

Subpart C—Effect of Exemption**§ 293.20 Rule of construction.**

To the extent that a carrier holds an effective exemption from the duty to file tariffs under this part, it shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, except as provided in § 293.21.

§ 293.21 Incorporation of contract terms by reference.

Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.*, without stating their full text) into the passenger ticket or other document embodying the contract of carriage for the scheduled transportation of passengers in foreign air transportation, provided that:

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

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

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for incorporation of terms by reference into contracts of carriage for the scheduled transportation of passengers in foreign air transportation.

§ 293.22 Effectiveness of tariffs on file.

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

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

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS**Subpart A—General**

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

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

Subpart A—General

§ 294.1 Applicability and purpose.

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

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

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

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

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

(h) *Maximum payload capacity* means the maximum certificated takeoff weight of an aircraft less the empty weight as defined in section 03 of part 241 of this chapter, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward’s supplies, etc.). For purposes of this part, the allowance for weight of the crew, oil and fuel is as follows:

(1) Crew—200 pounds per crew member required under FAA regulations, (2) oil—350 pounds, (3) fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart, assuming VFR weather conditions and flights not involving extended overwater operations. However, in the case of aircraft for which a maximum zero fuel weight is