

becomes effective) unless such advertising or schedule listings prominently state: “This service is subject to receipt of government operating authority.”

### Subpart B—Certificate Terms, Conditions, and Limitations

#### § 201.6 Applicability.

Unless the certificate or the order authorizing its issuance shall otherwise provide, such terms, conditions and limitations as are set forth in this part, and as may from time to time be prescribed by the Department, shall apply to the exercise of the privileges granted by each certificate issued under section 41102 or section 41103 of 49 U.S.C. Subtitle VII.

[Doc. No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995; Doc. No. DOT-OST-2014-0140, 84 FR 15924, Apr. 16, 2019]

#### § 201.7 General certificate conditions.

(a) It shall be a condition upon the holding of a certificate that any intentional failure by the holder to comply with any provision of Statute or any order, rule, or regulation issued thereunder or any term, condition, or limitation of such certificate shall be a failure to comply with the terms, conditions, and limitations of the certificate within the meaning of section 41110 of 49 U.S.C. Subtitle VII even though the failure to comply occurred outside the territorial limits of the United States, except to the extent that such failure shall be necessitated by an obligation, duty, or liability imposed by a foreign country.

(b) Failure to file the reports required by part 241, 291, or 298 of this chapter shall be sufficient grounds to revoke a certificate.

(c) The authority to transport U.S. mail under a certificate is permissive, unless the Department, by order or rule, directs a carrier or class of carriers to transport mail on demand of the U.S. Postal Service; such certificate confers no right to receive subsidy, for the carriage of mail or otherwise.

(d) An all-cargo air transportation certificate shall confer no right to carry passengers, other than cargo at-

tendants accompanying a shipment, or to engage in any air transportation outside the geographical scope of interstate cargo transportation. Such certificate shall not, however, restrict the right of the holder to provide scheduled, charter, contract, or other transportation of cargo, by air, within that geographical scope.

(e) It shall be a condition upon the holding of a certificate that the holder have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523), and a tariff (for those carriers otherwise generally required to file tariffs) that includes its terms, and that the holder comply with all other requirements of part 203. OST Form 4523 may be obtained from the Office of International Aviation, Special Authorities Division.

[Doc. No. 47582, 57 FR 38765, Aug. 27, 1992, as amended at 60 FR 43523, Aug. 22, 1995; Doc. No. DOT-OST-2014-0140, 84 FR 15924, Apr. 16, 2019]

## PART 203—WAIVER OF WARSAW CONVENTION LIABILITY LIMITS AND DEFENSES

Sec.

203.1 Scope.

203.2 Applicability.

203.3 Filing requirements for adherence to Montreal Convention.

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

203.5 Compliance as condition on operations in air transportation.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: ER-1324, 48 FR 8044, Feb. 25, 1983, unless otherwise noted.

#### § 203.1 Scope.

This part requires that certain U.S. and foreign direct air carriers waive the passenger liability limits and certain carrier defenses in the Warsaw Convention in accordance with the provisions of Agreement 18900, dated May 13, 1966, and provides that acceptance of authority for, or operations by the carrier in, air transportation shall be

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considered to act as such a waiver by that carrier.

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

### § 203.2 Applicability.

This part applies to all direct U.S. and foreign direct air carriers, except for air taxi operators as defined in part 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 Convention.

All direct U.S. and foreign air carriers shall have and maintain in effect and on file in the Department's Docket Operations Office (DOT-OST-1995-236) on OST Form 4523 a signed counterpart to Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and Hague Protocol, (the Montreal Agreement), dated May 13, 1966, and/or a signed counterpart of any amendment or replacement 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.

[Doc. No. DOT-OST-2014-0140, 84 FR 15924, Apr. 16, 2019]

### § 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 Pricing and Multilateral Affairs 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 par-

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ticipating carrier shall give each of its passengers the notice required by the Montreal Agreement as provided in § 221.105 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 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; Doc. No. 47939, 57 FR 40100, Sept. 2, 1992; Doc. No. DOT-OST-2014-0140, 84 FR 15924, Apr. 16, 2019]

### § 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 Doc. No. 47939, 57 FR 40100, Sept. 2, 1992]

## PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS

### Subpart A—General Provisions

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### Subpart B—Filing Requirements

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204.5 Certificated and commuter air carriers undergoing or proposing to undergo substantial change in operations, ownership, or management.

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204.7 Revocation for dormancy.

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 49 U.S.C. Subtitle VII 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 Secretary of Transportation in the form of a certificate of public

convenience and necessity under 49 U.S.C. 41102 or an all-cargo air transportation certificate to perform all-cargo air transportation under 49 U.S.C. 41103. *Certificated carriers* are those that hold certificate authority, including those carriers operating by law under the regulatory provisions under the Department's predecessor.

(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 meets the specified criteria outlined in 49 U.S.C. Chapter 417.

(f) *Essential air service* is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of 49 U.S.C. Subtitle VII.

(g) *Fit* means fit, willing, and able to perform the air transportation in question properly and to conform to the provisions of 49 U.S.C. Subtitle VII and the rules, regulations and requirements issued under 49 U.S.C. Subtitle VII.

(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—