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**1999**

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**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
NOTICE OF EXEMPTION FROM THE  
DEPARTMENT'S TARIFF-FILING REQUIREMENTS  
DOCKET OST-97-2050**

Issued by the Department of Transportation  
on the 7<sup>th</sup> day of October, 1999

The Department issued a final rule, July 21, 1999, exempting U.S. and foreign carriers from the statutory and regulatory duty to file international passenger tariffs with the Department provided certain conditions set forth in 14 CFR part 293 are met. 1/ Under the new rule, the Assistant Secretary is to issue an initial notice specifying tariff-filing exemptions for markets that fall into Category A (no fare filing, except by carriers of Category C countries), Category B (filing "normal" one-way economy-class fares only, except that carriers of Category C countries must file all fares) or Category C (filing of all fares by all carriers), taking into account specific factors present in each market. The Assistant Secretary may also require carriers of countries placed in Categories A or B to continue to file passenger tariffs for services they offer between the U.S. and any third countries if effective price leadership opportunities for U.S. carriers are not available between the foreign carrier's home country and third countries. 2/

In this initial notice issued under 14 CFR part 293, the Assistant Secretary has determined the tariff-filing requirements for each market as set forth in Attachment A to this notice, taking into account the four specific factors set forth in 14 CFR part 293 (a)(2)(i) through (iv). 3/ After this initial determination, the Assistant Secretary may issue subsequent notices transferring countries between categories.

Under the final rule, carriers are also exempted from the duty to file rules tariffs containing general conditions of carriage, except for those rules which we have determined should continue to be filed for public interest reasons. Rules tariffs include such general subjects as currency of fares, electronic surveillance of passengers and baggage, capacity limitations, denied boarding compensation, and other matters of general application to international air transportation.

This notice also includes a description of those rules containing general conditions of carriage that will no longer be required or permitted to be filed. The descriptions of those rules that are

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1/ See 64 Fed Reg 40654, July 27, 1999.

2/ We discussed the factors we would consider in both the NPRM (62 Fed Reg 10758, 760-762, March 10, 1997) and the Final Rule (64 Fed Reg 40654, 655-657, July 27, 1999).

3/ Any differences in the status of those markets specifically enumerated as illustrative in the NPRM from what is now shown in Attachment A reflect our most recent evaluation of their attributes using the applicable criteria.

no longer to be filed as well as of those rules that are to continue to be filed for public interest reasons are set forth in Attachment B. After this initial determination, authority for determining what governing rules carriers must file is delegated to the Director of the Office of International Aviation, who will continue to refine these descriptions as necessary.

Finally, in order to clarify the carriers' obligations regarding Warsaw Convention liability, the Department's requirements regarding Warsaw notice and tariff filing requirements are set forth in Attachment C.

This notice will become effective on October 7, 1999, at which time the 180-day phase-out period set forth in 14 CFR part 293.22(a) will begin.

By the Department of Transportation:

A. BRADLEY MIMS  
Acting Assistant Secretary for Aviation  
and International Affairs

(SEAL)

**TARIFF EXEMPTION STATUS**

(1)	(2)	(3)	(4)
<u>WAC</u>	<u>Country</u>	<u>Tariff-filing Category</u>	<u>Foreign Carrier(s)</u> <u>Designated by (2) Must File</u> <u>5th/6th Freedom Fares</u>
701	Afghanistan	B	No
401	Albania	B	No
500	Algeria	B	No
502	Angola	B	No
202	Anguilla (UK)	C	Yes
206	Antigua & Barbuda	B	No
303	Argentina	A	No
405	Armenia	B	No
277	Aruba	A	No
802	Australia	B	No
403	Austria	A	No
407	Azerbaijan	B	No
204	Bahamas	B	No
605	Bahrain	A	No
703	Bangladesh	B	No
205	Barbados	B	No
413	Belarus	B	No
409	Belgium	A	No
106	Belize	C	Yes
519	Benin (Dahomey)	B	No
207	Bermuda ( UK)	C	Yes
702	Bhutan	B	No
312	Bolivia	B	No
410	Bosnia-Herzegovina	B	No
510	Botswana	B	No
316	Brazil	C	Yes
704	Brunei	A	No
411	Bulgaria	B	No
593	Burkina Faso	B	No
706	Burma (Myanmar)	B	No
503	Burundi	B	No
709	Cambodia	B	No
504	Cameroon	B	No
900+	Canada	A	Yes
482	Canary Islands	B	No
507	Cape Verde	B	No
233	Cayman Islands (UK)	C	Yes
509	Central African Rep	B	No
511	Chad	B	No
324	Chile	A	No
713	China	C	Yes
327	Colombia	B	Yes
513	Comoros	B	No
515	Congo	B	No
813	Cook Islands	B	No

