

Subpart H—Violations

294.70 Enforcement.

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

- 294.80 Waiver of sovereign immunity.
 294.81 Local traffic prohibited.
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AUTHORITY: 49 U.S.C. Chapters 401, 417.

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

EDITORIAL NOTE: Nomenclature changes to part 294 appear at 57 FR 40102, Sept. 2, 1992.

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 applicable 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 U.S.—Canada Nonscheduled Air Services Agreement signed May 8, 1974, 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 payload 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 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

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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]

§ 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 been designated by the Canadian Government under the Agreement;

(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

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(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]

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).

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

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 Aviation Analysis, Special Authorities Division, the following:

(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 Aviation Analysis, 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]