

(c) It fails to file the reports required by this part;

(d) A substantial ownership or control interest is acquired by persons who are not citizens of the country of citizenship of the registrant;

(e) There is a failure of effective reciprocity; or

(f) The Department finds that it is in the public interest to do so.

[ER-1159, 44 FR 69635, Dec. 4, 1979, as amended by ER-1294, 47 FR 19685, May 7, 1982]

Subpart D—General Rules for Foreign Indirect Air Carriers

§ 297.30 Public disclosure of cargo liability insurance.

Every foreign air freight forwarder shall give notice in writing to the shipper, when any shipment is accepted, of the limits of its cargo liability insurance, or of the absence of such insurance, and the limits of its liability, if any. The notice shall be included clearly and conspicuously on all of its rate sheets and airwaybills, and on any other documentation that is given to a shipper at the time of acceptance of the shipment.

§ 297.31 Preparation of airwaybills and manifests.

(a) Each registered foreign indirect air carrier shall prepare an accurate airwaybill describing completely all services rendered to or on behalf of the shipper, including the conditions under which the contract will be completed, in its capacity as a foreign indirect air carrier. A copy of the airwaybill shall be given to the consignor and to the consignee.

(b) Each registered foreign indirect air carrier shall prepare an accurate manifest showing every individual shipment included in each shipment consigned for transportation to a direct air carrier.

(c) A waiver of paragraph (a) of this section may be granted by the Department upon a written application by the foreign indirect air carrier not less than 30 days before the shipment to which it relates is transported, if the waiver is in the public interest, and is warranted by special or unusual circumstances.

Subpart E [Reserved]

Subpart F—Violations

§ 297.50 Enforcement.

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

[ER-1159, 44 FR 69635, Dec. 4, 1979, as amended at 60 FR 43527, Aug. 22, 1995]

PART 298—EXEMPTIONS FOR AIR TAXI AND COMMUTER AIR CARRIER OPERATIONS

Subpart A—General

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Subpart G [Reserved]**Subpart H—Violations**

- 298.80 Enforcement.

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

SOURCE: ER-929, 40 FR 42855, Sept. 17, 1975, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 298 appear at 57 FR 40103, Sept. 2, 1992.

Subpart A—General**§ 298.1 Applicability of part.**

This part establishes a classification of air carriers known as “air taxi operators,” provides certain exemptions to them from some of the economic regulatory provisions of Subtitle VII of Title 49 of the United States Code (Transportation) and specifies procedures by which such air carriers may obtain authority to conduct operations, and establishes rules applicable to their operations in interstate and/or foreign air transportation in all States, Territories and possessions of the United States. This part also establishes reporting requirements for commuter air carriers and small certificated air carriers.

[ER-1399, 50 FR 19, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 298.2 Definitions.

As used in this part:

(a) *Air taxi operator* means an air carrier coming within the classification of *air taxi operators* established by § 298.3.

(b) *Air Transportation* means interstate air transportation, foreign air transportation, or the transportation of mail by aircraft as defined by the Statute.¹

(c) *Aircraft-hours* means the airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight stage.

(d) *Aircraft miles* means the miles (computed in airport-to-airport distances) for each flight stage actually completed, whether or not performed in accordance with the scheduled pattern.

¹“Interstate air transportation” is defined in section 40102(a)(25) as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft (1) between a place in (i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States; (ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii; (iii) the District of Columbia and another place in the District of Columbia; or (iv) a territory or possession of the United States and another place in the same territory or possession; and (2) when any part of the transportation is by aircraft. NOTE: Operations wholly within the geographic limits of a single State are not considered “interstate air transportation” if in those operations the carrier transports no more than a *de minimus* volume of passengers or property moving as part of a continuous journey to or from a point outside the State.

“Foreign air transportation” is defined in section 40102(a)(23) of the Statute as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

Air transportation also is defined to include “the transportation of mail by aircraft.” Section 5402 of the Postal Reorganization Act, 39 U.S.C. 5402, authorizes the carriage of mail by air taxi operators in some circumstances under contract with the Postal Service.

(d-1) *All-cargo air carrier or section 41103 carrier* means an air carrier holding an all-cargo air transportation certificate issued under section 41103 of the Statute authorizing the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(d-2) *Certificated carrier* means an air carrier holding a certificate issued under section 41102 of the Statute.

(e) *Commuter air carrier* means an air taxi operator that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

(f) *Departure* means takeoff from an airport.

