

(2) From October 16 through December 14, 1981 sport fishing is permitted:

(a) Within the area one-eighth ($\frac{1}{8}$) mile around the Recreation Area and Boatyard No. 3, as posted

(b) On Goofy Ridge Ditch

(c) Along the cross dike

(d) On all waters within the Public Hunting Area

(3) Fishing is allowed between sunrise and sunset only.

(4) The use of boats, with motors of ten (10) horsepower or less, is permitted in the waters of Lake Chautauqua.

(5) Private boats must be removed overnight or moored at Boatyard No. 3, or the Recreation Area.

Mark Twain National Wildlife Refuge

(1) The open season for sport fishing on the Middle and Lower Pools of the Batchtown Division, Calhoun County, Illinois, extends from January 1 to December 31, 1981. The Upper Pool is open to sport fishing from January 1 to December 31, 1981.

(2) Open season for sport fishing on the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, extends from January 1 to October 15, 1981 and December 15 to December 31, 1981. The upper section of Swan Lake—(man-made ditch at Six Mile Island to the northern refuge boundary) extends from January 1 to December 31, 1981.

(3) The open season for commercial fishing on the southern portion of Swan Lake, (man-made ditch at Six Mile Island to the east end of Swan Lake) extends from April 1 to October 15, 1981. Commercial fishing on Swan Lake will be limited to 50 permit holders.

(4) The Keithsburg Division of the refuge is open to sport fishing from January 1, 1981 through October 14, 1981.

(5) All fishing will be in accordance with all applicable State and Federal regulations.

Missouri

Mark Twain National Wildlife Refuge

(1) The Cannon and Delair Divisions of the refuge is closed to sport fishing.

(2) The Gardner Division will be open to sport fishing from January 1 through October 15, 1981.

(3) All fishing will be in accordance with applicable State and Federal regulations.

Swan Lake National Wildlife Refuge

(1) Sport fishing is permitted from March 1 through September 30, 1981.

(2) During daylight hours, only.

(3) Boats without motors may be used on Swan Lake, Silver Lake, and that

portion of South Lake immediately adjacent to No. 5 Levee.

(4) Travel is permitted on all roads except those posted with "Road Closed" signs.

(5) No nets of any type may be used within 150 feet of water control structures.

Mingo National Wildlife Refuge

(1) Visitors are permitted on the refuge from one hour before sunrise until one hour after sunset.

(2) All waters west of Ditch #6 are open year-round. All other waters are open March 15 through September 30, 1981.

(3) Fishing in Fox Pond and May Pond is permitted: (a) From March 15 through September 30, 1981.

(b) By pole or rod and line, only.

(c) No bass less than 12 inches may be kept.

(d) Daily aggregate limit of 20 fish.

(4) The use or possession of motors on boats is prohibited. No boats may be left overnight. A U.S. Coast Guard approved personal flotation device is required for each person in a boat.

(5) Non-game fish may be taken for personal use, but not for commercial purposes, by snagging, grabbing, snaring, nets, and seines from March 15 through September 30, 1981.

(6) All nets must be plainly labeled with the name and address of the person(s) using such equipment.

(7) Trammel nets and gill nets must be attended at all times. All other nets may be left set and unattended for not more than 24 hours.

(8) Game fish may not be possessed by persons using nets or seines on the refuge.

Squaw Creek National Wildlife Refuge

(1) Sport fishing, in designated areas, is permitted in accordance with State and Federal regulations from March 15 through December 31, 1981.

Nebraska

DeSoto National Wildlife Refuge

See special conditions listed under Iowa.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: November 24, 19880.

Tom A. Saunders,
Area Manager.

[FR Doc. 80-37563 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 45, No. 234

Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 496]

Navel Oranges Grown in Arizona and Designated Part of California; Proposed Extension of Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through July 16, 1981, the requirement that shipments of California-Arizona navel oranges grown in District 1, 3, or 4 be not smaller than 2.59 inches in diameter. Unless extended, this regulation would expire January 1, 1981. This action is designed to provide markets with acceptable sizes of fruit and to promote orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received not later than December 18, 1980. Proposed effective dates: January 2, 1981, through July 16, 1981.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR Part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McCaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Draft Impact Analysis relative to this proposed rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." The proposal is being published with less than a 60-day comment period because there is

insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

Currently, the regulation specifies a minimum diameter requirement of 2.45 inches for fresh shipments of California-Arizona navel oranges grown in District 1, 3, or 4 through December 25, 1980, and a minimum diameter of 2.59 inches from December 26, 1980, through January 1, 1981. The proposed amendment would continue the 2.59 inch minimum diameter requirement through July 16, 1981. This notice is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and a designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Navel Orange Administrative Committee, established under the order.

