

**§ 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 49 U.S.C. Subtitle VII, 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 49 U.S.C. Subtitle VII before the Department, or sections 46106 through 46108 of 49 U.S.C. Subtitle VII 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 49 U.S.C. Subtitle VII; or in the case of willful violation, to criminal penalties under the provisions of section 46316 of 49 U.S.C. Subtitle VII; 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; DOT-OST-2014-0140, 84 FR 15934, Apr. 16, 2019]

**PART 298—EXEMPTIONS FOR AIR TAXI AND COMMUTER AIR CARRIER OPERATIONS****Subpart A—General**

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AUTHORITY: 49 U.S.C. 329 and chapters 401, 411, and 417.

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

## Subpart A—General

SOURCE: 70 FR 25768, May 16, 2005.

### § 298.1 Applicability of part.

This part establishes classifications of air carriers known as “air taxi operators” and “commuter air carriers,” provides certain exemptions to them from some of the economic regulatory provisions of Subtitle VII of Title 49 of the United States Code (Transportation), 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.

### § 298.2 Definitions.

As used in this part:

*Air taxi operator* means an air carrier as established by § 298.3(a).

*Air transportation* means interstate air transportation, foreign air transportation, or the transportation of mail by aircraft as defined by the Statute.<sup>1</sup>

<sup>1</sup>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 Dis-

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*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.

*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.

*Certificated air carrier* means an air carrier holding a certificate issued under section 41102 of 49 U.S.C. Subtitle VII.

*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; (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 minimis* 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 49 U.S.C. Subtitle VII 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 and commuter air carriers in some circumstances under contract with the U.S. Postal Service.

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.

*Commuter air carrier* means an air carrier as established by § 298.3(b) 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.

*Departure* means takeoff from an airport.

*Eligible place* means a place in the United States that meets the specified criteria outlined in 49 U.S.C. Chapter 417.

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

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

*Maximum certificated takeoff weight* means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate.<sup>2</sup>

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

*Maximum payload capacity* means: (1) The maximum certificated take-off weight of an aircraft, less the empty weight,<sup>3</sup> 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:

(i) Crew—200 pounds per crew member required under FAA regulations in 14 CFR chapter I,

(ii) Oil—350 pounds,

(iii) Fuel—the minimum weight of fuel required under FAA regulations in 14 CFR chapter I for a flight between domestic points 200 miles apart,<sup>4</sup>

(2) *Provided, however*, That in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA,<sup>5</sup> 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).

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

*Nonrevenue passenger* means a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. (This definition is for 14 CFR part 298 traffic-reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) The definition includes, but is not limited to, the following examples of passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

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

<sup>3</sup>Empty 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.

<sup>4</sup>Assumes VFR weather conditions and flights not involving extended overwater operations.

<sup>5</sup>The 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.

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations in 14 CFR chapter I;

(13) Persons engaged in promoting air transportation;

(14) Air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and

(15) Other authorized persons, when such transportation is undertaken for promotional purpose.

*Passengers carried* means passengers on board each flight stage.

*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.

*Reporting carrier* for Schedule T-100 purposes means the air carrier in operational control of the flight, i.e., the carrier that uses its flight crews under its own FAA operating authority.

*Revenue passenger* means a passenger for whose transportation an air carrier receives commercial remuneration. (This definition is for 14 CFR part 298 traffic-reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) This includes, but is not limited to, the following examples:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth, student, etc.);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

*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 number of revenue passengers carried on that flight stage.

*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.

*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.

*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.

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

*Small aircraft* means any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

*Small certificated air carrier* means an air carrier holding a certificate issued under section 41102 of 49 U.S.C. Subtitle VII 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.

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

*Wet-Lease Agreement* means an agreement under which one carrier leases an aircraft with flight crew to another air carrier.

[70 FR 25768, May 16, 2005, as amended by DOT-OST-2014-0140, 84 FR 15934, Apr. 16, 2019]

### § 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 combination of such transportation and which:

(1) Do not directly or indirectly utilize large aircraft in air transportation;

(2) Do not hold a certificate of public convenience and necessity and do not engage in scheduled passenger operations as specified in paragraph (b) of this section;

(3) 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;

(4) If operating in foreign air transportation or participating in an interline agreement, subscribe to Agreement 18900 (OST Form 4523 or OST Form 4507) and comply with all other requirements of part 203 of this chapter; and

(5) Have registered with the Department in accordance with subpart C of this part.