**TARIFF EXEMPTION STATUS**

(1)	(2)	(3)	(4)
			Foreign Carrier(s) Designated by (2) Must File
<u>WAC</u>	<u>Country</u>	<u>Tariff-filing Category</u>	<u>5th/6th Freedom Fares</u>
110	Costa Rica	A	No
533	Cote d' Ivoire	B	No
415	Croatia	B	No
611	Cyprus	B	No
418	Czech Republic	A	No
517	Dem Rep of Congo	B	No
419	Denmark	A	No
525	Djibouti	B	No
221	Dominica	B	No
224	Dominican Republic	A	No
337	Ecuador	B	No
591	Egypt	B	No
118	El Salvador	A	No
521	Equatorial Guinea	B	No
523	Eritrea	B	No
422	Estonia	B	No
522	Ethiopa	B	No
821	Fiji	A	No
425	Finland	A	No
427	France (To 4/1/2003)	B	No
427	France (After 4/1/2003)	A	No
344	French Guinea (France)	French Overseas Department:	See France
526	Gabon	B	No
432	Georgia	B	No
429	Germany	A	No
529	Ghana	B	No
433	Greece	B	No
419	Greenland (Denmark)	A	No
273	Grenada	B	No
235	Guadeloupe (France)	French Overseas Department:	See France
127	Guatemala	A	No
531	Guinea	B	No
559	Guinea-Bissau	B	No
350	Guyana	B	No
238	Haiti	B	No
131	Honduras	A	No
729	Hong Kong	C	Yes
437	Hungary	B	No
439	Iceland	A	No
733	India	C	Yes
832	Indonesia	B	No
632	Iran	B	No
441	Ireland	A	No
636	Israel	A	No
450	Italy	B	No
243	Jamaica	A	No

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<u>WAC</u>	<u>Country</u>	<u>Tariff-filing Category</u>	<u>Foreign Carrier(s)</u> <u>Designated by (2) Must File</u> <u>5th/6th Freedom Fares</u>
736	Japan	C	Yes
639	Jordan	A	No
738	Kazakstan	B	No
535	Kenya	B	No
824	Kiribati	B	No
778	Korea (South)	A	No
644	Kuwait	B	No
743	Kyrgyzstan	B	No
744	Laos	B	No
451	Latvia	B	No
647	Lebanon	B	No
536	Lesotho	B	No
537	Liberia	B	No
453	Leichtenstein	B	No
452	Lithuania	B	No
454	Luxembourg	A	No
455	Macedonia	B	No
747	Macau	A	No
541	Madagascar	B	No
542	Malawi	B	No
749	Malaysia	A	No
750	Maldiv Islands	B	No
543	Mali	B	No
844	Marshall Islands	B	No
456	Malta	B	No
252	Martinique (France)		French Overseas Department: See France
545	Mauritania	B	No
546	Mauritius (UK)	C	Yes
547	Mayotte (France)		French Overseas Department: See France
148	Mexico	B	No
810	Micronesia	B	No
457	Moldova	B	No
751	Mongolia	B	No
256	Montserrat, BWI (UK)	C	Yes
548	Morocco	B	No
550	Mozambique	B	No
575	Namibia	B	No
845	Nauru	C	Yes
755	Nepal	B	No
461	Netherlands	A	No
259	Netherland Antilles	A	No
846	New Caledonia (France)		French Overseas Department: See France
851	New Zealand	A	No
153	Nicaragua	A	No
554	Niger	B	No
555	Nigeria	B	No