The 1980-81 season crop of navel oranges is currently estimated by the committee at 76,200 carlots, compared to 68,601 carlots utilized during the past season. The committee reports that demand in regulated fresh market channels is expected to require about 56 percent of this volume. The remaining 44 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navel oranges are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this proposed regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing.

The proposal is that § 907.796 Navel Orange Regulation 496 (45 FR 75163; 76651; 79003) be amended to read as follows:

§ 907.796 Navel Orange Regulation 496.

(a) During the period January 2, 1981, through July 16, 1981, no handler shall handle any navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided*, That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.59 inches in diameter.

(b) As used in this section, "handler," "handle," "District 1," "District 3," and "District 4" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

Dated: November 28, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 37551 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Definition of Social Disadvantage; Minority Group Inclusion

Correction

In FR Doc. 80-37134 appearing at page 79496 in the issue of Monday, December 1, 1980, on page 79497, first column, under "DATES", "January 30, 1980" should read "January 30, 1981".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 211, 215, 218, 294, 380, 385, 399

[EDR-414; ODR-23; SPDR-80; PSDR-69; Docket No. 39000; Dated November 26, 1980]

Proposed Rule To Classify and Exempt Canadian Air Taxi Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new part to provide a simple registration procedure for Canadian charter air taxi operators in place of the regular permit proceedings. The proposal is made at the Board's own initiative, to expedite procedures and lessen administrative burdens for those carriers.

DATES: Comments by: February 2, 1981.
Reply comments by: February 17, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: December 12, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39000, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, (202) 673-5035, Legal Division, or Nancy L. Pitzer (202) 673-5134, Regulatory Affairs Division, Bureau of International Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is proposing to exempt Canadian charter air taxi operators utilizing small aircraft from the requirements of section 402 of the Federal Aviation Act, and to replace those requirements with a simple registration procedure as the means for conferring operating authority between the United States and Canada.¹ The purpose of the rulemaking is to simplify, expedite and reduce the regulatory procedures imposed upon these carriers. It is being undertaken largely because we have good aviation relations with our Canadian neighbors.

Importantly, the operations these Canadian carriers conduct to the United States are covered by the 1974 U.S.-Canada Nonscheduled Air Services Agreement. The Agreement is unique in that its sole applicability is to nonscheduled operations. It establishes standards for grant of the rights contained in the Agreement; requires each country to license the carriers designated by the other party under the Agreement, provided that substantial ownership and control of the carrier are vested in nationals of the party designating the airline, that the carrier complies with the laws and regulations

¹ Small aircraft are defined by the Nonscheduled Air Services Agreement as aircraft which are not large. Large aircraft are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

of the other party, and that the carrier's homeland licenses comply with the standards established by the convention on International Civil Aviation; and encourages expeditious processing of an application for a license. Indeed, § 399.14 of the Board's Policy Statements requires special facilitation for Canadian small charter carrier applicants seeking transborder authority.

Canadian small charter carrier applications constitute the bulk of the Canadian carrier filings under section 402 of the Act. Moreover, in the last 18 months, they comprised 20 percent of all filings under section 402. In recent years these applications have been processed routinely and no objections have been filed regarding requests for this authority. Considering the fact that these carriers are extremely small, both in terms of system operations and organizations, the regulatory framework historically imposed on them has been burdensome. For example, the Board's present rules state that an applicant must file a statement of economic data, evidence establishing its fitness, and detailed information concerning ownership, insurance, reciprocity factors, and several other items. Since the Board's rules also require that certain procedural steps be taken, grant of a 402 permit ordinarily takes 4 to 6 months to complete, even through expedited procedures (see subpart Q of the Board Rules of Practice, 14 CFR Part 302). By contrast, Canadian processing of U.S. requests for small aircraft charter authority takes about half the time. The considerable expense and delay impose a significant barrier to entry for these small businesses and hampers competition in the relevant markets. Furthermore, we believe as a general matter that the U.S. and Canadian traveling and shipping public would benefit if the regulatory burdens on both sides could be reduced to an absolute minimum. This proposed action is a first step toward that goal.² We recognize that the Canadian procedures will now be somewhat more burdensome for U.S. air taxi operators seeking a Canadian

² Our proposed action will not reduce the regulatory oversight regarding the operational fitness of these carriers. The proposed rule requires that before an applicant can begin operations, it must hold operations specifications issued by the FAA. These specifications can only be issued after a review of the application by the FAA which contains information regarding the carrier's operations, personnel and aircraft. The proposed rules do not require the Board to review the financial fitness of these carriers. Considering the limited scope of these operations and the fact that the Board does not review the financial status of U.S. nonscheduled air taxi operators, it would not be appropriate to require such a review of their Canadian counterparts.

license than those proposed here for Canadian carriers seeking a U.S. license. The Board will strive to ease these burdens to the best of its ability.