(g) *Flight stage* means the operation of an aircraft from takeoff to landing.

(h) *Large aircraft* means any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(i) *Maximum certificated takeoff weight* means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate.²

(j) *Maximum passenger capacity* means the maximum number of passenger seats for which an aircraft is configured.

(k) *Maximum payload capacity* means the maximum certificated take-off weight of an aircraft, less the empty weight,³ less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for the weight of the crew, oil, and fuel is as follows:

²This weight may be found in the airplane operating record or in the airplane flight manual which is incorporated by regulation into the airworthiness certificate.

³Empty weight is defined in section 03 of part 241 as follows: *the weight of the airframe, engines, propellers, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.*

(1) Crew—200 pounds per crew member required under FAA regulations,

(2) Oil—350 pounds,

(3) Fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart,⁴

Provided, however, That in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA,⁵ maximum payload capacity means the maximum zero fuel weight, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(1) *Mile* means a statute mile, i.e., 5,280 feet.

(m) *On-line origin-destination* means the points at which a passenger enters and leaves the system of an air carrier on a one-way trip or on each of the directional parts of a round, circle, or open-jaw trip, ignoring intermediate points of intra-line transfer.

(n) *Passengers carried* means passengers on board each flight stage.

(o) *Point* when used in connection with any territory or possession of the United States, or the States of Alaska and Hawaii, means any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place; when used in connection with the continental United States, except Alaska, it shall have the same meaning except be limited to the area within a 3-mile radius of such airport or place: *Provided,* That for the purposes of this part, West 30th Street Heliport and Pan Am Building Heliport, both located in New York City, shall be regarded as separate points.

(p) *Revenue passenger-mile* means one revenue passenger transported one mile. Revenue passenger-miles are computed by multiplying the aircraft miles flown on each flight stage by the

⁴Assumes VFR weather conditions and flights not involving extended overwater operations.

⁵The maximum zero fuel weight is the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in the FAA's type certificate data sheets, and/or in FAA-approved flight manuals.

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number of revenue passengers carried on that flight stage.

(q) *Revenue seat-miles available* means the aircraft-miles flown on each flight stage multiplied by the number of seats available for sale on that flight stage.

(r) *Revenue ton-mile* means one ton of revenue traffic transported one mile. Revenue ton-miles are computed by multiplying the aircraft-miles flown on each flight stage by the number of pounds of revenue traffic carried on that flight stage and converted to ton-miles by dividing total revenue pound-miles by 2,000 pounds.

(s) *Revenue ton-miles available* means the aircraft-miles flown on each flight stage multiplied by the number of pounds of aircraft capacity available for use on that stage and converted to ton-miles by dividing total pound-miles available by 2,000 pounds.

(t) *Scheduled service* means transport service operated over routes pursuant to published flight schedules or pursuant to mail contracts with the U.S. Postal Service.

(u) *Small aircraft* means any aircraft that is not a large aircraft, as defined in this section.

(v) *Ton* means a short ton, i.e., 2,000 pounds.

(w) *Small certificated air carrier* means an air carrier holding a certificate issued under section 41102 of the Statute that provides scheduled passenger air service within and between only the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands with small aircraft as defined in this section.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by ER-957, 41 FR 28512, July 12, 1976; ER-1039, 43 FR 1490, Jan. 10, 1978; ER-1123, 44 FR 30083, May 24, 1979; ER-1251, 46 FR 51374, Oct. 20, 1981; ER-1251, 46 FR 53023, Oct. 28, 1981; ER-1278, 47 FR 608, Jan. 6, 1982; ER-1289, 47 FR 12949, Mar. 26, 1982; ER-1399, 50 FR 19, Jan. 2, 1985; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, 43528, Aug. 22, 1995]

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated as "air taxi operators," which directly engage in the air transportation of persons or property or mail or in any com-

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bination of such transportation and which:

(1) Except as provided in § 298.5, do not directly or indirectly utilize large aircraft in air transportation;

(2) Except as provided in § 298.5, do not hold a certificate of public convenience and necessity or economic authority issued by the Department or the CAB other than that provided by this part;

(3) Have registered with the Department in accordance with subpart C of this part;

(4) Have and maintain in effect liability insurance coverage in compliance with the requirements set forth in part 205 of this chapter and have and maintain a current certificate of insurance evidencing such coverage on file with the Department; and

(5) If operating as a commuter air carrier or in foreign air transportation or participating in an interline agreement, have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523 or OST Form 4506) and comply with all other requirements of part 203 of this chapter.