(b) There is hereby established a classification of air carriers, designated as “commuter air carriers,” which directly engage in the air transportation of persons, property or mail, and which:

(1) Do not directly or indirectly utilize large aircraft in air transportation;

(2) Do not hold a certificate of public convenience and necessity;

(3) Carry 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;

(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;

(5) Have and maintain in effect and on file with the Department a signed counterpart of Agreement 18900 (OST Form 4523) and comply with all other requirements of part 203 of this chapter; and

(6) Hold a Commuter Air Carrier Authorization issued in accordance with subpart E of this part.

(c) A person who does not observe the conditions set forth in paragraph (a) or (b) 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

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entitled to any of the exemptions set forth in this part.

### § 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 (X-50), Office of the Secretary, 1200 New Jersey Avenue, SE., Washington, DC 20590, 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.

## Subpart B—Exemptions

SOURCE: 70 FR 25768, May 16, 2005.

### § 298.11 Exemption authority.

Air taxi operators and commuter air carriers are hereby relieved from the following provisions of 49 U.S.C. Subtitle VII 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;

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(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.

### § 298.12 Duration of exemption.

The exemption from any provision of 49 U.S.C. Subtitle VII 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.

## Subpart C—Registration for Exemption by Air Taxi Operators

SOURCE: 70 FR 25768, May 16, 2005.

### § 298.21 Filing for registration by air taxi operators.

(a) Every air taxi operator 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 Manager, Technical Programs Branch (AFS-260), Federal Aviation Administration, registration within a lesser period of time is allowed.

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

(c) Registration by all air taxi operators shall be accomplished by filing with the Department at the address specified in paragraph (d) of this section the following:

(1) Air Taxi Registration (OST Form 4507), executed in duplicate.<sup>6</sup> 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 telephone number and fax 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,<sup>7</sup> 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 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 operations;

(vii) For amendments, whether the carrier has carried passengers in for-

foreign air transportation during the previous 12 months;

(viii) Whether the carrier is a citizen of the United States; and

(ix) A certification that the registration is complete and accurate and that, if the carrier is engaged in foreign air transportation, or participating in an interline agreement, it subscribes to the terms of Agreement 18900 (*see* OST Form 4523).

(2) A certificate of insurance (OST Form 6410) 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 dollar (\$8) registration filing fee in the form of a check, draft, or postal money order payable to the Department of Transportation.

(d) Registrations required in paragraph (c) of this section shall be submitted to the Department of Transportation, Federal Aviation Administration, Technical Programs Branch (AFS-260), 800 Independence Avenue SW, Room 831, Washington, DC 20591. For those air taxi operators that have a mailing address in the State of Alaska, the registrations shall be filed with the Department of Transportation, Federal Aviation Administration, Alaskan Region Headquarters (AAL-230), 222 West 7th Avenue, Box 14, Anchorage, Alaska 99513.

[70 FR 25768, May 16, 2005, as amended by DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

#### § 298.22 Processing by the Department.

After examination of the OST Form 4507 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).

#### § 298.23 Notifications to the Department of change in operations.

(a) If any of the information contained on its registration changes, an air taxi operator shall submit an

<sup>6</sup>OST Form 4507 can be obtained from the Manager, Technical Programs Branch, Federal Aviation Administration, AFS-260 at (202) 267-8166, or on the internet at [https://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/afx/afs/afs200/afs260/exemptions/](https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afs/afs200/afs260/exemptions/)

<sup>7</sup>Companies proposing to provide scheduled passenger service at the level established by this Part for commuter air carriers are not permitted to conduct such operations under their air taxi registration; such companies must first be found fit, willing and able to operate and be issued a Commuter Air Carrier Authorization by the Department.

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amendment reflecting the updated information. This amendment shall be filed no later than 30 days after the change occurs. There is no filing fee for submitting an amendment.