We also believe that the rationale for exempting Part 298 U.S. air taxi operators applies to their Canadian counterparts. The Board in its proposed rulemaking on Part 298 stated that:

It is our opinion that the service contemplated should be encouraged, partly because it is the kind of service which can well be conducted by small carriers, and also because it affords a means of serving many small communities which would otherwise be without air connection to major terminals.³

The same holds true for Canadian small carriers. We see no purpose in subjecting these Canadian carriers to more onerous economic and regulatory requirements than their U.S. counterparts, unless foreign policy reasons require. As discussed above, none appear to be present. The Board therefore proposes to exempt Canadian charter air taxi operators from the requirements of section 402 of the Act and to replace those procedures with a simple filing for registration.

This action is similar to that taken in ER-1159, 44 FR 69633, December 4, 1979, where the Board adopted a new Part 297 to govern operations by foreign air freight forwarders and foreign cooperative shippers associations. That rule replaced hearing procedures under section 402 of the Act with a simple registration requirement for obtaining operating authority. Foreign air freight forwarders were exempted from other provisions of the Federal Aviation Act as well. A similar proposal with regard to foreign tour operators is pending in EDR-398, 45 FR 26084, April 17, 1980.

Until fairly recently, the Act limited exemptions to domestic air carriers and precluded the action we are taking now. The Airline Deregulation Act of 1978 (Pub. L. 95-504) expanded our exemption powers to include foreign air carriers and our initiative flows from these new provisions. The rule would reduce expense and delay for these carriers, thereby lowering their barriers to entry and increasing competition in the relevant markets. Lower costs for the traveling and shipping public may result. It may also serve as a spur toward greater competitive opportunities between the two countries in the area of aviation. The Board, therefore, tentatively concludes that this blanket exemption would be consistent with the public interest.

Under the proposed rule, registration will consist of filing with the Regulatory

³ See Draft Release No. 47, dated February 14, 1951 at 3.

Affairs Division, Bureau of International Aviation (BIA): (1) Three copies of an application for registration (CAB Form 294A); (2) a current certificate of insurance; * and (3) the Warsaw liability limitation waiver (CAB Form 263). After the registration is approved, a stamped copy of CAB Form 294A will be sent to both the applicant and the FAA as evidence of effective registration with the Board. One copy will be retained in BIA. As evidence that the applicant has obtained FAA authority and may begin operations into the United States, the rule proposes that the FAA return CAB Form 294A to BIA indicating on the form when the applicant received its FAA operations specifications.

The registration form is an amalgam of Form 297A (Registration of Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations) and Form 298A (Registration of Air Taxis). To help implement the Agreement's requirement that substantial ownership and effective control of an applicant must reside in Canadian nationals or in the Canadian Government, the applicant must list on the form the name, address, and citizenship of anyone with an ownership interest in the applicant of 10% or more. In addition, § 294.22 of the proposed rule provides that the Board be notified if anyone later attains the 10 percent threshold amount. The form would also extract information concerning the aircraft that the applicant proposes to fly, and the license number of each Canadian license held by the applicant. A change in name or address, or a carrier's temporary or permanent cessation of operations, would require resubmission of Form 294A within 30 days after the event has occurred. A name change also would operate to nullify a carrier's registration unless within 60 days after the name change the registrant is redesignated by Canada. This requirement parallels Canadian procedures for U.S. transborder operators of similar size. (The authority to approve or disapprove a name change is delegated to the Director of the Bureau of International Aviation, under § 385.26(g).)

Upon receipt of the applicant's Form 294A, the Board may request additional information, and after allowing 28 days for objections and 14 days for answers, will take one of the following actions in

the application: Reject it for failure to comply with Part 294; institute a hearing or show-cause proceeding; approve the application with conditions; or approve it outright. The authority to request additional information, approve the application, or reject it for technical reasons would be delegated in § 385.26 to the Director, Bureau of International Aviation. If the application is to be referred by the Director to the Board, the Bureau will notify the applicant as soon as such decision is made.

The time allowed for filing objections and answers will allow interested parties ample time to register their views.