(b) Except as provided in § 298.5, a person who does not observe the conditions set forth in paragraph (a) of this section shall not be an air taxi operator or commuter air carrier within the meaning of this part with respect to any operations conducted while such conditions are not being observed, and during such periods is not entitled to any of the exemptions set forth in this part.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by ER-1039, 43 FR 1490, Jan. 10, 1978; ER-1213, 46 FR 12478, Feb. 17, 1981; ER-1333, 48 FR 8051, Feb. 25, 1983; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.4 Requests for statement of authority.

In any instance where an air taxi operator or commuter air carrier is required by a foreign government to produce evidence of its authority to engage in foreign air transportation under the laws of the United States, the Director, Office of Aviation Analysis will, upon request, furnish the carrier with a written statement, outlining its general operating privileges

under this part for presentation to the proper authorities of the foreign government.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.5 Dual operations—air taxi or commuter air carrier and all-cargo air service.

Any person having or obtaining authority to operate as an all-cargo air service carrier shall not thereby lose, or be disqualified from obtaining, authority under this part to engage also in operations as an air taxi operator or commuter air carrier, regardless of the size of aircraft utilized in such all-cargo air service operations. The operations which such person conducts as an air taxi operator or commuter air carrier shall be subject to the conditions and entitled to the exemptions set forth in this part, and the operations which he conducts as an all-cargo air service carrier shall be subject to the conditions and entitled to the exemptions set forth in part 291 of this chapter.

[ER-1039, 43 FR 1490, Jan. 10, 1978, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart B—Exemptions

§ 298.11 Exemption authority.

Air taxi operators and commuter air carriers are hereby relieved from the following provisions of the Statute only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to conduct air taxi or commuter air carrier operations:

(a) Section 41101;

(b) Section 41504; except that the requirements of that section shall apply to: (1) Tariffs for through rates, fares, and charges filed jointly by air taxi operators or commuter air carriers with air carriers or with foreign air carriers subject to the tariff-filing requirements of Chapter 415; and (2) Tariffs required to be filed by air taxi operators or commuter air carriers which embody the provisions of the counterpart to Agreement 18900 as specified in part 203 of this chapter;

(c) Section 41702, except for the requirements that air taxi operators and commuter air carriers shall:

(1) Provide safe service, equipment, and facilities in connection with air transportation;

(2) Provide adequate service insofar as that requires them to comply with parts 252 and 382 of this chapter;

(3) Observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations and practices as provided in tariffs filed jointly by air taxi operators or commuter air carriers with certificated air carriers or with foreign air carriers; and

(4) Establish just, reasonable, and equitable divisions of such joint rates, fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers;

(d) Section 41310, except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators or commuter air carriers with certificated air carriers or with foreign air carriers and to transportation of the handicapped to the extent that that is required by part 382 of this chapter;

(e) Section 41902;

(f) Section 41708.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by ER-1251, 46 FR 51374, Oct. 20, 1981; ER-1278, 47 FR 608, Jan. 6, 1982; ER-1295, 47 FR 25936, June 16, 1982; ER-1389, 50 FR 31142, July 31, 1985; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.12 [Reserved]

§ 298.13 Duration of exemption.

The exemption from any provision of the Statute provided by this part shall continue in effect only until such time as the Department shall find that enforcement of that provision would be in the public interest, at which time the exemption shall terminate or be conditioned with respect to the person, class of persons, or service (*e.g.*, limited-entry foreign air transportation market) subject to the finding.

[ER-1278, 47 FR 608, Jan. 6, 1982, as amended at 60 FR 43528, Aug. 22, 1995]

Subpart C—Registration and Reregistration for Exemption

§ 298.21 Filing for registration by air taxi operators and commuter air carriers.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who plans to commence operations under this part shall register with the Department not later than 30 days prior to the commencement of such operations, unless, upon a showing of good cause satisfactory to the Director, Office of Aviation Analysis, registration within a lesser period of time is allowed.

(b) The registration of an air taxi operator or commuter air carrier shall remain in effect until it is amended by the carrier or canceled by the Department.