(b) An amendment shall be made by resubmitting OST Form 4507 to the Department of Transportation, Federal Aviation Administration, Technical Programs Branch (AFS-260), 800 Independence Avenue SW, Room 831, Washington, DC 20591. If the air taxi operator has a mailing address in the State of Alaska, the form shall be mailed to the Department of Transportation, Federal Aviation Administration, Alaskan Region Headquarters Technical Standards Branch, (AAL-231), 222 West 7th Avenue, Box 14, Anchorage, Alaska 99513.

[70 FR 25768, May 16, 2005, as amended by DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

## § 298.24 Cancellation of the registration.

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

- (a) The operator ceases its 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 Air Carrier Certificate and/or Operations Specifications is revoked by the Federal Aviation Administration;
- (e) The operator fails to qualify as a citizen of the United States;
- (f) The Department determines that it is otherwise in the public interest to do so.

## Subpart D—Limitations and Conditions on Exemptions and Operations

SOURCE: 70 FR 25768, May 16, 2005.

## § 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

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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 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.

## § 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 originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

## § 298.32 Limitations on operations to eligible places.

No person shall provide scheduled passenger service as a commuter air carrier at an eligible place unless it has been found by the Department to be fit, willing, and able to conduct such service and issued a Commuter Air Carrier Authorization as provided in subpart E of this part.

## § 298.33 Security requirements.

In conducting operations under this part, an air taxi operator or a commuter air carrier is required to adhere



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to all security requirements established by the Department of Transportation and the Department of Homeland Security applicable to such operations.

### § 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 U.S. Postal Service entered into pursuant to section 5402 of the Postal Reorganization Act (39 U.S.C. 5402).

### § 298.36 Limitations 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 49 U.S.C. Subtitle VII by the Federal Aviation Administration, and in which it is registered with the Department under this part, or in which its Commuter Air Carrier Authorization is issued or other trade name is registered.

(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 preclude Department intervention or enforcement action should there be evidence of a significant potential for, or of actual, public confusion.

### § 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.

### § 298.38 Financial 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 air carriers as set forth in § 212.8 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 of this chapter.

## Subpart E—Commuter Air Carrier Authorizations

SOURCE: 70 FR 25768, May 16, 2005.

### § 298.50 Application.

(a) Any person desiring to provide air transportation as a commuter air carrier must first obtain a Commuter Air Carrier Authorization. This shall be accomplished by filing with the Department—

(1) An application in accordance with the requirements of parts 201 and 302 of this chapter;

(2) Data in accordance with part 204 of this chapter to support a determination by the Department that the person is “fit, willing, and able” to operate the proposed commuter service; and

(3) A \$670 filing fee submitted in accordance with the provisions of § 389.21 of this chapter.

(b) An executed original and two true copies of an application for a Commuter Air Carrier Authorization shall be filed with Docket Operations Office, U.S. Department of Transportation,

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1200 New Jersey Avenue, SE., Washington, DC 20590.

[70 FR 25768, May 16, 2005, as amended by DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

### **§ 298.51 Processing by the Department.**

In processing applications filed in accordance with § 298.50, the Department will generally follow the procedures set forth in §§ 302.207 through 302.211 of this chapter.

### **§ 298.52 Air taxi operations by commuter air carriers.**

(a) A commuter air carrier that holds an effective Commuter Air Carrier Authorization and otherwise meets the requirements of this part is also authorized to conduct air taxi operations (e.g., 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) without having to meet the registration requirements of subpart C of this part, except as provided in paragraph (b) of this section.

(b) Should a commuter air carrier cease conducting all scheduled passenger operations and its Commuter Air Carrier Authorization is suspended pursuant to §§ 298.53 and/or 204.7 of this chapter, it may continue to conduct air taxi operations *provided that* the carrier maintains in effect liability insurance coverage as required for such operations by part 205 of this chapter and, within 10 days of the cessation of scheduled passenger operations, registers as an air taxi operator in accordance with subpart C of this part; and *provided further that* the carrier continues to hold authority from the Federal Aviation Administration to conduct such air taxi operations.

