

or carriers, when such action is in the public interest.

(b) Any such action will be taken in a notice issued by the Assistant Secretary for Aviation and International Affairs, and will identify the tariff matter to be filed, and 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 the Department.

### Subpart C—Effect of Exemption

#### § 293.20 Rule of construction.

To the extent that a carrier holds an effective exemption from the duty to file tariffs under this part, it 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 § 293.21.

#### § 293.21 Incorporation of contract terms by reference.

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 passenger ticket or other document embodying the contract of carriage for the scheduled transportation of passengers in foreign air transportation, provided that:

(a) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.107, paragraphs (a), (b), (c) and (d) are complied with, to the extent applicable;

(b) In addition to other remedies at law, a carrier may not claim the benefit under this section as against a passenger, and a passenger shall not be bound by incorporation of any contract term by reference under this part, unless the requirements of paragraph (a), 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 incorporation

of terms by reference into contracts of carriage for the scheduled transportation of passengers in foreign air transportation.

#### § 293.22 Effectiveness of tariffs on file.

(a) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, passenger tariffs on file with the Department covered by the scope of the exemption will cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, and the provisions of 14 CFR part 221, and will be canceled by operation of law.

(b) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, pending applications for filing and/or effectiveness of any passenger tariffs covered by the scope of the exemption, will be dismissed by operation of law. No new filings or applications will be permitted after the date of effectiveness of the Assistant Secretary's notice except as provided under § 293.12.

## PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

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294.87 Compliance with Canadian licenses.

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

SOURCE: ER-1257, 46 FR 52591, Oct. 27, 1981, unless otherwise noted.

## Subpart A—General

### § 294.1 Applicability and purpose.

This part establishes a classification of foreign air carriers known as “Canadian charter air taxi operators,” and establishes registration procedures for these carriers operating or seeking to operate transborder services between Canada and the United States. This part also exempts Canadian charter air taxi operators from certain provisions of the Subtitle VII of Title 49 of the United States Code (Transportation), and establishes rules applicable to their operations in the United States. This part does not provide exemption from the safety regulatory provisions of the Statute that are administered by the U.S. Department of Transportation through the Federal Aviation Administration (FAA), and Canadian charter air taxi operators in the conduct of their operations must observe all appli-

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cable safety standards and requirements.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995]

### § 294.2 Definitions.

As used in this part:

(a) *Agreement* means the *Air Transport Agreement Between the Government of the United States and the Government of Canada*, signed at Ottawa, February 24, 1995, with Annexes and any amendments, supplements, reservations, or supersessions to it.

(b) *Canadian charter air taxi operator* means a foreign air carrier that is substantially owned and effectively controlled by Canadian citizens, the Government of Canada, or both, whose foreign air transportation operations are limited to charter air service between points in Canada and points in the United States, and that does not use large aircraft in those operations.

(c) *Charter air service* means non-scheduled commercial air transportation of persons and their accompanied baggage, and of property, on a time, mileage, or trip basis where the entire planeload capacity of one or more aircraft has been engaged, or the transportation of mail by aircraft.

(d) *Large aircraft* means any aircraft that are not *small aircraft* as defined in this section.

(e) *Maximum authorized takeoff weight* has the meaning assigned to it in regulations of the Canadian Transport Commission.

(f) *Maximum certificated takeoff weight* means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate. This weight may be found in the airplane operating record or in the airplane flight manual that is incorporated by regulation into the airworthiness certificate.

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

(h) *Maximum payload capacity* means the maximum certificated takeoff weight of an aircraft less the empty weight as defined in section 03 of part 241 of this chapter, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel

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load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for weight of the crew, oil and fuel is as follows:

(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, assuming VFR weather conditions and flights not involving extended overwater operations. However, in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA, 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).

(2) [Reserved]

(i) *Small aircraft* means any aircraft designed to have:

(1) A maximum passenger capacity of not more than 30 seats and a maximum payload capacity of not more than 7,500 pounds, and/or

(2) maximum authorized takeoff weight on wheels not greater than 35,000 pounds.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

### § 294.3 General requirements for Canadian charter air taxi operators.

A Canadian charter air taxi operator shall conduct charter air service between the United States and Canada only if it:

(a) Has been registered by the Department under this part;

(b) Does not directly or indirectly utilize large aircraft in charter air services;

(c) Has and maintains in effect liability insurance coverage that complies with the requirements set forth in subpart E of this part and has and maintains a current certificate of insurance evidencing such coverage on file with the Department;

(d) Has and maintains in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523) and complies with all other

requirements of part 203 of this chapter;

(e) Has effective authority from the Government of Canada to conduct charter air service between the United States and Canada.