(c) Registration by all commuter air carriers, and by those air taxi operators with a mailing address in any U.S. State or Territory except Alaska, shall be accomplished by filing with the Department's Office of Aviation Analysis (or with the Department's Alaska Aviation Field Office, 222 West Seventh Street, Box 27, Anchorage, Alaska 99513, for air taxi operators that are not also commuter air carriers and that have a mailing address in the State of Alaska) the following:

(1) OST Form 4507, executed in duplicate.⁶ This form shall be certified by a responsible official and shall include the following information:

(i) The name of the carrier and its mailing address;

(ii) The carrier's principal place of business, if different from its mailing address, and its area code and telephone number;

(iii) The carrier's FAA certificate number, if any, and the address and

telephone number of the carrier's local FAA office;

(iv) The type of service the carrier will offer (scheduled passenger, scheduled cargo, mail under a U.S. Postal Service contract, on-demand passenger, on-demand cargo, or other service such as air ambulance operations, firefighting or seasonal operations);

(v) A list of the aircraft that the carrier proposes to operate, or, in the case of an amendment to the registration, the aircraft that it is currently operating in its air taxi or commuter air carrier operations, and the aircraft type, FAA registration number and passenger capacity of each aircraft;

(vi) For initial registration, the proposed date of commencement of air taxi or commuter air carrier operations;

(vii) For amendments, whether the carrier has carried passengers in foreign air transportation during the previous 12 months;

(viii) Whether the carrier is a U.S. citizen;

(2) A certificate of insurance which is currently effective (or in case of initial registration, is to become effective), as defined in part 205 of this chapter;

(3) An 8 (in the case of commuters, 670) dollar registration filing fee in the form of a check, draft, or postal money order payable to the Department of Transportation.

(4) For air taxi operators that (i) are commuter air carriers, (ii) engage in foreign air transportation, or (iii) participate in an interline agreement, a signed counterpart of Agreement 18900 (OST Form 4523), which may be the revised registration form (OST Form 4507), as required by part 203 of this chapter. These forms can be obtained from the Office of Aviation Analysis, Special Authorities Division.

(d) No air taxi operator shall provide scheduled passenger service as a commuter air carrier at an eligible place unless it has registered with the Department as a commuter air carrier and has been found by the Department

⁶OST Form 4507 is filed as part of the original document and can be obtained from the Office of Aviation Analysis, Special Authorities Division.

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to be fit, willing, and able to conduct such service.

(The reporting requirements contained in paragraph (c)(2) were approved by the Office of Management and Budget under control number 3024-0007. The reporting requirements contained in paragraph (c)(1) were approved under control number 3024-0008. The reporting requirements contained in paragraph (c)(4) were approved under control number 3024-0064.)

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by ER-954, 41 FR 25890, June 23, 1976; 41 FR 27314, July 2, 1976; 41 FR 28786, July 13, 1976; ER-1208, 46 FR 8444, Jan. 27, 1981; ER-1213, 46 FR 12478, Feb. 17, 1981; ER-1318, 48 FR 3718, Jan. 27, 1983; ER-1333, 48 FR 8051, Feb. 25, 1983; 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.22 Processing by the Department.

After examination of the Form 298-A submitted by the carrier, the Department will stamp the effective date of the registration on the form and return the duplicate copy to the carrier to confirm that it has registered with the Department as required by this part. The effective date of the registration shall not be earlier than the effective date of the insurance policy or policies named in the certificate of insurance filed by the carrier under § 298.21(c)(2).

[ER-1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992]

§ 298.23 Notifications to the Department of change in operations.

(a) An air taxi operator or commuter air carrier shall submit an amendment to its registration not later than 30 days after any of the following events:

- (1) A change in its name or address;
- (2) A change in its type of operations (passenger, cargo, mail, scheduled, etc.);
- (3) A temporary or permanent cessation of its operations; or
- (4) A change in the type of aircraft operated.

(b) An amendment shall be made by resubmitting OST Form 4507 to the Department's Office of Aviation Analysis. If the air taxi operator has a mailing address in the State of Alaska, the form shall be mailed to the Department's Alaska Aviation Field Office,

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222 West Seventh Avenue, Box 27, Anchorage, Alaska 99513.

(The reporting requirements in paragraph (b) were approved by the Office of Management and Budget under control number 3024-0008.)

[ER-1213, 46 FR 12478, Feb. 17, 1981, as amended at 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992]

§ 298.24 Cancellation of the registration.

