_\_
2. Commencement date(s) of proposed flight(s): \_\_\_\_\_
(a) Going \_\_\_\_\_
(b) Returning \_\_\_\_\_
3. Points to be included in proposed flight(s): \_\_\_\_\_
(a) From \_\_\_\_\_ to \_\_\_\_\_
(b) Returning from \_\_\_\_\_ to \_\_\_\_\_
(c) Other stops required by charterer: \_\_\_\_\_
4. (a) Type of aircraft to be used: \_\_\_\_\_
(b) Seating capacity: \_\_\_\_\_
(c) Number of persons to be transported: \_\_\_\_\_
5. Total charter price: \_\_\_\_\_
6. (a) Has the carrier paid, or does it contemplate payment of any commissions, direct or indirect, in connection with the proposed flight? Yes [ ] No [ ]
(b) If "yes" give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation.

1This must be retained by the air carrier for 2 years pursuant to the requirements of part 249, but open to Board inspection, and to be filed with the Board on demand.

7. (a) Will the carrier or any affiliate provide any services or perform any functions in addition to the actual air transportation? Yes [ ] No [ ]
(b) If "Yes" describe services or functions:

8. Name and address of charterer: \_\_\_\_\_

9. If charter is single entity, indicate purpose of flight: \_\_\_\_\_

10. On what date was the charter contract executed? \_\_\_\_\_

11. If the charter is pro rata, has a copy of part 208 of the Civil Aeronautics Board's economic regulations been mailed to or delivered to the prospective charterer? Yes [ ] No [ ]

Part II—To be completed for pro rata or mixed charters only.

Sections A—To be supplied by travel agent, or where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements).

- 1. What specific services have been or will be provided by agent to charterer on a group basis? \_\_\_\_\_
2. What specific services have been or will be provided by agent to individual participants in the proposed charter? \_\_\_\_\_
3. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? Yes [ ] No [ ]
4. Does the agent have any financial interest in any organization rendering services to the chartering organization? Yes [ ] No [ ]. If answer is "yes" explain:

WARRANTY 2

I, \_\_\_\_\_(Name) represent and warrant that I have acted with regard to this

2Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse \* \* \* to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board \* \* \*, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account,

charter operation (except to the extent fully and specifically explained in part II, section A) and will act with regard to such operation in a manner consistent with part 208 of the Board's economic regulations.

(Date) \_\_\_\_\_

(Signature and address of travel agent or, if none, of authorized official of air carrier where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).)

Section B—To be supplied by charterer:

1. Description of chartering organization, including its objective and purposes: \_\_\_\_\_

2. What activities are sponsored by the chartering organization? \_\_\_\_\_

3. When was the organization founded? \_\_\_\_\_

4. Qualification or requirements for membership in organization and membership fee, if any: \_\_\_\_\_

5. Has there been any reference to prospective charter flights in soliciting new members for the charter organization?  
Yes [ ] No [ ]

6. State where a list of members is available for inspection. \_\_\_\_\_

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) Name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and

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. Title 49 U.S.C., 1472(e).

Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., 1001.

telephone number; and (d) date member joined or last renewed a lapsed membership. (NOTE: This is a list of prospective passengers, and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by §208.215 must be attached to the list.)

8. What are requirements for participation in charter? \_\_\_\_\_

9. How were prospective participants for charter solicited (attach any solicitation material)? \_\_\_\_\_

10. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group residing in the same household with the member?  
Yes [ ] No [ ]

11. Will there be any members of the charter organization participating in the charter who will have been members of the organization for a period of less than 6 months prior to flight date?<sup>3</sup> Yes [ ] No [ ]. If answer is "yes," give names of participants who will not have been members for 6 months: \_\_\_\_\_

12. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in part II, section A, submit name, address, remuneration, and scope of activity: \_\_\_\_\_

13. Estimated receipts: \_\_\_\_\_ (Pro rata charge) × \_\_\_\_\_ (No. of passengers) = \$ \_\_\_\_\_ (Estimated receipts from charter).

Estimated receipts from other sources, if any: \_\_\_\_\_

Explain: \_\_\_\_\_

(a) Total receipts. \$ \_\_\_\_\_ Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

Item Amount Payable to

(b) Total expenditures: \$ \_\_\_\_\_ Explain any difference between (a) and (b):

14. Are any of the expenses included in item 13 above, to be paid to any members of \_\_\_\_\_

<sup>3</sup>Not applicable to school charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

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the chartering organization? Yes [ ] No [ ]. If "yes" state how much, to whom and for what services: \_\_\_\_\_

15. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? Yes [ ] No [ ]. If "yes" explain fully: \_\_\_\_\_

16. Will any person in the group (except children under 2 years) be transported without charge? Yes [ ] No [ ]

17. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under 12 years old? Yes [ ] No [ ]

18. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction: \_\_\_\_\_

19. If four or more round trips are contracted for, will each group move as a unit in both directions? Yes [ ] No [ ]

20. If charters have been performed for organization during past 5 years, give dates and name of carrier performing charters:

21. Has a copy of part 208 "Terms, Conditions and Limitations of Certificates to engage in Supplemental Air Transportation," of the economic regulations of the Civil Aeronautics Board been received by the charterer? Yes [ ] No [ ]

22. Attach copies of all announcements of the chartering organization in connection with the charter issued after the charter contract is signed.

WARRANTY OF CHARTERER<sup>4</sup>

I, \_\_\_\_\_ (Name) and \_\_\_\_\_ (Name) represent and warrant that the charterer has acted with regard to this charter operation explained in part II, section B), and will act with regard to such operation, in a manner consistent with part 208 of the Board's Economic Regu-

<sup>4</sup>Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., 1001.

lations. I (we) further represent and warrant that the charterer has not offered charter flights simultaneously with the solicitation of membership in the chartering organization in any mass media advertising or notice or through direct mailing or public posters. I (we) further represent and warrant that all charter participants have been informed of eligibility and cost requirements of part 208 and that a flight may be canceled if ineligible participants are included.

(Date) \_\_\_\_\_

(Signature—person within organization in charge of charter arrangements)

(Signature and title of officer. This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by school official not directly involved in charter.)

WARRANTY OF AIR CARRIER<sup>5</sup>

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts warranted by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with part 208 of the Board's economic regulations.

(Date) \_\_\_\_\_

(Signature and title of authorized official of air carrier)

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined

<sup>5</sup>Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse \* \* \* to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board \* \* \*, or shall, knowingly and willfully, falsify, mutilate, or alter any such 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. (49 U.S.C. 1472(e)).

not more than \$10,000 or imprisoned not more than 5 years, or both. (18 U.S.C. 1001).

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1127, 44 FR 33055, June 8, 1979. Re-designated by ER-1222, 46 FR 28379, May 26, 1981]

## PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

### Subpart A—General

Sec.

211.1 Purpose.

211.2 Applicability.

### Subpart B—General Requirements

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### Subpart C—Information Requirements

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

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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