Under certain circumstances a registrant may have its Board authority revoked, canceled, suspended, or subjected to additional terms and conditions. These would include situations in which a registrant discontinues operations, fails to maintain proper insurance coverage, has been granted a 402 permit to use "large aircraft," violates the "substantial ownership" provisions of this part, has its designation withdrawn or has its FAA operations specifications suspended or terminated. Similar sanctions could follow from termination of the Agreement or a Board finding that the action is otherwise consistent with the public interest. Authority to take essentially procedural actions, such as cancellation due to a cessation of operations or due to withdrawal of designation, would be delegated to the Director, Bureau of International Aviation.

The Board has tentatively decided not to have reporting requirements for carriers covered by this rule. We have already permissively relieved these carriers of the requirement to file CAB Form 217 (see Reporting Directive No. 10, effective January 1, 1980). We also propose to eliminate the requirement that these carriers file with us Canadian Transport Commission Statement 40 and information on certain Canada-southern United States charters. The Agreement provides that these reports be filed with the Canadian Transport Commission and with the Board. We have had little occasion to use the reports, and see no reason for continuing this marginally useful practice. Therefore, we will relieve these carriers of their duty to file the reports. The filing of these reports was established by Board Order 74-5-37. We will issue an order deleting the reporting requirements upon final disposition of this rule. The Board, of course, retains its power to inspect and demand accounts and records under section 407 of the Act, and its power

under section 402(c) to set reasonable terms and conditions to its grants of authority is preserved by §§ 294.10 and 294.50(g) of the proposed rule.

Sixty days will be allowed for comments on this proposal. While the rulemaking is pending, the Board will dispose of Canadian small charter air carrier applications on a case-by-case basis. We contemplate that almost all of the pending and newly filed applications will not require either oral or written hearing procedures under Subpart Q of our Procedural Regulations. Instead, we intend to use our exemption power to grant operating authority pending final disposition of this rule.

We emphasize that the foregoing are our tentative conclusions only, and we solicit the views of all interested persons to assist us in determining whether to adopt the proposed rules set forth in this notice.

Accordingly, the Board proposes to amend Chapter II of 14 CFR, as follows:

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

1. A new Part 294 would be added to read:

Subpart A—General

Sec.

294.1 Applicability and purpose.

294.2 Definitions.

294.3 General requirements for Canadian charter air taxi operators.

Subpart B—Exemption

294.10 Exemption authority.

Subpart C—Registration for Exemption

294.20 Applying for registration.

294.21 Procedure on receipt of registration form.

294.22 Notification to the Board of change in operations or identifying information.

Subpart D—General Rules for Registrants

294.30 Scope of service and equipment authorized.

294.31 Use of business name.

294.32 Security arrangements for operating Public Charters.

294.33 Compliance with the regulations of the Federal Aviation Administration.

294.34 Advance approval by the Board.

Subpart E—Insurance Requirements

294.40 Basic insurance requirements.

294.41 Minimum limits of insurance.

Subpart F—Cancellation of Registration and Presidential Review

294.50 Cancellation, revocation, or suspension of registration.

294.51 Presidential review.

Subpart G—Authorizations and Waivers

294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this Part.

* By EDR-395, January 28, 1980, Docket 37531, the Board proposed to adopt a new Part 205 of its Regulations to require \$2,000,000 in third-party liability insurance, with \$300,000 per passenger and third-party liability coverage. A registrant under this part will be subject to the insurance requirements provided for in those regulations as they may be finally adopted.

Sec.
294.61 Waivers.

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.
- 294.82 Third-country traffic prohibited.
- 294.83 Compliance with certain international agreements.
- 294.84 Air competency requirements.
- 294.85 Charterworthiness standards.
- 294.86 Industrial/agricultural/other non-transport air operations prohibited.
- 294.87 Compliance with Canadian licenses.
- 294.88 Northwest Ontario restriction.
- 294.89 Uplift ratio.

Authority: Sec. 204, 402, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386).

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 Federal Aviation Act, and establishes rules applicable to their operations in the United States. This part does not provide exemption from the safety regulatory provisions of the Act 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.

§ 294.2 Definitions.

As used in this part: (a) "Act" means the Federal Aviation Act of 1958, as amended.

(b) "Agreement" means the U.S.-Canada Nonscheduled Air Services Agreement signed May 8, 1974, and any amendments, supplements, reservations, or supersessions to it.

(c) "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.

(d) "Charter air service" means nonscheduled 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.

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

(f) "Maximum authorized take-off weight" has the meaning assigned to it in regulations of the Canadian Transport Commission.

(g) "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.

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

(i) "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 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).