The registration of an air taxi operator or commuter air carrier may be canceled by the Department if any of the following occur:

- (a) The operator notifies the Department that it is ceasing operations;
- (b) The operator's insurance coverage changes or lapses;
- (c) The operator fails to file an amended registration when required by § 298.23;
- (d) The operator's operating authorization is revoked by the Federal Aviation Administration;
- (e) In the case of a commuter air carrier, the Department finds that the carrier is not fit, willing, and able to conduct scheduled service.

[ER-1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart D—Limitations and Conditions on Exemptions and Operations

§ 298.30 Public disclosure of policy on consumer protection.

(a) Every air taxi and commuter air carrier shall cause to be displayed continuously in a conspicuous public place at each desk, station and position in the United States that is in charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by it to sell tickets to passengers, a sign located so as to be clearly visible and readable to the traveling public, containing a statement setting forth the air taxi and commuter air carrier's policy on baggage liability and denied boarding compensation.

(b) An air taxi or commuter air carrier shall provide a written notice on or with a passenger's ticket concerning baggage liability as provided in § 254.5

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of this chapter. These ticket notices are required only for passengers whose ticket includes a flight segment that uses large aircraft (more than 60 seats).

(c) If the substantive terms of the counter sign and ticket notice required by this section differ, the terms contained in the required ticket notice govern.

(Approved by the Office of Management and Budget under control number 3024-0074)

[ER-1378, 49 FR 14086, Apr. 10, 1984, as amended at 49 FR 28240, July 11, 1984; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators and commuter air carriers that register with the Department extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

[ER-1213, 46 FR 12478, Feb. 17, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§§ 298.32-298.34 [Reserved]

§ 298.35 Limitations on carriage of mail.

An air taxi operator or commuter air carrier is not authorized to carry mail except pursuant to contract with the Postal Service entered into pursuant to section 5402 of the Postal Reorganization Act (39 U.S.C. 5402).

[Docket No. 47939, 57 FR 40104, Sept. 2, 1992]

§ 298.36 Limitation on use of business name.

(a) An air taxi operator or commuter air carrier in holding out to the public and in performing its services in air transportation shall do so only in the name or names in which its air carrier certificate is issued pursuant to section 44702 of the Statute by the Federal Aviation Administration, and in which

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it is registered with the Department under this part.

(b) Slogans shall not be considered names for the purposes of this section, and their use is not restricted hereby.

(c) Commuter air carriers are subject to the provisions of part 215 of this chapter with regard to the use and change of air carrier names.

(d) Neither the provisions of this section nor the grant of a permission hereunder shall be deemed to constitute a finding for purposes other than for this section, or to effect a waiver of, or exemption from, any provisions of the Act or orders, rules or regulations issued thereunder.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended at 53 FR 17924, May 19, 1988; Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992; 60 FR 43528, Aug. 22, 1995]

§ 298.37 Prohibition of services not covered by insurance.

An air taxi operator or commuter air carrier shall not operate in air transportation or provide or offer to provide air transportation unless there is in effect liability insurance which covers such transportation and which is evidenced by a current certificate of insurance on file with the Department as required by part 205 of this chapter.

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended by Docket No. 47939, 57 FR 40103, 40104, Sept. 2, 1992]

§ 298.38 Security arrangements for operating Public Charters.

When an air taxi operator or commuter air carrier performs a Public Charter under part 380 of this chapter, either:

(a) The air taxi operator or commuter air carrier shall meet the bonding or escrow requirements applicable to certificated carriers as set forth in § 207.17 of this chapter; or

(b) The air taxi operator or commuter air carrier shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall retain control of and responsibility for all participant funds intended for payment for

air transportation until after the charter has been completed, notwithstanding any provision of part 380.

[ER-1140, 44 FR 49444, Aug. 23, 1979, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

Subpart E [Reserved]

Subpart F—Reporting Requirements

§ 298.60 General reporting instructions.

(a) Each commuter air carrier and each small certificated air carrier shall file with the Department's Bureau of Transportation Statistics (BTS) the applicable schedules of BTS Form 298-C "Report of Financial and Operating Statistics for Small Aircraft Operators" as required in this section.

(b) A single copy of the BTS Form 298-C report be filed quarterly with the Office of Airline Information for the periods ended March 31, June 30, September 30 and December 31 of each year to be received on or before May 10, August 10, and February 10, respectively. Due dates falling on a Saturday, Sunday or national holiday will become effective on the first following working day.

(c) All reports should be addressed as follows: Office of Airline Information, K-25, Room 4125, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

(d) All information included in BTS Form 298-C schedules shall be typed or neatly printed.

