

(4) Where the application concerns a long-term wet lease:

(i) Whether the lessor (applicant) or its agent or the lessee (charterer) or its agent has previously violated the provisions of the Department's charter regulations.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the lessor owns and/or controls the lessee, or is owned and/or controlled by the lessee.

(c) The Department will submit any denial of an authorization specifically required of a foreign air carrier under §212.9(d) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Department where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President. For the purposes of this paragraph, an application filed by a foreign air carrier under §212.9(d) to conduct a cargo charter will be considered as timely filed only if it is filed at least 30 calendar days before the proposed flight, notwithstanding the 10-day filing requirement for cargo charters in §212.10(d)(3).

(d) The Department will publish notice of its actions on applications for statements of authorization in its Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters of endorsed forms advising applicants of action taken on their applications.

#### §212.12 Waiver.

The Department may grant a waiver of any of the provisions of this part upon a finding that such waiver is in the public interest. A certificated or foreign air carrier may request a waiver by filing a written application with the Department, citing the specific provision to be waived and providing justification for such waiver.

#### APPENDIX A TO PART 212—CERTIFICATED OR FOREIGN AIR CARRIER'S SURETY BOND UNDER PART 212 OF THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION (14 CFR PART 212)

Know all persons by these presents, that we \_\_\_\_\_ (Name of certificated or foreign air carrier) of \_\_\_\_\_, (City) \_\_\_\_\_ (State or Country), as Principal (hereinafter called Principal), and \_\_\_\_\_ (name of Surety) a corporation created and existing under the laws of the State of \_\_\_\_\_ (State) as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in an unlimited amount, as required by 14 CFR 212.8, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the principal, a certificated air carrier holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102, or a foreign air carrier holding a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing that foreign air carrier to engage in charter trips in foreign air transportation, is subject to rules and regulations of the Department of Transportation relating to security for the protection of charterers of civil aircraft and has elected to file with the Department of Transportation such a bond as will guarantee to the United States Government the performance of all charter trips (other than cargo charter trips) originating in the United States and of all Overseas Military Personnel Charters, as defined in 14 CFR part 372, to be performed, in whole or in part, by such certificated or foreign air carrier pursuant to contracts entered into by such carrier after the execution date of this bond, and

Whereas this bond is written to assure compliance by the Principal with rules and regulations of the Department of Transportation relating to security for the protection of charterer of civil aircraft for charter trips (other than cargo charters) originating in the United States or of Overseas Military Personnel Charter trips and shall inure to the benefit of any and all such charterers to whom the Principal may be held legally liable for any of the damages herein described.

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to such charterer any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts made by the Principal while this bond is in effect for the performance of charter trips (other than

cargo charter trips) originating in the United States and of Overseas Military Personnel Charter trips, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder in any specified amount. The surety agrees to furnish written notice to the Department of Transportation forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Department of Transportation at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Department. The Surety shall not be liable hereunder for the payment of the damages hereinbefore described which arise as the result of any contracts for the performance of air transportation services made by the Principal after the termination of this bond becomes effective, as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts for the performance of air transportation services made by the Principal after the termination of this bond becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charterer who shall within sixty (60) days after the cancellation of a charter trip with respect to which the charterer's advance payments are secured by this bond give written notice of claim to the certificated or foreign air carrier, or, if it is unavailable, to the Surety, and all liability on this bond for such charter trip shall automatically terminate sixty (60) days after the termination date thereof except for claims filed within the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Principal

Name \_\_\_\_\_  
By: Signature and title \_\_\_\_\_  
Witness \_\_\_\_\_

Surety

Name \_\_\_\_\_  
By: Signature and title \_\_\_\_\_  
Witness \_\_\_\_\_

Bonding or surety company must be listed in Best's Insurance Reports (Fire and Casualty)

with a general policyholders' rating of "A" or better or in the Department of the Treasury listing of companies holding certificates of authority as acceptable sureties on Federal bonds. In addition, the bonding or surety company shall be one legally authorized to issue bonds of that type in the State(s) in which the charter flight(s) originate. Agents must provide satisfactory proof that they have the requisite authority to issue this bond.

APPENDIX B TO PART 212—  
CERTIFICATION OF COMPLIANCE

*Organization Charterworthiness for Affinity Charter Air Transportation and Eligibility of All Prospective Passengers for Such Flights Under Part 212 of the Regulations of the Department of Transportation (14 CFR Part 212)*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

**PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS**

- Sec.
- 213.1 Applicability.
- 213.2 Reports of traffic data.
- 213.3 Filing and approval of schedules.
- 213.4 [Reserved]
- 213.5 Filing and service of schedules and applications for approval of schedules; procedure thereon.
- 213.6 Compliance.
- 213.7 Filing requirements for adherence to Montreal Agreement.

AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 415, 417.

SOURCE: ER-624, 35 FR 8881, June 9, 1970, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 213 appear at 61 FR 34725, July 3, 1996.

**§213.1 Applicability.**

This regulation sets forth terms, conditions, and limitations applicable to foreign air carrier permits issued under section 41302 of Title 49 of the United States Code (Transportation) authorizing scheduled foreign air transportation. Unless such permits or the orders issuing such permits otherwise provide, the exercises of the privileges to engage in scheduled foreign air transportation granted by any such permit shall be subject to the terms, conditions, and limitations as are set forth in this part, and as may from