(j) "Small aircraft" means any aircraft designed to have both: (1) A maximum passenger capacity of not more than 30 seats or a maximum payload capacity of not more than 7,500 pounds, and (2) a maximum authorized take-off weight on wheels not greater than 35,000 pounds.

§ 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 Board 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 Board;

(d) Has and maintains in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263);

(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

(h) Complies with the terms, conditions, and limitations of this part.

Subpart B—Exemption

§ 294.10 Exemption authority.

Canadian charter air taxi operators registered under this part are exempt from the following provisions of the Act 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 402 (permits).

(b) Subsection 404(a)(2) (carrier's duty to observe reasonable rates).

(c) Subsection 404(b) (discrimination).

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 Board's Bureau of International Aviation, Regulatory Affairs Division, the following: (a) A currently effective certificate of insurance as described in § 294.40(b); and

(b) Three copies of CAB Forms 263 and 294-A, which may be obtained from the Board's Publications Services Division, Washington, D.C. 20428. All the information required by Form 294-A shall be filled in, and it shall be certified by a responsible officer of the applicant Canadian charter air taxi operator.

§ 294.21 Procedure on receipt of registration form.

(a) The Board will list the names and addresses of all persons applying for

registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air taxi operator shall file an objection with the Bureau of International Aviation, Regulatory Affairs Division and serve a copy on the registrant within 28 days after the Board receives the properly completed registration application. Objections shall include any facts and arguments upon which the person relies to support its objection.

(c) Any answers to objections shall be filed within 14 days after the date that the objections were due.

(d) After receipt of CAB Form 294-A, the Board may request additional information.

(e) After the period for objections and answers has expired, the Board will take one of the following actions:

(1) Issue the registration by stamping its effective date on CAB Form 294-A and sending a copy of it to the carrier and to the FAA as evidence of registration under this part. The FAA will return its copy of Form 294-A to the Regulatory Affairs Division, Bureau of International Aviation, after the carrier has been granted FAA operations specifications under Part 129 of the Federal Aviation Regulations;

(2) Reject the application for failure to comply with this part;

(3) Issue the registration subject to such terms, conditions, or limitations as may be consistent with the public interest; or

(4) Institute evidentiary proceedings to consider whether the registration should be issued.

(f) An action described in paragraph (e) of this section will normally be taken within 60 days after the registration application is received. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

(g) A registration will not become effective until the United States Government receives from the Canadian Government written designation of the registrant under the Agreement.

(h) Rejection of an application for registration will not preclude the filing of a new application by the same carrier.

§ 294.22 Notification to the Board of change in operations or identifying information.

Each Canadian charter air taxi operator shall refile three copies of CAB Form 294-A with the Board's Bureau of International Aviation, Regulatory Affairs Division, upon any of the following events. The refilings shall be mailed, or otherwise delivered, so as to

be received by the Board not later than 30 days after the reported event has occurred.

(a) The carrier changes its name. When a carrier refiles Form 294-A to indicate a change of name—

(1) The registration becomes ineffective unless the Canadian Government amends the carrier's designation under the Agreement to reflect the carrier's new name within 60 days of its name change;

(2) The registrant must also refile three copies of CAB Agreement 18900 (CAB Form 263) under its new name;

(3) The registrant must also refile its certificate of insurance under its new name; and

(4) The registrant must also advise the appropriate FAA office referred to in § 294.33 of the carrier's new name;

(b) The carrier changes its designated agent.

(c) A change occurs in the carrier's ownership and control resulting in a person acquiring a beneficial or voting interest in the registrant of 10% or more. The name(s), address(es), citizenship(s), and percentages of ownership of the new owners shall be indicated on the form. Acquisition of ownership interest by persons who are not citizens of the country of citizenship of the registrant may invalidate the registration.

(d) The carrier temporarily or permanently ceases operations.

Subpart D—General Rules for Registrants

§ 294.30 Scope of service and equipment authorized.

(a) Upon fulfillment of the requirements of § 294.3 of this part, the registrant will have Board authority to engage in charter air services between any point or points in Canada and any point or points in the United States using small aircraft.

(b) Nothing in this part shall be construed as authorizing the operation of large aircraft in charter air service, and the exemption provided by this part to Canadian charter air taxi operations that register with the Board extends only to the direct operations of charter air service in accordance with the limitations and conditions of this part using aircraft designed to have both: (1) A passenger capacity of no more than 30 seats or a payload capacity of no more than 7,500 pounds, and (2) an authorized take-off weight on wheels of no more than 35,000 pounds.

(c) A Canadian charter air taxi operator shall not use large aircraft for charter air service until it has been granted a permit by the Board under section 402 of the Act or granted an

exemption under section 416 of the Act. Its application for such a permit or exemption should refer to the registration under this part. Registration under this part will be canceled when a section 402 permit has been granted by the Board for the use of large aircraft in foreign charter air service.