(e) BTS Form 298-C schedules can be obtained from the above address or by telephone (202) 366-9059.

[ER-1399, 50 FR 19, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.61 Reporting of traffic statistics for scheduled passenger operations.

(a) Each commuter air carrier and each small certificated air carrier shall file BTS Form 298-C, Schedule A-1, "Report of Flight and Traffic Statistics in Scheduled Passenger Operations" and Schedule T-1, "Report of Revenue Traffic by On-Line Origin and Destination."

(b) Schedules A-1 and T-1 shall be filed quarterly as set forth in § 298.60.

(c) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(d) The information included in this report shall pertain only to flights performed in scheduled passenger service during the quarter for which the report is filed.

(e) Schedule A-1 shall be used to report the total flight and traffic statistics in scheduled passenger operations by commuter air carriers and small certificated air carriers. These statistics should cover only scheduled passenger services and should be compiled in accordance with the instructions below. All statistics shall be reported in whole numbers; do not use decimals.

(f) Schedule T-1 shall show the total on-line origin and destination traffic in scheduled passenger services for the period as follows:

(1) Each pair of origin and destination airports shall appear only once, *i.e.*, no entry shall have the same origin and destination airports as another entry. For example, DAL-HOU and HOU-DAL would each appear once, but either DAL or HOU could reappear with any other point.

(2) The origin and destination data shall be for the on-line movement of traffic rather than for flight stages or flight origin and destination. For example, if a flight operates from A to B to C with 5 passengers enplaning at A, 1 deplaning and 2 enplaning at B, and 6 deplaning at C, the applicable passenger data would be reported as follows:

Origin airport	Destination airport	Number of passengers
A	B	1
A	C	4
B	C	2

(3) Only the ultimate origins and destinations of the traffic moving on the reporting carrier's system shall be reported. Using the example given above, the traffic report would remain the same, even if the carrier operated one flight from A to B and a different flight from B to C, as long as the passengers' on-line origins and destinations remained the same.

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(4) Only one grand total shall be shown in the space provided after the final traffic entry. Do not use sub-totals.

(5) Columns (1) and (2) shall show the airport codes for the movement of traffic from the point of origin to the point of destination. Carriers shall use the airport codes in the *Official Airline Guide* (OAG). If an airport cannot be found in the OAG, the carrier shall, until otherwise instructed by the Department, insert its own code for the airport in column (1) or (2) followed by an asterisk, and shall identify the airport and its location in the space provided.

(6) Column (3) shall show the total number of revenue passengers transported from the point of on-line origin to the point of on-line destination.

(7) Columns (4) and (5) shall be completed only by intra-Alaskan carriers, and shall reflect the total pounds of cargo and pounds of mail, respectively, transported from the point of on-line origin to the point of on-line destination.

(g) The information requested in BTS Form 298-C may be submitted on any comparable form prepared on automatic data processing equipment if the substitute form has been approved by the Director, Office of Airline Information, Department of Transportation, Washington, D.C. 20590. Data in any approved format shall contain the same column headings arranged in the same sequence as in RSPA Form 298-C.

(h) Commuter air carriers serving or proposing to serve an eligible point shall comply with the applicable requirements in part 204 of this chapter.

(Approved by the Office of Management and Budget under control number 2138-0009)

[ER-1148, 44 FR 51799, Sept. 5, 1979, as amended by ER-1208, 46 FR 8444, Jan. 17, 1981; ER-1289, 47 FR 12949, Mar. 26, 1982; 49 FR 28240, July 11, 1984; ER-1399, 50 FR 19, Jan. 2, 1985; Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.62 Reporting of financial data.

(a) Each commuter air carrier and each small certificated air carrier shall file BTS Form 298-C, Schedule F-1 "Report of Financial Data." This report shall be filed quarterly as set forth in § 298.60 of this part.

(b) Each carrier shall indicate in the space provided, its full corporate name and the quarter for which the report is filed.

(c) This schedule shall be used to report financial data for the overall or system operations of the carrier. At the option of the carrier, the data may be reported in whole dollars by dropping the cents. Financial data shall be reported in the following categories:

(1) Line 1 "Total Operating Revenues" shall include gross revenues accruing from services ordinarily associated with air transportation and air transportation-related services. This category shall include revenue derived from scheduled service operations, revenue derived from nonscheduled service operations, amounts of compensation paid to the carrier under section 41732 of the Statute and other transport-related revenue such as in-flight sales, restaurant and food service (ground), rental of property or equipment, limousine service, cargo pick-up and delivery charges, and fixed-base operations involving the selling or servicing of aircraft, flying instructions, charter flights, etc.