(f) Has been granted Federal Aviation Administration operations specifications required under part 129 of the Federal Aviation Regulations;

(g) Is substantially owned and effectively controlled by Canadian citizens, or the Government of Canada, or a combination of both; and

(h) Complies with the terms, conditions, and limitations of this part.

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

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by ER-1332, 48 FR 8051, Feb. 25, 1983; ER-1342, 48 FR 31015, July 6, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 71 FR 49347, Aug. 23, 2006]

## Subpart B—Exemption

### § 294.10 Exemption authority.

Canadian charter air taxi operators registered under this part are exempt from the following provisions of the Statute to the extent necessary to perform charter air service between the United States and Canada, and as long as they comply with the terms, conditions, and limitations of this part:

(a) Section 41302 (permits).

(b) Section 41501 (carrier's duty to observe reasonable rates).

(c) Section 41310 (discrimination).

(d) Section 41313 (aviation disaster family assistance plans for foreign air carriers)

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

## Subpart C—Registration for Exemption

### § 294.20 Applying for registration.

To apply for registration under this part, a Canadian charter air taxi operator shall file with the Department's Office of International Aviation, Special Authorities Division, the following:

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(a) A currently effective certificate of insurance (see § 294.40); and

(b) Three copies of OST Forms 4523 and 4505, which may be obtained from the Department's Office of International Aviation, Special Authorities Division. All the information required by OST Form 4505 shall be filled in, and it shall be certified by a responsible officer of the applicant Canadian charter air taxi operator.

(Approved by the Office of Management and Budget under control number 3024-0051)

[ER-1257, 46 FR 52591, Oct. 27, 1981; 46 FR 62054, Dec. 22, 1981, as amended by ER-1363, 48 FR 46265, Oct. 12, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

### § 294.21 Procedure on receipt of registration form.

(a) The Department will list the names and addresses of all persons applying for registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air taxi operator shall file an objection with the Office of International Aviation, Special Authorities Division, and serve a copy on the applicant within 28 days after the Department receives the properly completed registration application. Objections shall include any facts and arguments upon which they are based.

(c) Any answers to objections shall be filed within 14 days after the date that the objections were due.

(d) After receipt of OST Form 4505, the Department may request additional information.

(e) After the period for objections and answers has expired, the Department will take one of the following actions:

(1) Issue the registration by stamping its effective date on OST Form 4505 and sending a copy of it to the carrier.

(2) Reject the application for failure to comply with this part;

(3) Issue the registration subject to such terms, conditions, or limitations as may be consistent with the public interest; or

(4) Institute evidentiary proceedings to consider whether the registration should be issued.

(f) An action described in paragraph (e) of this section will normally be

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taken within 60 days after the registration application is received. The Department will consider requests for faster action that include a full explanation of the need for expedited action.

(g) A registration shall not be issued until the Department receives evidence that the applicant has effective authority issued by the Government of Canada. The applicant must provide copies of its Air Carrier Operating certificate and non-scheduled international license issued by the Government of Canada.

(h) Rejection of an application for registration will not preclude the filing of a new application by the same carrier.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

### § 294.22 Notification to the Department of change in operations or identifying information.

Registrants shall refile a copy of OST Form 4505 with the Department's Office of International Aviation, Special Authorities Division, upon any of the following events. The refiling shall be sent by electronic mail, or other means, so as to be received by the Department not later than 30 days after the reported event has occurred.

(a) The carrier changes its name. When a carrier refiles OST Form 4505 to indicate a change of name:

(1) A registration ceases to be in effect unless the Government of Canada amends the registrant's Air Carrier Operating Certificate to reflect the registrant's new name within 60 days of the name change and the registrant submits to the Department a copy of its amended Canadian authority.

(2) The registrant must also refile three copies of Agreement 18900 (OST Form 4523) under its new name;

(3) The registrant must also refile its certificate of insurance under its new name; and

(4) The registrant must also advise the appropriate FAA office referred to in § 294.33 of the carrier's new name.

(b) The carrier changes its designated agent.

(c) A change occurs in the carrier's ownership and control resulting in a

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person acquiring a beneficial or voting interest in the registrant of 10 percent or more. The name(s), address(es), citizenship(s), and percentages of ownership of the new owners shall be indicated on the form. Acquisition of ownership interest by persons who are not citizens of the country of citizenship of the registrant may invalidate the registration.

(d) The carrier temporarily or permanently ceases operations.

(Approved by the Office of Management and Budget under control number 3024-0051)

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by ER-1363, 48 FR 46265, Oct. 12, 1983; Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

### Subpart D—General Rules for Registrants

#### § 294.30 Scope of service and equipment authorized.

(a) Upon fulfillment of the requirements of § 294.3 of this part, the registrant will have Department authority to engage in charter air services between any point or points in Canada and any point or points in the United States using small aircraft.