§ 294.31 Use of business name.

(a) A Canadian charter air taxi operator, in holding out charter air service to the public and performing its charter operations, shall do so only in the names in which its registration is issued under this part. The Board may require a Canadian charter air taxi operator to change such names where they appear to be inconsistent with the public interest.

(b) Minor variations in the use of a registered name, including abbreviations, contractions, initials, letters, or other variations of the name which are readily identifiable with it, are permitted.

§ 294.32 Security arrangements for operating Public Charters.

When a Canadian charter air taxi operator performs a Public Charter under Part 380 of this chapter, either—

(a) The Canadian charter air taxi operator shall meet the bonding or escrow requirements applicable to foreign air carriers as set forth in § 214.9c of this chapter; or

(b) The Canadian charter air taxi operator 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 charter air service until after the charter has been completed, notwithstanding any provision of Part 380.

§ 294.33 Compliance with the regulations of the Federal Aviation Administration.

Registrants under this part shall obtain FAA operations specifications required under Part 129 or other applicable rules of the Federal Aviation Regulations prior to beginning operations into the United States. Registrants should write to the FAA office at one of the following addresses to obtain instructions on how to apply for FAA authority.

(a) If the registrant's business address is in Winnipeg, Manitoba, or of the same longitude as or east of that point, it should write to: Federal Aviation

Administration, General Aviation District Office No. 1, Albany, New York 12211.

(b) If the registrant's business address is west of Winnipeg, Manitoba, it should write to: Chief, Flight Standards, Federal Aviation Administration, District Office No. 61, FAA Building, King County International Airport, Seattle, Washington 98108.

§ 294.34 Advance approval by the Board.

The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the registrant under the authority granted by this part, if it finds such action to be consistent with the public interest.

Subpart E—Insurance Requirements

§ 294.40 Basic insurance requirements.

(a) Each Canadian charter air taxi operator engaging in charter air services shall maintain in effect liability insurance coverage that complies with the requirements of this subpart or such other regulations as the Board may adopt in the public interest, and is evidenced by a currently effective policy of insurance available for inspection by the Board and the public at the registrant's principal place of business. Evidence of such insurance coverage, in the form of a certificate of insurance, shall be maintained on file with the Board's Bureau of International Aviation, Regulatory Affairs Division, at all times.

(b) A certificate of insurance includes one or more documents showing the name(s) and address(es) of the insurance carrier(s), the effective and expiration dates, and the minimum amounts and limits of liability that provide the minimum coverage prescribed in § 294.41. Upon request, the Board may authorize a Canadian charter air taxi operator to supply the name(s) and address(es) of an insurance syndicate in lieu of the name(s) and address(es) of the member insurers.

§ 294.41 Minimum limits of insurance.

The minimum limits of insurance coverage maintained by a Canadian charter air taxi operator shall be: (a) Third-party liability insurance in the amount of \$1,000,000 to meet potential claims that may arise in connection with its operations under this part;

(b) Liability insurance for bodily injury to or death of passengers, including cargo handlers, in the amount of \$75,000 per passenger or cargo handler. (This limitation is described in CAB Agreement 18900 approved by Board Order E-23680, May 13, 1966.)

Subpart F—Cancellation of Registration and Presidential Review

§ 294.50 Cancellation, revocation, or suspension of registration.

The registration of a carrier subject to this part may be revoked, canceled, suspended, modified, or otherwise subject to additional terms and conditions by the Board if: (a) The carrier files with the Board a written notice that it is discontinuing operations;

(b) The carrier is the holder of a section 402 permit to perform large aircraft charters under the Agreement;

(c) Substantial ownership or effective control is acquired by persons who are not (1) citizens of Canada, (2) the Government of Canada, or (3) a combination of both;

(d) The Canadian Government withdraws the registrant's designation under the Agreement;

(e) The Agreement between the two countries is terminated;

(f) The registrant fails to have proper insurance coverage, or fails to file or keep a current insurance certificate on file with the Board;

(g) The registrant fails to comply with the terms, conditions, or limitations of this part;

(h) The carrier's operations specifications issued by the FAA are suspended or terminated;

(i) The Board finds that it is in the public interest to do so.

§ 294.51 Presidential review.

A Board order under § 294.50 (e), (g) or (i) shall be subject to stay or disapproval by the President within 60 days.

Subpart G—Authorizations and Waivers

§ 294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.