(2) Line 2 "Total Operating Expenses" shall include expenses of a character usually and ordinarily incurred in the performance of air transportation and air transportation services. This category shall include expenses incurred: directly in the in-flight operation of aircraft; in the holding of aircraft and aircraft personnel in readiness for assignment to an in-flight status; on the ground in controlling and protecting the in-flight movement of aircraft; landing, handling or servicing aircraft on the ground; selling transportation; servicing and handling traffic; promoting the development of traffic; and administering operations generally. This category shall also include expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation, all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services, all expenses associated with the transport-related revenues included on line 1 of this schedule, and all other expenses not specifically

mentioned which are related to transport operations. Interest expense and other nonoperating expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services shall not be included in this category.

(3) Line 3 "Net Income or (Loss)" shall reflect all operating and nonoperating items of profit and loss recognized during the period except for prior period adjustments.

(4) Line 4 "Passenger Revenues-Scheduled Service" shall include revenue generated from the transportation of passengers between pairs of points which are served on a regularly scheduled basis.

(d) Data reported on this form shall be withheld from public release for a period of 3 years after the close of the calendar quarter to which the report relates. Individual carrier financial data withheld from public disclosure may be disclosed by the Department to:

(1) Parties to any proceeding before the Department to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Department;

(2) Such persons and in such circumstances as the Department determines to be in the public interest or consistent with its regulatory functions and responsibilities; and

(3) Agencies and other components of the Federal Government for their internal use only. Aggregate data that does not identify individual carriers may be released prior to the aforementioned time.

[ER-1399, 50 FR 20, Jan. 2, 1985, as amended by 53 FR 48528, Dec. 1, 1988; 60 FR 43528, Aug. 22, 1995; 60 FR 66726, Dec. 26, 1995]

§ 298.63 Reporting of aircraft operating expenses and related statistics by small certificated air carriers.

(a) Each small certificated air carrier shall file BTS Form 298-C, Schedule F-2 "Report of Aircraft Operating Expenses and Related Statistics." This schedule shall be filed quarterly as prescribed in § 298.60. Data reported on this

report shall be for the overall or system operations of the air carrier.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) This schedule shall show the direct and indirect expenses incurred in aircraft operations. Direct expense data applicable to each aircraft type operated by the carrier shall be reported in separate columns of this schedule. Each aircraft type reported shall be identified at the head of each column in the space provided for "Aircraft Type." "Aircraft Type" refers to aircraft models such as Beech-18, Piper PA-32, etc. Aircraft Type designations are prescribed in the *Accounting and Reporting Directives*, which is available from the BTS' Office of Airline Information. In the space provided for "Aircraft Code" carriers shall insert the three digit code prescribed in the *Accounting and Reporting Directives* for the reported aircraft type. (NOTE: Aircraft of the same type but different cabin configuration may be grouped into a single classification; therefore, carriers are not required to report the fourth digit of an aircraft code indicating cabin configuration.)

(d) Line 1 Direct aircraft operating expenses shall be reported in the following categories:

(1) Line 2 "Flying Operations (Less Rental)" shall be subdivided as follows:

(i) Line 3 "Pilot and Copilot" expense shall include pilots' and copilots' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(ii) Line 4 "Aircraft Fuel and Oil" expense shall include the cost of fuel and oil used in flight operations and non-refundable aircraft fuel and oil taxes.

(iii) Line 5 "Other" expenses shall include general (hull) insurance, and all other expenses incurred in the in-flight operation of aircraft and holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status, which are not provided for otherwise on this schedule.

(2) Line 6 "Total Flying Operations (Less Rentals)" shall equal the sum of lines 3, 4 and 5.

(3) Line 7 "Maintenance-Flight Equipment" shall include the cost of

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labor, material and related overhead expended by the carrier to maintain flight equipment, general services purchased for flight equipment maintenance from associated or other outside companies, and provisions for flight equipment overhauls.

(4) Line 8 "Depreciation and Rental-Flight Equipment" expense shall include depreciation of flight equipment, amortization of capitalized leases for flight equipment, provision for obsolescence and deterioration of spare parts, and rental expense of flight equipment.

