

§ 213.4

§ 213.4 [Reserved]

§ 213.5 Filing and service of schedules and applications for approval of schedules; procedure thereon.

(a) *Number of copies and certificate of service.* An original and three copies of each schedule, and an original and seven (7) copies of application for approval of schedules (§213.3(e)) shall be filed with the Department, each setting forth the names and addresses of the persons, if any, required to be served, and stating that service has been made on all such persons by personal service or by registered or certified mail (if the addressee is located within the United States, its territories and possessions) or by registered air mail (if the addressee is located outside the United States, its territories and possessions) and the date of such service. In the case of service by mail, the date of mailing shall be considered the date of service.

(b) *Pleadings by interested persons.* Any interested person may file and serve upon the foreign air carrier a memorandum in opposition to, or in support of, schedules or an application for approval of schedules within 10 days of the filing opposed or supported. All memoranda shall set forth in detail the reasons for the position taken together with a statement of economic data and other matters which it is desired that the Department officially notice, and affidavits stating other facts relied upon. Memoranda shall contain a certificate of service as prescribed in paragraph (a) of this section. An executed original and seven (7) true copies shall be filed with the Department's Docket Facility. Unless otherwise provided by the Department, further pleadings will not be entertained.

(c) *Determination and petitions for reconsideration.* The Department may make its determination upon the application and other pleadings or, in its discretion, after hearing. Interested persons seeking reconsideration of the Department's determination on an application approval of schedules may file a petition pursuant to Rule 14 of part 302 of this chapter within 10 days of Department action. Any interested person may file an answer in opposition to, or in support of, the petition

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within 10 days after it is filed. An executed original and 19 copies of such petition for reconsideration or memorandum shall be filed with the Docket Facility. All petitions for reconsideration shall contain a certificate of service in the form prescribed by paragraph (a) of this section. Unless ordered by the Department upon application or upon its own motion, further pleadings will not be entertained.

[ER-624, 35 FR 8881, June 9, 1970, as amended by ER-644, 35 FR 14382, Sept. 12, 1970; 61 FR 34725, July 3, 1996; 65 FR 6456, Feb. 9, 2000]

§ 213.6 Compliance.

Any violation by the foreign air carrier of applicable provisions of Subtitle VII of Title 49 of the U.S. Code or of orders, rules or regulations issued thereunder, or of the terms, conditions or limitations applicable to the exercise of the privileges granted by the permit shall constitute a failure to comply with the terms, conditions and limitations of such permit: *Provided*, That upon a showing that a violation of a provision not mandatorily prescribed by law resulted from the observance by the holder of an obligation, duty or liability imposed by a foreign country, the Department may excuse the violation.

[ER-624, 35 FR 8881, June 9, 1970, as amended at 61 FR 34725, July 3, 1996]

§ 213.7 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a foreign air carrier permit or other authority authorizing direct foreign scheduled air transportation 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 provisions, and comply with all other requirements of part 203 of this chapter. That form can be obtained from the Foreign Air Carrier Licensing Division (X-45), Office of International Aviation,

Office of the Secretary, DOT

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Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(Approved by the Office of Management and Budget under control number 3024-0064)

[ER-1330, 48 FR 8050, Feb. 25, 1983, as amended by ER-1346, 48 FR 31014, July 6, 1983; 61 FR 34725, July 3, 1996]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Sec.

214.1 Applicability.

214.2 Terms of service.

§ 214.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only.

(Secs. 204, 402, Pub. L. 85-726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371)

[ER-1223, 46 FR 28379, May 26, 1981]

§ 214.2 Terms of service.

Charter air transportation under this part shall be performed in accordance with the provisions of part 212 of this chapter.

(Secs. 204, 402, Pub. L. 85-726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371)

[ER-1223, 46 FR 28379, May 26, 1981]

PART 215—USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS AND COMMUTER AIR CARRIERS

Sec.

215.1 Applicability.

215.2 Purpose.

215.3 Use of name.

215.4 Change of name or use of trade name.

215.5 Procedure in case of similarity of names.

215.6 Acknowledgment of registration.

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

SOURCE: 53 FR 17923, May 19, 1988, unless otherwise noted.

§ 215.1 Applicability.

This part applies to all certified air carriers, commuter air carriers, and foreign direct air carriers and to initial or amended applications for authority, applications for certificate or permit transfers or reissuances, and registration of business names.

§ 215.2 Purpose.

This part sets rules under which direct air carriers may use the names in their operating authorizations and change those names. It further provides for notification to air carriers that may be affected by the use by other air carriers of the same or similar names. Its purpose is to place the responsibility for resolving private disputes about the use of similar names with the air carriers involved, through recourse to the trade names statutes and the courts. These rules do not preclude Department intervention or enforcement action should there be evidence of a significant potential for, or of actual, public confusion.

§ 215.3 Use of name.

In holding out to the public and in performing air transportation services, a direct air carrier or foreign direct air carrier subject to this part shall use only the name in which its operating authorization is issued or trade name is registered, and shall not operate or hold out to the public in a name not acknowledged by the Department to be so registered. Except as provided in §§ 221.21(J) and 221.35(d) of this chapter, minor variations in the use of this name, including abbreviations, contractions, initial letters, or other variations of the name that are identifiable with the authorized name, are permitted. Slogans and service marks shall not be considered names for the purpose of this part, and their use is not restricted.

§ 215.4 Change of name or use of trade name.

(a) *Registrations.* Any air carrier subject to this part that desires to change the name in which its operating authorization has been issued, or to use a trade name, or to obtain initial operating authority must register the name with the Department. The Department