(a) Where the terms, conditions, or limitations of this part, particularly §§ 294.81, 294.82, 294.88, and 294.89, require prior approval of individual flights or charter programs, the registrant shall apply for such approval by filing three copies of CAB Form 433 with the Bureau of International Aviation, Regulatory Affairs Division. CAB Form 433 may be obtained from the Board's Publications Services Division, Washington, D.C. 20428.

(b) Action on the application for authorization filed under paragraph (a) of this section will normally be taken within 30 days after the application is filed. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

§ 294.61 Waivers.

The Board upon application or on its own initiative may waive any of the provisions of this part if it finds such action to be in the public interest.

Subpart H—Violations

§ 294.70 Enforcement.

In case of any violation of any of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding under sections 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance; or to impose civil penalties under the provisions of section 901(a) of the Act; or in the case of a willful violation, to impose criminal penalties under the provisions of section 902(a) of the Act; or to impose other lawful sanctions, including revocation of registration.

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

§ 294.80 Waiver of sovereign immunity.

By accepting an approved registration under this part, a registrant waives any right it may possess to assert any defense of sovereign immunity in any action or proceeding instituted against it in any court or other tribunal in the United States based upon any claim arising out of its operations under this part.

§ 294.81 Local traffic prohibited.

(a) Except as set forth in paragraph (b) of this section or § 294.60, a registrant shall not carry passengers, cargo, or mail between two or more United States points for compensation or hire.

(b) A registrant may grant stopover privileges at any point or points in the United States to passengers and their accompanied baggage on a flight that originates in Canada, if: (1) The flight is operated under a contract for round-trip charter transportation that is to be provided solely by the registrant; and

(2) The same aircraft stays with the passengers throughout the journey.

§ 294.82 Third-country traffic prohibited.

Except as set forth in § 294.60, a registrant shall not engage in foreign air transportation between the United States and any point that is not in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air to or from a point not in the United States or Canada. This prohibition does not apply to passengers who are not moving as part of any group.

§ 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it—

(a) Complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;

(b) Complies with all applicable provisions of the Agreement; and

(c) Complies with all applicable provisions of any treaty, convention, or agreement affecting international air transportation to which the United States and Canada are parties.

§ 294.84 Air competency requirements.

Registrants shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

§ 294.85 Charterworthiness standards.

(a) Registrants may perform U.S.-originating charters authorized under Annex B (III)(A) of the Agreement as follows: Commercial air transportation of passengers 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 by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or other small aircraft operations as may be authorized under any amendments, supplements, reservations, or supersessions of the Agreement.

(b) Registrants may perform Canadian-originating charters authorized by Annex B (III)(B) of the Agreement and any amendments, supplements, reservations or supersessions of it. Such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft.

§ 294.86 Industrial/agricultural/other non-transport air operations prohibited.

A registrant shall not engage in flights for the purpose of industrial or agricultural operations (e.g., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photograph) within the United States unless it has obtained a permit from the Board under Part 375 of this chapter.

§ 294.87 Compliance with Canadian licenses.

A registrant shall not, in the performance of operations authorized by this part, use any aircraft or conduct any operations except in accordance with

the authority and conditions contained in the registrant's applicable Canadian licenses.

§ 294.88 Northwest Ontario restriction.

(a) Except as set forth in § 294.60 or paragraph (b) of this section, registrants shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46° 11' North Latitude, 82° 58' West Longitude) and extending to the border between Ontario and Manitoba, unless:

(1) The point is a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, or the licensed base of a Canadian charter air carrier, or a Canadian Customs port of entry;

(2) The registrant is required on each flight out of the restricted area to make a stop at a Canadian Customs port of entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and

(3) The registrant has available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions.

(b) The prohibition set forth in paragraph (a) of this section does not apply to flights performed for medical evacuation or similar emergencies.

(c) A registrant shall clearly notify in writing all persons who contract for the registrant's service, and are affected by the restrictions of this section, of the limitations set forth in paragraph (a) of this section.

§ 294.89 Uplift ratio.

Except as set forth in § 294.60, the aggregate number of all United States-originating charter flights performed by a registrant on or after May 8, 1974, shall not, at the end of any calendar quarter, exceed by more than one-third the aggregate number of all Canadian-originating charter flights performed by the registrant on or after May 8, 1974. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter is one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (1) "small aircraft" flights of persons; and (2) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the registrant is the lessee, and shall not be included if the registrant is the lessor.