(5) Line 9 "Total Direct Expense" shall equal the sum of lines 6, 7 and 8.

(e) Line 10 Indirect aircraft operating expenses shall be reported only in total for all aircraft types and shall be segregated according to the following categories:

(1) Line 11 "Flight Attendant Expense" shall include flight attendants' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(2) Line 12 "Traffic Related Expense" shall include traffic solicitor salaries, traffic commissions, passenger food expense, traffic liability insurance, advertising and other promotion and publicity expenses, and the fringe benefit expenses related to all salaries in this classification.

(3) Line 13 "Departure Related (Station) Expense" shall include aircraft and traffic handling salaries, landing fees, clearance, customs and duties, related fringe benefit expenses and maintenance and depreciation on ground property and equipment.

(4) Line 14 "Capacity Related Expense" shall include salaries and fringe benefits for general management personnel, recordkeeping and statistical personnel, lawyers and law clerks, and purchasing personnel; legal fees and expenses; stationery; printing; uncollectible accounts; insurance purchased-general; memberships; corporate and fiscal expenses; and all other expenses which cannot be identified or allocated to some other specifically identified indirect cost category.

(f) Line 15 "Total Indirect Expense" shall equal the sum of lines 11, 12, 13 and 14.

(g) Line 16 "Total Operating Expense" shall equal the sum of lines 9 and 15.

(h) Line 17 "Total Block Hours (Revenue Service)" shall be computed from the time an aircraft first moves under its own power for the purposes of flight in revenue service until it comes to rest at the next point of landing. Data shall be reported by individual aircraft type and total.

(i) Line 18 "Total Departures (Revenue Service)" shall include total take-offs in revenue service by individual aircraft type and total.

(j) Line 19 "Total Gallons of Fuel Issued" shall include the gallons of fuel used in flight operations related to fuel cost reported in total and by aircraft type on Line 4.

[ER-1399, 50 FR 20, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.64 Reporting of nonscheduled passenger enplanements by small certificated air carriers.

(a) Each small certificated air carrier shall file BTS Form 298-C, Schedule E-1 "Report of Nonscheduled Passenger Enplanements by Small Certificated Air Carriers." This schedule shall be filed quarterly as prescribed in § 298.60.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) Enplaned passenger data shall be provided for each airport served in nonscheduled service. Nonscheduled service includes charter flights and other transportation services not constituting an integral part of services performed pursuant to published flight schedules, but does not include flights performed as extra sections to published flight schedules.

(d) In column 1, carriers shall report the full name of each airport served in nonscheduled service.

(e) In column 2, carriers shall report the three-letter airport code found in the "Official Airline Guide" (OAG). If the OAG contains no three-letter code for a point served by the carrier, a three-letter code will be provided by the BTS' Office of Airline Information upon request.

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(f) In column 3, carriers shall report the total nonscheduled passengers enplaned at each airport reported in column 1. This column shall be totaled.

[ER-1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.65 Requests for extensions of time within which to file reports or for waivers from reporting requirements.

(a) If circumstances prevent the filing of BTS Form 298-C on or before the due date, a written request for an extension may be submitted. Except in cases of emergency, the request must be delivered to the BTS's Office of Airline Information in writing at least three days in advance of the due date. The request must state good and sufficient reason to justify the granting of the extension and the date when the reports can be filed. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(b) The Office of Airline Information may waive any reporting requirements contained in § 298.61, § 298.62, § 298.63 and § 298.64 of this part, upon its own initiative or upon written request from any air carrier if the waiver is in the public interest and the request demonstrates that:

(1) Unusual circumstances warrant such a departure;

(2) A specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal; and

(3) The application of the alternative procedure will maintain or improve uniformity in reporting between air carriers.

[ER-1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

§ 298.66 Reporting exemption for State collection of data.

(a) The Office of Airline Information may exempt a commuter air carrier from the reporting requirements of § 298.61 of this part if a State government collects the information specified in that section and provides it to the Department by the dates specified. The data provided to the Department in this manner must be at least as reliable as if they were collected by the Department directly.

(b) The Office of Airline Information will provide assistance to any State agency interested in participating in this exemption program.

[ER-1399, 50 FR 21, Jan. 2, 1985, as amended by Docket No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

Subpart G [Reserved]

Subpart H—Violations

§ 298.80 Enforcement.

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

[ER-929, 40 FR 42855, Sept. 17, 1975, as amended at 60 FR 43528, Aug. 22, 1995]