### **§ 298.53 Suspension or revocation of authority.**

A Commuter Air Carrier Authorization may be suspended or revoked if any of the following occur:

(a) The operator fails to maintain insurance coverage as required by part 205 of this chapter for commuter operations;

(b) The scheduled passenger authority under the operator's Air Carrier

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Certificate is suspended or revoked by the Federal Aviation Administration;

(c) The operator does not commence operations for which it has been found fit, or the operator ceases those operations as provided in § 204.7 of this chapter;

(d) The Department finds that the carrier is not fit, willing, and able to conduct scheduled service or fails to qualify as a citizen of the United States; or

(e) The Department determines that it is otherwise in the public interest to do so.

## **Subpart F—Reporting Requirements**

### **§ 298.60 General reporting instructions.**

(a) Each commuter air carrier and each small certificated air carrier shall file the applicable schedules of Form 298–C, “Report of Financial and Operating Statistics for Small Aircraft Operators,” Schedule T–100, “U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market,” and the “Passenger Origin—Destination Survey” prescribed in part 241, Sec. 19–8, of this subchapter.

(b) A single copy of the BTS Form 298–C report shall be filed quarterly with the Office of Airline Information (OAI) 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, November 10, and February 10, respectively. An electronic filing of the monthly Schedule T–100 is due at OAI within 30 days after the end of each month. Due dates falling on a Saturday, Sunday or Federal holiday will become effective on the next work day.

(c) Reports required by this section shall be submitted to the Bureau of Transportation Statistics in a format specified in accounting and reporting directives issued by the Bureau of Transportation Statistics' Director of Airline Information.

[ER–1399, 50 FR 19, Jan. 2, 1985, as amended by Doc. No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995; 67 FR 49231, July 30, 2002; 75 FR 41585, July 16, 2010; DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019; DOT-OST-2018-0132, 88 FR 6164, Jan. 31, 2023]

**§ 298.61 Reporting of traffic statistics.**

(a) Each commuter air carrier and small certificated air carrier shall file Schedule T-100, U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market."

(b) Schedule T-100 shall be filed monthly as set forth in § 298.60.

(1) Schedule T-100 collects summarized flight stage data and on-flight market data from revenue flights. All traffic statistics shall be compiled in terms of each flight stage as actually performed. The detail T-100 data shall be maintained in such a manner as to permit monthly summarization and organization into two basic groupings. The first grouping, the nonstop segment information, is to be summarized by equipment type, within class of service, within pair-of-points, without regard to individual flight number. The second grouping requires that the enplanement/deplanement information be broken out into separate units called on-flight market records, which shall be summarized by class of service, within pair-of-points, without regard for equipment type or flight number.

(2) *Joint-service operations.* The Department may authorize joint service operations between two direct air carriers. Examples of these joint-service operations are: blocked-space agreements; part-charter agreements; code-sharing agreements; wet-lease agreements, and similar arrangements.

(i) Joint-service operations are reported by the carrier in operational control of the flight, i.e., the carrier that uses its flight crews under its own FAA operating authority. The traffic moving under these agreements is reported on Schedule T-100 the same way as any other traffic on the aircraft.

(ii) If there are questions about reporting a joint-service operation, contact the BTS Assistant Director—Airline Information (fax no. 202 366-3383, telephone no. 202 366-4373). Joint-service operations are reported in Schedule T-100 in accordance with this paragraph (b).

(iii) *Operational control.* The air carrier in operational control of the aircraft (the carrier that uses its flight crews under its own FAA operating authority) must report joint-service operations.

(c) *Service classes.* (1) The statistical classifications are designed to reflect the operating characteristics attributable to each distinctive type of service offered. The combination of scheduled and nonscheduled operations with passenger, all-cargo, and military services are placed into service classes as follows:

Code	Type of Service
F .....	Scheduled Passenger/Cargo
G .....	Scheduled All-Cargo
L .....	Nonscheduled Civilian Passenger/Cargo
P .....	Nonscheduled Civilian Cargo
N .....	Nonscheduled Military Passenger/Cargo
R .....	Nonscheduled Military Cargo

(2) Scheduled services include traffic and capacity elements applicable to air transportation provided pursuant to published schedules and extra sections of scheduled flights. Scheduled Passenger/Cargo (Service Class F) is a composite of first class, coach, and mixed passenger/cargo service.

