

§217.11

(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

14 CFR Ch. II (1-1-12 Edition)

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 on BTS Form 41 Schedules T-100 and T-100(f) by the air carrier in operational control of the flight, i.e., the air carrier that uses its flight crew to perform the operation. If there are questions about reporting a joint-service operation, contact the BTS Assistant Director—Airline Information at the address in paragraph (a)(3) of this appendix.

(j) [Reserved]

[53 FR 46294, Nov. 16, 1988, as amended at 54 FR 7183, Feb. 17, 1989; 60 FR 66722, Dec. 26, 1995; 67 FR 49223, July 30, 2002; 75 FR 41583, July 16, 2010]

§217.11 Reporting compliance.

(a) Failure to file reports required by this part will subject an air carrier to civil penalties prescribed in Title 49 United States Code section 46301.

(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.

[53 FR 46294, Nov. 16, 1988, as amended at 67 FR 49223, July 30, 2002]

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

§218.6

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

Subpart A—General

- Sec.
221.1 Applicability of this part.
221.2 Carrier's duty.
221.3 Definitions.
221.4 English language.
221.5 Unauthorized air transportation.

Subpart B—Who Is Authorized To Issue and File Tariffs

- 221.10 Carrier.

14 CFR Ch. II (1–1–12 Edition)

- 221.11 Agent.

Subpart C—Specifications of Tariff Publications

- 221.20 Specifications applicable to tariff publications.

Subpart D—Manner of Filing Tariffs

- 221.30 Passenger fares and charges.
221.31 Rules and regulations governing passenger fares and services.

Subpart E—Contents of Tariff

- 221.40 Specific requirements.
221.41 Routing.

Subpart F—Requirements Applicable to all Statements of Fares and Charges

- 221.50 Currency.
221.51 Territorial application.
221.52 Airport to airport application, accessorial services.
221.53 Proportional fares.
221.54 Fares stated in percentages of other fares; other relationships prohibited.
221.55 Conflicting or duplicating fares prohibited.
221.56 Applicable fare when no through local or joint fares.

Subpart G—Governing Tariffs

- 221.60 When reference to governing tariffs permitted.
221.61 Rules and regulations governing foreign air transportation.
221.62 Explosives and other dangerous or restricted articles.
221.63 Other types of governing tariffs.

Subpart H—Amendment of Tariffs

- 221.70 Who may amend tariffs.
221.71 Requirement of clarity and specificity.
221.72 Reinstating canceled or expired tariff provisions.

Subpart I—Suspension of Tariff Provisions by Department

- 221.80 Effect of suspension by Department.
221.81 Suspension supplement.
221.82 Reissue of matter continued in effect by suspension to be canceled upon termination of suspension.
221.83 Tariff must be amended to make suspended matter effective.
221.84 Cancellation of suspended matter subsequent to date to which suspended.