

### § 203.3

298 of this chapter that (a) are not commuter air carriers, (b) do not participate in interline agreements, and (c) do not engage in foreign air transportation.

#### **§ 203.3 Filing requirements for adherence to Montreal Agreement.**

All direct U.S. and foreign air carriers shall have and maintain in effect and on file in the Department's Documentary Services Division (Docket 17325) on OST Form 4523 a signed counterpart to Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and Hague Protocol approved by CAB Order E-23680, dated May 13, 1966 (the Montreal Agreement), and a signed counterpart of any amendment or amendments to such Agreement that may be approved by the Department and to which the air carrier or foreign air carrier becomes a party. U.S. air taxi operators registering under part 298 of this chapter and Canadian charter air taxi operators registering under part 294 of this chapter may comply with this requirement by filing completed OST Forms 4507 and 4523, respectively, in accordance with the provisions of those parts.

[Docket No. 47939, 57 FR 40100, Sept. 2, 1992, as amended at 60 FR 43523, Aug. 22, 1995; 70 FR 25767, May 16, 2005]

#### **§ 203.4 Montreal Agreement as part of airline-passenger contract and conditions of carriage.**

(a) As required by the Montreal Agreement, carriers that are otherwise generally required to file tariffs shall file with the Department's Tariffs Division a tariff that includes the provisions of the counterpart to Agreement 18900.

(b) As further required by that Agreement, each participating carrier shall include the Agreement's terms as part of its conditions of carriage. The participating carrier shall give each of its passengers the notice required by the Montreal Agreement as provided in § 221.175 of this chapter.

(c) Participation in the Montreal Agreement, whether by signing the Agreement, filing a signed counterpart to it under § 203.3, or by operation of law under § 203.5, shall constitute a special agreement between the carrier and

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its passengers as a condition of carriage that a liability limit of not less than \$75,000 (U.S.) shall apply under Article 22(1) of the Warsaw Convention for passenger injury and death. Such participation also constitutes a waiver of the defense under Article 20(1) of the Convention that the carrier was not negligent.

(The reporting provisions contained in paragraph (a) were approved by the Office of Management and Budget under control number 3024-0064.)

[ER-1324, 48 FR 8044, Feb. 25, 1983, as amended by ER-1338, 48 FR 31013, July 6, 1983; Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

#### **§ 203.5 Compliance as condition on operations in air transportation.**

It shall be a condition on the authority of all direct U.S. and foreign carriers to operate in air transportation that they have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900, and a tariff (for those carriers otherwise generally required to file tariffs) that includes its provisions, as required by this subpart. Notwithstanding any failure to file that counterpart and such tariff, any such air carrier or foreign air carrier issued license authority (including exemptions) by the Department or operating in air transportation shall be deemed to have agreed to the provisions of Agreement 18900 as fully as if that air carrier or foreign air carrier had in fact filed a properly executed counterpart to that Agreement and tariff.

[ER-1324, 48 FR 8044, Feb. 25, 1983, as amended by Docket No. 47939, 57 FR 40100, Sept. 2, 1992]

## **PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS**

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

SOURCE: Docket No. 47582, 57 FR 38766, Aug. 27, 1992, unless otherwise noted.

### Subpart A—General Provisions

#### § 204.1 Purpose.

This part sets forth the fitness data that must be submitted by applicants for certificate authority, by applicants for authority to provide service as a commuter air carrier to an eligible place, by carriers proposing to provide essential air transportation, and by certificated air carriers and commuter air carriers proposing a substantial change in operations, ownership, or management. This part also contains the procedures and filing requirements applicable to carriers that hold dormant authority.

[72 FR 20036, Apr. 23, 2007]

#### § 204.2 Definitions.

As used in this part:

(a) *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.

(b) *Certificate authority* means authority to provide air transportation granted by the Department of Transportation or Civil Aeronautics Board in the form of a certificate of public convenience and necessity under section 41102 of the Statute or an all-cargo air transportation certificate to perform all-cargo air transportation under section 41103 of the Statute. *Certificated carriers* are those that hold certificate authority.

(c) *Citizen of the United States* means:

(1) An individual who is a citizen of the United States;

(2) A partnership each of whose partners is an individual who is a citizen of the United States; or

(3) A corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(d) *Commuter air carrier* means an air carrier holding or seeking authority under part 298 of this Chapter 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.

(e) *Eligible place* means a place in the United States that—

(1) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(2) Received scheduled air transportation at any time between January 1, 1990, and November 4, 1990; and

(3) Is not listed in Department of Transportation Orders 89-9-37 and 89-12-52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute.

(f) *Essential air service* is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of the Statute.

(g) *Fit* means fit, willing, and able to perform the air transportation in question properly and to conform to the provisions of the Statute and the rules, regulations and requirements issued under the Statute.

(h) *Interstate air transportation* means 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