(3) Nonscheduled services include all traffic and capacity elements applicable to the performance of nonscheduled aircraft charters, and other air transportation services not constituting an integral part of services performed pursuant to published flight schedules.

(d) *Air transport traffic and capacity elements.* (1) Within each of the service classifications, carriers shall report air transport traffic and capacity elements. The elements are reported on segment or market records as follows:

Code	Description	Segment	Market	Computed by DOT
	Carrier, carrier entity code .....	S	M	
	Reporting period date .....	S	M	
	Origin airport code .....	S	M	
	Destination airport code .....	S	M	
	Service class code .....	S	M	
	Aircraft type code .....	S		
110	Revenue passengers enplaned		M	
130	Revenue passengers transported	S		
140	Revenue passenger-miles .....			CFD*
210	Revenue cargo tons enplaned			CFD*
217	Enplaned freight .....		M	
219	Enplaned mail .....		M	
230	Revenue tons transported .....			CFD*
237	Transported freight .....	S		
239	Transported mail .....	S		
240	Revenue ton-miles .....			CFD*
241	Revenue ton-miles passenger ..			CFD*
247	Revenue ton-miles freight .....			CFD*
249	Revenue ton-miles mail .....			CFD*
270	Available capacity payload .....	S		
280	Available ton-miles .....			CFD*

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Code	Description	Segment	Market	Computed by DOT
310	Available seats, total .....	S		CFD*
320	Available seat-miles .....			
410	Revenue aircraft miles flown ....			
430	Revenue aircraft miles scheduled.	S		CFD*
501	Inter-airport distance .....			
510	Revenue aircraft departures performed.			
520	Revenue aircraft departures scheduled.	S		CFD*
610	Revenue aircraft hours (airborne).			
630	Aircraft hours (ramp-to-ramp) ...			
650	Total aircraft hours (airborne) ...	S		

\*CFD = Computed by DOT from detail Schedule T-100 and T-100(f) data.

(2) [Reserved]

(e) These reported items are further described as follows:

(1) *Reporting period date.* The year and month to which the reported data are applicable.

(2) *Carrier, Carrier entity code.* Each air carrier shall report its name and entity code (a five digit code assigned by BTS that identifies both the carrier and its entity) for its particular operations. The Office of Airline Information (OAI) will assign or confirm codes upon request; OAI's address is Office of Airline Information, BTS, DOT, RTS-42, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Service class code.* The service class codes are prescribed in section 298.61(c). In general, classes are divided into two broad categories, either scheduled or nonscheduled, where scheduled = F + G and nonscheduled = L + N + P + R.

(4) *Record type code.* This code indicates whether the data pertain to non-stop segment (record type S) or on-flight market (record type M).

(5) *Aircraft type code.* This code represents the aircraft types, as described in the BTS' Accounting and Reporting Directives.

(6) *Origin, Destination airport code(s).* These codes represent the industry designators. An industry source of these industry designator codes is the Official Airline Guide (OAG). OAI assigns codes upon request if not listed in the OAG.

(7) *110 Revenue passengers enplaned.* The total number of revenue passengers enplaned at the origin point of a flight, boarding the flight for the

first time; an unduplicated count of passengers in a market. Under the T-100 system of reporting, these enplaned passengers are the sum of the passengers in the individual on-flight markets. In the domestic entity, report only the total revenue passengers enplaned in item 110.

(8) *130 Revenue passengers transported.* The total number of revenue passengers transported over a single flight stage, including those already on the aircraft from a previous flight stage. In the domestic entity, report only the total revenue passengers transported in item 130.

(9) *140 Revenue passenger-miles.* Computed by multiplying the inter-airport distance of each flight stage by the number of passengers transported on that flight stage.

(10) *210 Revenue cargo tons enplaned.* The total number of cargo tons enplaned. This data element is a sum of the individual on-flight market figures for each of the following categories: 217 Freight and 219 Mail. This element represents an unduplicated count of the revenue traffic in a market.

(11) *217 Enplaned freight.* The total weight of revenue freight enplaned at the origin point of a flight, loaded onto the flight for the first time; an unduplicated count of freight in a market.