## TARIFF EXEMPTION STATUS

(1)	(2)	(3)	(4)
			Foreign Carrier(s) Designated by (2) Must File
<u>WAC</u>	<u>Country</u>	<u>Tariff-filing Category</u>	<u>5th/6th Freedom Fares</u>
852	Niue (New Zealand)	A	No
465	Norway	A	No
658	Oman	B	No
764	Pakistan	A	No
005	Palau	B	No
162	Panama	A	No
804	Papua New Guinea	B	No
365	Paraguay	B	No
368	Peru	A	No
766	Philippines	B	No
467	Poland	B	No
469	Portugal	B	No
664	Qatar	B	No
563	Reunion Island (France)	French Overseas Department: See France	
473	Romania	A	No
475	Russian Federation	A	No
566	Rwanda	B	No
275	St. Kitts-Nevis	B	No
276	St. Lucia )	B	No
977	Sts. Pierre/Miquelon (France)	French Overseas Department: See France	
279	St. Vincent	B	No
479	San Marino	B	No
567	Sao Tome & Principe	B	No
670	Saudi Arabia	B	No
569	Senegal	B	No
480/459	Serbia-Montenegro	B	No
570	Seychelles	B	No
571	Sierra Leone	B	No
776	Singapore	A	No
483	Slovakia	B	No
481	Slovenia	B	No
874	Solomon Islands	B	No
573	Somalia	B	No
562	South Africa	A	No
482	Spain	B	No
711	Sri Lanka	B	No
583	Sudan	B	No
379	Surinam	B	No
582	Swaziland	B	No
484	Sweden	A	No
486	Switzerland	A	No
676	Syria *	B	No
823	Tahiti (France)	French Overseas Department: See France	
783	Tajikistan	B	No
585	Tanzania	B	No
782	Thailand	B	No

**TARIFF EXEMPTION STATUS**

(1)	(2)	(3)	(4)
			Foreign Carrier(s)

<u>WAC</u>	<u>Country</u>	<u>Tariff-filing Category</u>	<u>Designated by (2) Must File</u> <u>5th/6th Freedom Fares</u>
527	The Gambia	B	No
586	Togo	B	No
881	Tonga	B	No
280	Trinidad & Tobago	B	No
588	Tunisia	B	No
679	Turkey	B	No
785	Turkmenistan	B	No
281	Turks & Caicos Is. (UK)	C	Yes
817	Tuvalu	B	No
590	Uganda	B	No
488	Ukraine	A	No
678	United Arab Emirates	A	No
493	United Kingdom	C	Yes
385	Uruguay	B	No
788	Uzbekistan	A	No
885	Vanuatu	B	No
388	Venezuela	B	No
791	Vietnam	B	No
282	Virgin Islands (UK)	C	Yes
892	Western Samoa	B	No
694	Yemen	B	No
597	Zambia	B	No
565	Zimbabwe	B	No
781	Taiwan**	A	No

**Key:**

**Category A: File no fares.**

**Category B: File one way economy class fares.**

**Category C: File all fares.**

Notes: \* Subject to the restrictions on sales of transportation on Syrian Arab Airlines (Order 86-11-30).

\*\* The U.S. does not recognize Taiwan as a state or country, but maintains unofficial relations with Taiwan in accordance with The Taiwan Relations Act.

## **Tariff Filing Requirements**

### **General Matters**

Under our final rule, carriers are exempt from the duty to file certain governing rules tariffs containing general conditions of carriage. These rules include such general subjects as currency of fares, electronic surveillance of passengers and baggage, capacity limitations, denied boarding compensation, and other matters of general application to international air transportation.

However, elimination of our tariff filing requirements for certain information should not be construed as a grant of exemption from other requirements of our regulations. We specifically require, in 14 CFR Part 221, Subpart K, that a carrier have available for public inspection all effective tariffs applicable to passenger traffic to or from the point where tickets for passenger transportation are sold (221.101). In addition, carriers must, among other things, (1) make the full text of all contract terms that are incorporated by reference readily available for public inspection at each of their airport or other ticket sales offices; (2) provide free of charge to any person upon request, by mail or otherwise, a copy of the full text of all contract terms incorporated by reference; and (3) provide persons a concise and immediate explanation of certain important terms such as liability limitations, claim restrictions, and failure to perform service, among others (221.107). In view of our reduced filing requirements, we will strictly enforce these requirements that carriers meet consumer requests for tariff or terms of contract information. Questions dealing with compliance with our notice provisions should be directed to the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, (202) 366-9342.