(b) Nothing in this part shall be construed as authorizing the operation of large aircraft in charter air service, and the exemption provided by this part to Canadian charter air taxi operators that register with the Department extends only to the direct operations of charter air service in accordance with the limitations and conditions of this part using aircraft designed to have:

(1) A maximum passenger capacity of no more than 30 seats and a maximum payload capacity of no more than 7,500 pounds, and/or

(2) A maximum authorized takeoff weight on wheels not greater than 35,000 pounds.

(c) A Canadian charter air taxi operator shall not use large aircraft for charter air service until it has been granted a permit by the Department under section 41302 of the Statute or granted an exemption under section 41701 of the Statute. Its application for such a permit or exemption should refer to the registration under this part. Registration under this part will

be canceled when a section 41302 permit has been granted by the Department for the use of large aircraft in foreign charter air service.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995]

#### § 294.31 Use of business name.

(a) A Canadian charter air taxi operator, in holding out charter air service to the public and performing its charter operations, shall do so only in the names in which its registration is issued under this part. The Department may require a Canadian charter air taxi operator to change such names where they appear to be inconsistent with the public interest.

(b) [Reserved]

#### § 294.32 Security arrangements for operating Public Charters.

When a Canadian charter air taxi operator performs a Public Charter under part 380 of this chapter, either:

(a) The Canadian charter air taxi operator shall meet the bonding or escrow requirements applicable to foreign air carriers as set forth in § 212.8 of this chapter.

(b) The Canadian charter air taxi operator 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 charter air service until after the charter has been completed, notwithstanding any provision of part 380.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 2006-25691, 71 FR 49347, Aug. 23, 2006]

#### § 294.33 Compliance with the regulations of the Federal Aviation Administration.

(a) Registrants under this part shall obtain FAA operations specifications required under part 129 or other applicable rules of the Federal Aviation Regulations prior to beginning operations into the United States. Registrants should write to the FAA office

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at one of the following addresses to obtain instructions on how to apply for FAA authority.

(b) If the registrant's business address is located on or east of 76 degrees West Longitude (in or east of Ottawa, Ontario) it should write to: Federal Aviation Administration, General Aviation District Office No. 1, Albany County Airport, Albany, New York 12211.

(c) If the registrant's business address is located on or east of 100 degrees West Longitude (in or east of Winnipeg, Manitoba) and west of 76 degrees West Longitude (west of, but not including, Ottawa, Ontario) it should write to: Federal Aviation Administration, Flight Standards District Office, 1 Airport Way, Rochester, New York 14624.

(d) If the registrant's business address is west of Winnipeg, Manitoba, it should write to: Federal Aviation Administration, General Aviation District Office, 1601 Lind Avenue, SW., Renton, Washington 98055.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40102, Sept. 2, 1992]

## **§ 294.34 Advance approval by the Department.**

The Department, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the registrant under the authority granted by this part, if it finds such action to be consistent with the public interest.

## **Subpart E—Insurance Requirements**

### **§ 294.40 Aircraft accident liability insurance requirements.**

No Canadian charter air taxi operator shall engage in charter air service unless such carrier has and maintains in effect aircraft accident liability coverage that meets the requirements of part 205 of this chapter. Evidence of such insurance coverage, in the form of a certificate of insurance, as required in part 205 of this chapter, shall be maintained on file with the Department's Office of International Avia-

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tion, Special Authorities Division, at all times.

(Approved by the Office of Management and Budget under control number 3024-0050)

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by ER-1342, 48 FR 31015, July 6, 1983; Docket No. 47939, 57 FR 40102, Sept. 2, 1992; 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

## **Subpart F—Cancellation of Registration and Presidential Review**

### **§ 294.50 Cancellation, revocation, or suspension of registration.**

The registration of a carrier subject to this part may be revoked, canceled, suspended, modified, or otherwise subjected to additional terms and conditions by the Department if:

(a) The carrier files with the Department a written notice that it is discontinuing operations;

(b) The carrier is the holder of a section 41302 permit to perform large aircraft charters under the Agreement;

(c) Substantial ownership or effective control is acquired by persons who are not (1) citizens of Canada, (2) the Government of Canada, or (3) a combination of both;

(d) The Government of Canada terminates or suspends authority it granted to the registrant to conduct charter air service between the United States and Canada.

(e) The Agreement between the two countries is terminated;

(f) The registrant fails to have proper insurance coverage, or fails to file or keep a current insurance certificate on file with the Department;

(g) The registrant fails to comply with the terms, conditions, or limitations of this part;

(h) The carrier's operations specifications issued by the FAA are suspended or terminated;

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

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43526, Aug. 22, 1995; 71 FR 49347, Aug. 23, 2006]

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### § 294.51 Presidential review.