(12) *219 Enplaned mail.* The total weight of mail enplaned at the origin point of a flight, loaded onto the flight for the first time; an unduplicated count of mail in a market.

(13) *230 Revenue tons transported.* The number of tons of revenue traffic transported. This element is the sum of the following elements: 231 Passengers transported-total, 237 Freight, and 239 Mail.

(14) *237 Transported freight.* The total weight of freight transported over a single flight stage, including freight already on the aircraft from a previous flight stage.

(15) *239 Transported mail.* The total weight of mail transported over a single flight stage, including mail already on the aircraft from a previous flight stage.

(16) *240 Revenue ton-miles—total.* Ton-miles are computed by multiplying the revenue aircraft miles flown (410) on

each flight stage by the number of tons transported on that stage. This element is the sum of 241 through 249.

(17) *241 Revenue ton-miles—passenger.* Equals the number of passengers times 200, times inter-airport distance, divided by 2000. A standard weight of 200 pounds per passenger, including baggage, is used for all operations and service classes.

(18) *247 Revenue ton-miles—freight.* Equals the volume of freight in whole tons times the inter-airport distance.

(19) *249 Revenue ton-miles—mail.* Equals the volume of mail in whole tons times the inter-airport distance.

(20) *270 Available capacity—payload.* The available capacity is collected in pounds. This figure shall reflect the payload or total available capacity for passengers, mail, and freight applicable to the aircraft with which each flight stage is performed.

(21) *280 Available ton-miles.* The aircraft miles flown on each flight stage multiplied by the available capacity on the aircraft in tons.

(22) *310 Available seats.* The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. In the domestic entity, report the total available seats in item 130. Scheduled and non-scheduled available seats are reported in item 130.

(23) *320 Available seat-miles.* The aircraft miles flown on each flight stage multiplied by the seat capacity available for sale.

(24) *410 Revenue aircraft miles flown.* Revenue aircraft miles flown are computed based on the airport pairs between which service is actually performed; miles are generated from the data for scheduled aircraft departures (Code 520) times the inter-airport distances (Code 501).

(25) *430 Revenue aircraft miles scheduled.* The number of revenue aircraft miles scheduled. All such data shall be maintained in conformity with the airport pairs between which service is scheduled, whether or not in accordance with actual performance.

(26) *501 Inter-airport distance.* The great circle distance, in official statute miles as prescribed in part 247 of this chapter, between airports served by

each flight stage. Official inter-airport mileage may be obtained from the Office of Airline Information.

(27) *510 Revenue aircraft departures performed.* The number of revenue aircraft departures performed.

(28) *520 Revenue aircraft departures scheduled.* The number of revenue aircraft departures scheduled, whether or not actually performed.

(29) *610 Revenue aircraft hours (airborne).* The elapsed time, computed from the moment the aircraft leaves the ground until its next landing.

(30) *630 Aircraft hours (ramp-to-ramp).* The elapsed time, computed from the moment the aircraft first moves under its own power from the boarding ramp at one airport to the time it comes to rest at the ramp for the next point of landing. This data element is also referred to as 'block' and 'block-to-block' aircraft hours.

(31) *650 Total aircraft hours (airborne).* The elapsed time, computed from the moment the aircraft leaves the ground until it touches down at the next landing. This includes flight training, testing, and ferry flights.

(f) *Public availability of Schedule T-100 data.* Detailed domestic on-flight market and nonstop segment data in Schedule T-100, except military data, shall be publicly available after processing. Domestic data are defined as data from air transportation operations from a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession to a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession.

[Doc. No. OST-98-4043, 67 FR 49231, July 30, 2002, as amended by Doc. No. OST-2006-26053, 75 FR 41585, July 16, 2010; DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

#### § 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

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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 49 U.S.C. Subtitle VII 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 schedule shall be withheld from public release for a period of 3 years after the close of the calendar quarter to which the report relates.

