

Office of the Secretary, DOT

§213.3

time to time be prescribed by the Department.

[ER-680, 36 FR 7306, Apr. 17, 1971, as amended at 61 FR 34725, July 3, 1996]

§213.2 Reports of traffic data.

The Department may at any time require any foreign air carrier to file with the Department traffic data disclosing the nature and extent of such carrier's engagement in transportation between points in the United States and points outside thereof. The Department will specify the traffic data required in each such instance. Interested persons seeking reconsideration of a Department determination under this section may file a petition pursuant to Rule 14 of part 302 within 10 days after Department action.

[ER-624, 35 FR 8881, June 9, 1970, as amended at 65 FR 6456, Feb. 9, 2000]

§213.3 Filing and approval of schedules.

(a) In the absence of provisions to the contrary in the permit and of Department action pursuant to this section, a foreign air carrier may determine the schedules (including type of equipment used) pursuant to which it engages in transportation between points in the United States and points outside thereof.

(b) In the case of a foreign air carrier permit for scheduled air transportation which is not the subject of an air transport agreement between the United States and the government of the holder, the Department, if it finds that the public interest so requires, may with or without hearing order the foreign air carrier to file with it within 7 days after service of such order, an original and three copies of any or all of its existing schedules of service between any point in the United States and any point outside thereof, and may require such carrier thereafter to file an original and three copies of any proposed schedules of service between such points at least 30 days prior to the date of inauguration of such service. Such schedules shall contain all schedules of aircraft which are or will be operated by such carrier between each pair of points set forth in the order, the type of equipment used or to be used, the

time of arrival and departure at each point, the frequency of each schedule, and the effective date of any proposed schedule.

(c) In the case of any foreign air carrier permit for scheduled air transportation which is the subject of an air transport agreement between the United States and the government of the holder, the Department may with or without hearing issue an order, similar to that provided for in paragraph (b) of this section, if it makes the findings provided for in that subsection and, in addition, finds that the government or aeronautical authorities of the government of the holder, over the objections of the U.S. Government, have: (1) Taken action which impairs, limits, terminates, or denies operating rights, or (2) otherwise denied or failed to prevent the denial of, in whole or in part, the fair and equal opportunity to exercise the operating rights, provided for in such air transport agreement, of any U.S. air carrier designated thereunder with respect to flight operations to, from, through, or over the territory of such foreign government.

(d) The carrier may continue to operate existing schedules, and may inaugurate operations under proposed schedules 30 days after the filing of such schedules with the Department, unless the Department with or without hearing issues an order, subject to stay or disapproval by the President of the United States within 10 days after adoption, notifying the carrier that such operations, or any part of them, may be contrary to applicable law or may adversely affect the public interest. If the notification pertains to a proposed schedule, service under such schedule shall not be inaugurated; if the notification pertains to existing schedules, service under such schedules shall be discontinued on the date specified in the Department's order. Such date shall be not less than ten days after adoption of the Department's order unless affirmative Presidential approval is obtained at an earlier date.

(e) No petitions for reconsideration may be filed with respect to Department orders issued pursuant to paragraph (b), (c), or (d) of this section. Nevertheless, if the Department serves