A Department order under § 294.50 (e), (g) or (i) shall be subject to stay or disapproval by the President within 60 days.

## Subpart G—Authorizations and Waivers

### § 294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.

(a) Where the terms, conditions, or limitations of this part, particularly § 294.81, require prior approval of individual flights or charter programs, the registrant shall apply for such approval by filing three copies of OST Form 4540 with the Office of International Aviation, Foreign Air Carrier Licensing Division. OST Form 4540 may be obtained from the Foreign Air Carrier Licensing Division.

(b) Action on the application for authorization filed under paragraph (a) of this section will normally be taken within 30 days after the application is filed. The Department will consider requests for faster action that include a full explanation of the need for expedited action.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 71 FR 49347, Aug. 23, 2006]

### § 294.61 Waivers.

The Department upon application or on its own initiative may waive any of the provisions of this part if it finds such action to be in the public interest.

## Subpart H—Violations

### § 294.70 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 compliance; or to impose civil penalties under the provisions of section 46301 of the Statute; or in the case of a willful violation, to impose crimi-

nal penalties under the provisions of section 46316 of the Statute; or to impose other lawful sanctions, including revocation of registration.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43527, Aug. 22, 1995]

## Subpart I—Terms, Conditions, and Limitations of This Part

### § 294.80 Waiver of sovereign immunity.

By accepting an approved registration under this part, a registrant waives any right it may possess to assert any defense of sovereign immunity in any action or proceeding instituted against it in any court or other tribunal in the United States based upon any claim arising out of its operations under this part.

### § 294.81 Local traffic prohibited.

(a) Except as set forth in paragraph (b) of this section or § 294.60, a registrant shall not carry passengers, cargo, or mail between two or more United States points for compensation or hire.

(b) A registrant may grant stopover privileges at any point or points in the United States to passengers and their accompanied baggage as part of a single continuous operation to or from Canada.

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended by Doc. No. 2006-25691, 71 FR 49347, Aug. 23, 2006]

### § 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it:

(a) Complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;

(b) Complies with all applicable provisions of the Agreement; and

(c) Complies with all applicable provisions of any treaty, convention, or agreement affecting international air transportation to which the United States and Canada are parties.

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### **§ 294.84 Air competency requirements.**

Registrants shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

### **§ 294.85 Charterworthiness standards.**

(a) Registrants may perform U.S.-originating charters authorized under Annex B (III)(A) of the Agreement as follows: Commercial air transportation of passengers and their accompanied baggage, and of property, on a time, mileage, or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or other small aircraft operations as may be authorized under any amendments, supplements, reservations, or supersessions of the Agreement.

(b) Registrants may perform Canadian-originating charters authorized by Annex B (III)(B) of the Agreement and any amendments, supplements, reservations or supersessions of it. Such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft.

### **§ 294.86 Industrial/agricultural/other nontransport air operations prohibited.**

A registrant shall not engage in flights for the purpose of industrial or agricultural operations (e.g., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photography) within the United States unless it has obtained a permit from the Department under part 375 of this chapter.

### **§ 294.87 Compliance with Canadian licenses.**

A registrant shall not, in the performance of operations authorized by this part, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the registrant's applicable Canadian licenses.

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## **PART 296—INDIRECT AIR TRANSPORTATION OF PROPERTY**

### **Subpart A—General**

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- 296.3 Indirect cargo air carrier.
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- 296.5 Agency relationships.
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### **Subpart B—Exemption for Indirect Air Transportation of Property**

- 296.10 Exemption from the Statute.

### **Subpart C—Violations**

- 296.20 Enforcement.

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

SOURCE: ER-1261, 46 FR 54727, Nov. 4, 1981, unless otherwise noted.

### **Subpart A—General**

#### **§ 296.1 Purpose.**

This part establishes rules for the indirect air transportation of property. It creates a class of air carriers to provide this air transportation and grants exemptions from certain provisions of the Subtitle VII of Title 49 of the United States Code (Transportation).

[ER-1257, 46 FR 52591, Oct. 27, 1981, as amended at 60 FR 43527, Aug. 22, 1995]

#### **§ 296.2 Applicability.**

This part applies to air transportation of property by indirect cargo air carriers, and to persons entering into control relationships with indirect cargo air carriers.

#### **§ 296.3 Indirect cargo air carrier.**

An indirect cargo air carrier is any U.S. citizen who undertakes to engage indirectly in air transportation of property, and uses for the whole or any part of such transportation the services of an air carrier or a foreign air carrier that directly engages in the operation of aircraft under a certificate, regulation, order, or permit issued by the Department of Transportation or the Civil Aeronautics Board, or the