[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; 67 FR 49234, July 30, 2002; DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

### **§ 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

Office of the Secretary, DOT

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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 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 seg-

regated 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 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 Doc. No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995; 67 FR 49234, July 30, 2002]

**§ 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

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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 Doc. 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 Doc. No. 47939, 57 FR 40104, Sept. 2, 1992; 60 FR 66726, Dec. 26, 1995]

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### Subpart G—Public Disclosure of Data

#### § 298.70 Public disclosure of data.

(a) Detailed domestic on-flight market data and nonstop segment data except military data shall be made publicly available after processing. Domestic data are defined as data from air transportation operations from a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession to a place in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, or a U.S. territory or possession. Domestic military operations are reported under service codes N or R.

(b) Detailed international on-flight market and nonstop segment data in Schedule T-100 and Schedule T-100(f) reports, except military data, shall be publicly available immediately following the Department's determination that the database is complete, but no earlier than six months after the date of the data. Military operations are reported under service codes N or R. Data for on-flight markets and nonstop segments involving no U.S. points shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months or the end of three years, as applicable, provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail.

(c) Schedule F-1 "Report of Financial Data" shall be withheld from public release for a period of 3 years after the close of the calendar quarter to which the report relates.

(d) The Department may release nonstop segment and on-flight market detail data by carrier or individual Schedule F-1 "Report of Financial Data" before the end of the confidentiality period as follows:

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



submitted by air carriers of that foreign country and U.S. carriers serving that foreign country.

(2) To parties to any proceeding before the Department under 49 U.S.C. Subtitle VII (Transportation), as required by an Administrative Law Judge or other decision-maker of the Department. Parties may designate agents or consultants to receive the data in their behalf, provided the agents or consultants agree to abide by the disclosure restrictions. Any data to which access is granted pursuant to this provision may be introduced into evidence, subject to the normal rules of admissibility.

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

[Doc. No. OST-98-4043, 67 FR 49234, July 30, 2002, as amended by DOT-OST-2014-0140, 84 FR 15935, Apr. 16, 2019]

### Subpart H—Violations

#### § 298.80 Disclosures.

(a) Before entering a contract for a specific flight or series of flights with charterers, air taxi operators and commuter air carriers must disclose to the charterer the information in paragraphs (a)(1) and (2) of this section. Before entering a contract for a specific flight or series of flights with charterers, air taxi operators and commuter air carriers must, upon request of the charterer, disclose to the charterer the information in paragraphs (a)(3), (4), and (5) of this section. The disclosures may be accomplished through electronic transmissions.

(1) That the flight will be performed by another direct air carrier or direct foreign air carrier if that is the case. The corporate name of the direct air carrier or direct foreign air carrier in operational control of the aircraft on which the air transportation is to be performed and any other names in which that direct carrier holds itself out to the public.

(2) If the flight is to be performed by another direct air carrier or direct foreign air carrier, the capacity in which the air taxi operator or commuter air carrier is acting in contracting for the air transportation, *i.e.*, as a principal, as an agent of the charterer, or as an

agent of the direct air carrier that will be in operational control of the flight.

(3) If the flight is to be performed by another direct air carrier or foreign direct air carrier and the air taxi operator or commuter air carrier is acting as the agent of the charterer, the air taxi operator or commuter air carrier must disclose the existence of any corporate or business relationship, including a preexisting contract, between the air taxi operator or commuter air carrier and the direct carrier that will be in operational control of the flight that may have a bearing on the air taxi operator's or commuter air carrier's selection of the direct carrier that will be in operational control of the flight.

(4) The total cost of the air transportation paid by the charterer to or through the air taxi operator or commuter air carrier, including any carrier-imposed fees or government-imposed taxes and fees. Specific individual fees, taxes, or costs may, but are not required to be itemized.

(5) The existence of any fees and their amounts collected by third parties, if known (or a good faith estimate if not known), including fuel, landing fees, and aircraft parking or hangar fees for which the charterer will be responsible for paying directly.

(b) If any of the information in paragraph (a) of this section that is required to be disclosed to the charterer or requested by the charterer to be disclosed is not known at the time the contract is entered into or changes thereafter, air taxi operators and commuter air carriers must provide the information to the charterer within a reasonable time after such information becomes available to the air taxi operator or commuter air carrier, such that the charterer has enough time to make an informed decision as to whether to accept the additional information or accept the change.