### **Required and Excluded Rules**

We have listed in Part A, below, governing rules that carriers are no longer required to file for approval, and which will not be accepted if filed. Governing rules that carriers are required to continue to file for approval are listed in Part B. Rules not in either category should be filed, and will be accepted or excluded under assigned authority. In addition, we will no longer require the filing of several special-purpose, combined-carrier tariffs. These tariffs are listed in Part C.

Individual carrier tariffs are generally broken into four sections: Table of Contents; Section I - General Rules; Section II - Special and Promotional Fares, Unpublished Fares; and Section III - Special and Promotional Fares, Published Fares. Material in these sections that is to be filed or excluded is described below, by section. Published Fares and Fare Rules in Section III are already officially filed in electronic form, and inclusion or exclusion of these data is dependent upon the tariff filing exemptions set forth by market in Attachment A.

Part A. Material which will no longer be accepted.

A. Table of Contents:

1. Correction Number Sheet

B. Section I - General Rules:

1. Currency of Fares/Applications- - The listing of currencies and exchange rates by country, generally Rule 145.
2. Extension of Credit- - Terms of credit are already precluded from application in U.S. tariffs by 14 CFR Part 221.38.
3. Denied Boarding Compensation- - Denied Boarding Compensation requirements are codified in 14 CFR Part 250.
4. Electronic Surveillance of Passengers and Baggage- - generally Rule 15.
5. Amenities/Services for Delayed Passengers- - generally Rule 95.
6. Passenger Expenses En Route- - generally Rule 35.
7. Standard Format of Paper Fare Rules- - if different from Standard Format of Fare Rules for Electronic Fares, generally Rule 2.
8. Airport Lounge Facilities.
9. Group Conditional Reservations- - generally Rule 62.
10. Capacity Limitations- - These provisions are included in electronic fare rules, category 50. The provisions are no longer needed as a general rule, usually Rule 61.
11. Shared Designators- - listing of carriers and flight numbers under the non-transporting carrier code, generally Rule 57.
12. Classes of Service- - generally Rule 6.
13. Currency of Payment- - generally Rule 75.
14. Refunds- - generally rule 90.
15. Preplanned Oxygen Service- - generally Rule 50.
16. Ground Transfer Service- - generally Rule 30.
17. Administrative Formalities - Passports, Visas, and Tourist Cards- - generally Rule 45.
18. Reservations- - generally Rule 60.
19. Revised Routings, Failure to Carry, and Missed Connections- - generally Rule 80.
20. Routings- - generally Rule 140.
21. Schedules, Delay, and Cancellation of Flights- - generally Rule 85.
22. Tickets- - generally Rule 65, but may have separate controlling rules for electronic ticketing provisions and ticketing time limits.

C. Section II- - Special and Promotional Fares and Charges - Unpublished Fares

1. All VUSA, RTW, and Circle Trip fare rules.
2. All Contract Bulk fare rules.
3. All Companion/Spouse/Family fare rules, except to the extent they apply in markets not exempted from fares filing as set forth in Attachment A.
4. All Tour Conductor/Agent fare rules.

5. All status fare rules-- e.g. Seaman's Fares, Convention Fares, and Senior Citizen.
6. All "Frequent Flyer" award provisions.
7. All Inclusive Tour rules, including Air/Sea Tour Rules.
8. Rules for Passengers Occupying Two Seats.
9. Rules for Passengers on Stretchers.
10. Children's and Infants' Fares- - generally Rule 200.

D. Section III- - Special and Promotional Fares, Published Fares  
Filing requirements are determined by the tariff filing exemption set forth by market in Attachment A.

Part B. Material to continue to be filed in official tariffs.

