

### § 372.3

country, or in a U.S. territory or possession, where such U.S. military personnel are stationed, and/or the immediate families of the foregoing persons, where the following conditions are met: (a) All military personnel and civilian employees of the Department of Defense participating in the charter are on official furlough, leave, pass, or other authorized absence from duty, and (b) the transportation is between a place in the 48 contiguous States of the United States or the District of Columbia and a place in Alaska, Hawaii, or a territory or possession of the United States, or a foreign country in which military personnel of the United States are stationed: *Provided, however,* That nothing contained herein shall preclude an overseas military personnel charter operator from utilizing any unused space on an aircraft chartered by it pursuant to this part for the transportation, on a free or reduced-rate basis, of such charter operator's employees, directors, and officers, and the parents and immediate families of such persons, subject to the provisions of part 223 of this chapter.

*Overseas military personnel charter operator* means any citizen of the United States, as defined in section 40102(a)(15) of the Statute authorized hereunder to engage in the formation of overseas military personnel charter groups and who complies with the provisions of this part.

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

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

[SPR-54, 37 FR 11163, June 3, 1972, as amended by SPR-69, 38 FR 14164, May 30, 1973; SPR-109, 41 FR 35158, Aug. 20, 1976; 60 FR 43529, Aug. 22, 1995]

### § 372.3 Waiver.

A waiver of any of the provisions of this regulation may be granted by the Department upon its own initiative, or upon the submission by a charter operator of a written request therefor: *Provided,* That such a waiver is in the public interest and it appears to the Department that special or unusual circumstances warrant a departure from the provisions set forth herein.

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### § 372.4 Enforcement.

In case of any violation of the provisions of the Statute, or this part, or any other rule, regulation, or order issued under the Statute, the violator may be subject to a proceeding pursuant to section 46101 of the Statute before the Department, or sections 46106 through 46108 of the Statute before a U.S. district court, as the case may be, to compel compliance therewith, to civil penalties pursuant to the provisions of section 46301 of the Statute, or in the case of willful violation, to criminal penalties pursuant to the provisions of section 46316 of the Statute; or other lawful sanctions.

[SPR-54, 37 FR 11163, June 3, 1972, as amended at 60 FR 43529, Aug. 22, 1995]

### § 372.5 Suspension or revocation of authority.

The Department reserves the power to suspend the authority of any charter operator, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public, or to revoke such authority for cause.

## Subpart B—Exemption

### § 372.10 Exemption.

Charter operators are hereby relieved from the provisions of section 41102 of the Statute only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to organize and arrange overseas military personnel charters.

[SPR-176, 46 FR 43960, Sept. 2, 1981, as amended at 60 FR 43529, Aug. 22, 1995]

## Subpart C—Conditions and Limitations

### § 372.20 Requirement of operating authorization.

No person shall engage in air transportation as an overseas military personnel charter operator by organizing, providing, selling, or offering to sell, soliciting, or advertising an overseas military personnel charter or charters unless there is in force an operating authorization issued pursuant to

§ 372.31 authorizing such person to engage in such transportation.

[Docket No. 47939, 57 FR 40105, Sept. 2, 1992]

**§ 372.21 Solicitation.**

Solicitation of charter participants through advertising by charter operators shall be restricted to the following:

(a) Radio and television stations operated by the U.S. Armed Forces;

(b) Newspapers, periodicals, or other printed media disseminated and distributed primarily among military personnel or civilian employees of the Department of Defense: *Provided, however,* That any printed advertisement of a charter operator shall include a statement explaining that eligibility for participation in such charters is limited to military servicemen who are stationed outside of the 48 contiguous States and the District of Columbia, and/or U.S. citizen civilian DOD employees who are stationed in a foreign country, or a U.S. territory or possession, where U.S. military personnel are stationed, and their respective immediate families.

**§ 372.22 Discrimination.**

No charter operator shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

**§ 372.23 Methods of competition.**

No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

**§ 372.24 Surety bond, depository agreement, escrow agreement.**

(a) Before selling or offering to sell, soliciting or advertising any charter flight, a charter operator shall comply with one of the three following requirements:

(1) The charter operator shall furnish a surety bond in an amount not less than the maximum fare held out for charter flights proposed to be operated during each calendar month multiplied by 90 percent of the number of available seats on such flights: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the charter operator's applicable tariff fare. Such bond shall be filed with the Department not less than 45 days prior to the commencement of the calendar month covered by the bond together with a list of flights proposed to be operated during the month showing charter price, departure dates, equipment to be used for each flight and the seating capacity: *Provided, however,* That the amount of the bond shall be increased if additional charter flights are proposed or may be reduced if proposed charter flights are canceled, in which event a substitute bond and amended list of proposed flights shall be filed with the Department within 10 days of the date that the charter operator adds flights or cancels flights previously proposed, but in no event later than 2 days prior to the operation of any such additional charter flights; or

(2) The charter operator shall:

(i) Furnish and file with the Department a surety bond in the amount of \$100,000 for the protection of the charter participants: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the charter operator's applicable tariff fare; and

(ii) Enter into an agreement with a bank, the terms of which shall include the following:

(a) Each participant shall pay for his deposit and subsequent payments comprising the charter participant's tariff fare only by check or money order payable to such bank which shall maintain a separate accounting for each flight: *Provided, however,* That if the participant makes a cash deposit, the charter operator who receives such cash deposit shall forthwith remit to the designated bank a check for the full amount of the deposit;

(b) The bank shall not pay the air carrier or foreign air carrier the charter price for the transportation earlier