(c) If the information in paragraph (a) of this section that is required to be disclosed to the charterer or requested by the charterer to be disclosed is not provided to the charterer within a reasonable time after such information becomes available to the air taxi operator or commuter air carrier, air taxi operators and commuter air carriers must provide the charterer with the

opportunity to cancel the contract for air transportation, including any services in connection with such contract, and receive a full refund of any monies paid for the charter air transportation and services.

(d) Except in exigent circumstances particular to a passenger, air taxi operators and commuter air carriers must disclose prior to the start of the air transportation the information in paragraph (a) of this section that is required or requested to be disclosed.

(e) If the information in paragraph (a) of this section that is required to be disclosed to the charterer or requested by the charterer to be disclosed changes after the air transportation covered by the contract has begun, air taxi operators and commuter air carriers must provide information regarding any such changes to the charterer within a reasonable time after such information becomes available to the air taxi operator or commuter air carrier.

(f) If the changes in information described in paragraph (e) of this section are not provided to the charterer within a reasonable time after becoming available to the air taxi operator or commuter air carrier, air taxi operators and commuter air carriers must provide the charterer with the opportunity to cancel the remaining portion of the contract for charter air transportation, including any services paid for in connection with such contract, and receive a full refund of any monies paid for the charter air transportation and services not yet provided.

[Docket. No. DOT–OST–2007–27057, 83 FR 46877, Sept. 17, 2018]

### Subpart I—Violations

SOURCE: Docket. No. DOT–OST–2007–27057, 83 FR 46877, Sept. 17, 2018, unless otherwise noted.

#### § 298.90 Prohibited unfair or deceptive practices or unfair methods of competition.

(a) Violations of this Part shall be considered to constitute unfair or deceptive practices or unfair methods of competition in violation of 49 U.S.C. 41712.

(b) In addition to paragraph (a) of this section, the following enumerated

practices, among others, by an air taxi operator or commuter air carrier are unfair or deceptive practices or unfair methods of competition in violation of 49 U.S.C. 41712:

(1) Misrepresentations that may induce members of the public to reasonably believe that the air taxi operator or commuter air carrier will be, or is, in operational control of a flight when that is not the case.

(2) Misrepresentations as to the quality or kind of service or type of aircraft.

(3) Misrepresentations as to the time of departure or arrival, points served, route to be flown, stops to be made, or total trip-time from point of departure to destination.

(4) Misrepresentations as to the qualifications of pilots or safety record or certification of pilots, aircraft, or air carriers.

(5) Misrepresentations that passengers are directly insured when they are not so insured. For example, where the only insurance in force is that protecting the air taxi operator or commuter air carrier in the event of liability.

(6) Misrepresentations as to fares or charges for air transportation or services in connection therewith.

(7) Misrepresentations as to membership in or involvement with an organization that audits direct air carriers or that the direct air carrier to be used for a flight meets a standard set by an auditing organization.

(8) Representing that a contract for a specified direct air carrier, aircraft, flight, or time has been arranged without a binding commitment with a direct air carrier for the furnishing of such transportation as represented.

(9) Selling or contracting for air transportation while knowing or having reason to know or believe that such air transportation cannot be legally performed by the direct air carrier or foreign direct air carrier that is to perform the air transportation.

(10) Misrepresentations as to the requirements that must be met by charterers in order to qualify for charter flights.

(11) Using or displaying or permitting or suffering to be used or displayed the

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name, tradename, slogan or any abbreviation thereof, of an air charter broker in advertisements, on or in places of business, or on or in aircraft or any other place in connection with the name of the air taxi or commuter air carrier in such manner that it may mislead or confuse potential consumers with respect to the status of the air charter broker.

**§ 298.92 Enforcement.**

In case of any violation of the provisions of 49 U.S.C. Subtitle VII, 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 49 U.S.C. Subtitle VII before the Department, or sections 46106 through 46108 of 49 U.S.C. Subtitle VII 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 49 U.S.C. Subtitle VII; or, in the case of a willful violation, to criminal penalties pursuant to the provisions of section 46316 of 49 U.S.C. Subtitle VII; or other lawful sanctions including revocation of operating authority.

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