(d) There shall be excluded from the computation:

(1) Flights with aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(2) Flights originating at a United States terminal point on a route listed in the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder. These flights may be excluded from the computation only if, pursuant to any such agreement, the registrant also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over that route, and provides some scheduled service on any route pursuant to any such agreement, and such flights serve either (i) a Canadian terminal point on such route, or (ii) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

2. In Part 211, § 211.1 would be revised to read:

§ 211.1 Formal requirements.

(a) Applications for permits to engage in foreign air transportation under the terms of section 402 of the Act (called foreign air carrier permits in this part) shall meet the requirements set forth in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers. Applications shall be verified, and the verifications shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths in the jurisdiction in which such application is executed. Notwithstanding the laws of the country of applicant's citizenship, an application verified before a United States consular officer will be deemed to have met the requirements of this section. All pages of an application shall be consecutively numbered, and the application shall clearly describe and identify each exhibit by a separate

number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(b) Neither foreign indirect air carriers of property under Part 297 of this chapter nor Canadian charter air taxi operators registered under Part 294 of this chapter are required to submit applications under this part.

PART 215—NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

3. In Part 215, § 215.1 would be revised to read:

§ 215.1 Applicability.

This part applies to all direct air carriers and foreign air carriers except air taxi operators registered under Part 298 of this chapter, indirect foreign air carriers of property, and Canadian charter air taxi operators registered under Part 294 of this chapter.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSONS OF AIRCRAFT WITH CREW

4. In Part 218, § 218.2 would be revised to read:

§ 218.2 Applicability.

This part applies to foreign air carriers and other persons not citizens of the United States which, as lessors or lessees, enter into agreements providing for the lease of aircraft with crew to a foreign air carrier for use in foreign air transportation. For purposes of section 402 of the Act and Part 294 of this chapter, the person who has operational control and safety responsibility is deemed to be the carrier, and is required to have appropriate operating authority. This part therefore provides, among other things, that where aircraft leases involve the use of the lessor's crew, it is presumed that direction, control and responsibility are in the lessor, and operations under such leases may not be conducted in the absence of the issuance to the lessor of a foreign air carrier permit under section 402 or an approved registration form under Part 294 of this chapter (as applicable), a Statement of Authorization under Part 212 or 214 of this chapter, or a disclaimer of jurisdiction. This part does not apply to charters conducted in accordance with Part 212, 214 or 294 of this chapter, (a) for the transportation of company personnel or company property, (b) in cases of emergency, of commercial traffic, or (c) by authorized foreign air freight forwarders or foreign tour operators.

PART 380—PUBLIC CHARTERS

5. In Part 380 § 380.10(d) would be revised to read:

§ 380.10 Public Charter general requirements.

Public Charters under this part shall meet the following requirements:

(d) The air transportation portion of the charter must be performed by direct air carriers that hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402, or are operating under Part 294 or Part 298 of this chapter.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION, NONHEARING MATTERS

6. In Part 385, § 385.26 would be amended by adding a new paragraph (w) to read:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, authority to:

(w)(1) Approve or disapprove applications for registration filed under Part 294 of this chapter, or require that an applicant under Part 294 submit additional information.

(2) Cancel, revoke, or suspend the registration of any Canadian charter air taxi operator using small aircraft registered under Part 294 of this chapter that:

(i) Files with the Board a written notice that it is discontinuing operations;

(ii) No longer is designated by its home government to operate the services contemplated by its registration;

(iii) Holds a foreign air carrier permit under section 402 to operate large aircraft charters between the United States and Canada;

(iv) Fails to keep its filed certificate of insurance current;

(v) No longer is substantially owned or effectively controlled by persons who are (A) citizens of Canada, (B) the Government of Canada, or (C) a combination of both; or

(vi) No longer holds current effective operational specifications issued by the FAA.

(3) Grant or deny requests for a waiver of Part 294 of this chapter, where grant or denial of the request is in accordance with current Board policy.

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.14 [Reserved]

7. In Part 399, § 399.14 would be revoked and reserved.

(Sec. 204, 402, 416 of Pub. L. 85-726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386))

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-37488 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Parts 221, 296, 297

[EDR-408B; Docket No. 38746; Dated: November 26, 1980]

Airlines Filing Tariffs Stating Prices As Maximum Amounts

AGENCY: Civil Aeronautics Board.

ACTION: Denial of request to further extend comment period.

SUMMARY: The CAB denies a request for additional time to comment on its proposal to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The proposed rule would also allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The extension was requested by British Airways.

DATES: Comments by: December 1, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 38746, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mark S. Kahan, Assistant Director, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5371.

SUPPLEMENTARY INFORMATION: In EDR-408 (45 FR 64864; September 30, 1980), the Board proposed to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts. The Board also proposed to allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The original due date for