A. Table of Contents:

1. Table of Contents

B. Section I - General Rules:

1. Application of Tariff- - generally Rule 5.
2. Baggage- - generally Rule 115, but may continue to have separate rules for different elements relating to baggage.
3. Carriage of Handicapped/Nonambulatory Passengers- - generally Rule 20.
4. Definitions- - generally Rule 1.
5. Liability of Carriers- - generally Rule 55.
6. Standard Format of Electronic Rules- - generally Rule 2 (but not standard format of paper rules).
7. \*Surcharges- - various rule numbers; all surcharges are to be filed.
8. \*Taxes- - generally Rule 40.
9. Fares- - generally Rule 130.
10. Refusal to Transport- Limitations of Carrier- - generally Rule 25.

C. Section II- - Special and Promotional Fares and Charges, Unpublished Fares  
All Companion/Spouse/Family fare rules, to the extent they apply in markets not exempted from fare filing as set forth in Attachment A.

D. Section III- - Special and Promotional Fares, Published Fares  
Filing requirements are determined by the tariff filing exemption by market set forth in Attachment A.

Part C. Specialized Tariffs That Need Not Be Filed

1. Aircraft Configuration.
2. Circle Trip and Around-the-World tariffs.

### **Refiling Requirement**

The Department has been accepting, on a test basis, the electronic filing of general rules since April 1996. However, these electronic general rules have not been officially approved, and in some cases do not match the existing official paper tariff rules. Our final rule eliminates the filing of paper tariffs, and this Notice will restrict our acceptance of electronic general rules to those which we deem necessary to meet regulatory policy and consumer protection requirements.

In order to ensure that these general rules, which will continue to be filed and which will become the official tariff, faithfully reflect the existing official paper tariff rules, we will require that all general rules that are required to be filed in Part B, above, be electronically refiled with the Department.

## RETENTION OF WARSAW NOTICE REQUIREMENTS

We have retained the requirements of Section 221.105 (formerly 221.175) of our regulations providing for a Special Notice of Limited Liability for Death or Injury under the Warsaw Convention. Although the notice specified in the regulation includes a statement that a \$10,000 limit may apply, the section further provides:

AProvided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. . . .@

Part 203 of the regulations, which will remain fully effective, requires all air carriers, and foreign air carriers (with the exception of purely domestic, non-commuter air taxi operators) to become parties to the 1966 Montreal Agreement (Agreement 18900, OST Form 4523) which waives the Warsaw passenger liability limits up to \$75,000, under strict liability. Section 203.5 also deems any such air carrier or foreign air carrier holding license authority (including exemptions) or operating in air transportation to be a party to the 1966 Agreement. That Agreement contains a specified Notice, which would be utilized in lieu of, and as a modification of, the Notice specified in section 221.105.

In addition, the Department's Order approving the IATA I.A. and MIA Agreements, and the ATA IPA Agreement (See Order 97-1-2, January 8, 1997), which waived the Warsaw passenger liability limits in their entirety (and generally provide for strict liability up to 100,000 Special Drawing Rights), provide that air carriers and foreign air carriers filing tariffs in accordance with the waivers under the MIA and IPA Agreements may substitute those Agreements for the 1966 Agreement for purposes of all DOT regulations and conditions on operating authority for so long as they are parties to those Agreements.

Carriers parties to the IPA, MIA or I.A. Agreements are further exempted by that Order from all DOT regulations and authority conditions only to the extent necessary to implement those agreements in the manner contemplated by the Order. The IPA Agreement also contains a specified appropriate Notice.

In sum, all air carriers and foreign air carriers must include in their tickets the section 221.105 Notice, (or more specifically the 1966 Montreal Agreement Notice), modified to reflect any further waiver of the Warsaw passenger limits which have been implemented; or, for air carriers and foreign air carriers which have filed tariffs implementing the waiver of the Warsaw passenger liability limits in their entirety under the IPA or MPA Agreements, appropriate provisions in accord with those agreements. All air carriers and foreign air carriers who implement the waiver of the Warsaw passenger liability limits under the I.A., IPA or MIA Agreements shall amend their tariffs accordingly.