

reports, except military data, shall be publicly available immediately following the Department's determination that the database is complete, but no earlier than six months after the date of the data. Military operations are reported under service codes N or R. Data for on-flight markets and nonstop segments involving no U.S. points shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months or the end of three years, as applicable, provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data by carrier before the end of the confidentiality period as follows:

(1) To foreign governments as provided in reciprocal arrangements between the foreign country and the U.S. Government for exchange of on-flight market and/or nonstop segment data submitted by air carriers of that foreign country and U.S. carriers serving that foreign country.

(2) To parties to any proceeding before the Department under Title IV of the Federal Aviation Act of 1958, as amended, as required by an Administrative Law Judge or other decision-maker of the Department. Parties may designate agents or consultants to receive the data in their behalf, provided the agents or consultants agree to abide by the disclosure restrictions. Any data to which access is granted pursuant to this provision may be introduced into evidence, subject to the normal rules of admissibility.

(3) To agencies or other components of the U.S. Government for their internal use only.

[Doc. No. OST-98-4043, 67 FR 49230, July 30, 2002]

PART 292—INTERNATIONAL CARGO TRANSPORTATION

Subpart A—General

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AUTHORITY: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

SOURCE: Docket No. 48827, 60 FR 61478, Nov. 30, 1995, unless otherwise noted.

Subpart A—General

§ 292.1 Applicability.

This part applies to direct air carriers providing scheduled transportation of cargo in foreign air transportation.

§ 292.2 Definitions.

For purposes of this part:

Cargo means property other than baggage accompanied or checked by passengers, or mail.

Cargo tariff means a tariff containing rates, charges or provisions governing the application of such rates or charges, or the conditions of service, applicable to the scheduled transportation of cargo in foreign air transportation.

Direct air carrier means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, exemption or permit issued by the Department or its predecessor, the Civil Aeronautics Board.

Subpart B—Exemption From Filing Tariffs

§ 292.10 Exemption.

Direct air carriers are exempted from the requirement to file cargo tariffs with the Department of Transportation provided in 49 U.S.C. 41504 and 14 CFR Part 221.

§ 292.11 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in

whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in an order issued by the Assistant Secretary for Aviation and International Affairs, and will identify:

- (1) The tariff matter to be filed; and
- (2) The deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's regulations for the tariff material to be filed, unless otherwise specified by Department order.

Subpart C—Effect of Exemption

§ 292.20 Rule of construction.

Carriers holding an effective exemption from the duty to file tariffs under this part shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, *except* as provided in § 292.21 of this part.

§ 292.21 Incorporation of contract terms by reference.

(a) Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.* without stating their full text) into the waybill or other document embodying the contract of carriage for the scheduled transportation of cargo in foreign air transportation, *provided that*:

(1) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.177(a)(1), (a)(2), (a)(4), (b), (c) and (d) are complied with, to the extent applicable, except that the notice required under 14 CFR 221.177(b)(1) shall refer to the title or general nature of the publication(s) or document(s) containing the full text of the referenced terms rather than to "terms and conditions filed in public tariffs with U.S. authorities";

(b) In addition to other remedies at law, a carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any contract term which

is incorporated by reference under this part unless the requirements of paragraph (a)(1) of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for the scheduled transportation of cargo in foreign air transportation.

§ 292.22 Effectiveness of tariffs on file.

(a) Cargo rate tariffs on file with the Department, including related classification and/or applicability rules, cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, as well as under the provisions of 14 CFR Part 221, and they are canceled by operation of law.

(b) As of March 1, 1996, all remaining cargo tariffs on file with the Department cease to be effective as tariffs under 49 U.S.C. 41504 and the provisions of 14 CFR part 221, and are cancelled by operation of law. Any such tariffs may be cancelled voluntarily prior to that date. With respect to terms expressly agreed in the contract of carriage, carriers, agents and other persons are relieved from the requirement of adherence to filed tariffs in 49 U.S.C. 41510 and the related provisions of 14 CFR part 221 as of November 30, 1995.

(c) Applications for filing and/or effectiveness of any cargo tariffs pending on November 30, 1995 are dismissed by operation of law. No new filings or applications will be permitted except as provided under § 292.11.

PART 293—INTERNATIONAL PASSENGER TRANSPORTATION

Subpart A—General

- Sec.
293.1 Applicability.
293.2 Definitions.

Subpart B—Exemption From Filing of Tariffs

- 293.10 Exemption.
293.11 Required statement.
293.12 Revocation of exemption.

Subpart C—Effect of Exemption

- 293.20 Rule of construction.