

(b) Except in unusual circumstances or as provided in paragraph (c) of this section, the Board will find a rate for domestic air transportation to constitute unreasonable discrimination only if:

(1) There is a reasonable probability that the rate will result in significant long-run economic injury to passengers or shippers;

(2) The rate is in fact discriminatory according to a reasonable cost allocation or other rational basis;

(3) The rate does not provide transportation or other statutorily recognized benefits that justify the discrimination; and

(4) Actual and potential competitive forces cannot reliably be expected to eliminate the undesirable effects of the discrimination within a reasonable period.

(c) A rate that discriminates on the basis of the status of the traffic carried will not be presumed to be unreasonably discriminatory, unless the use of the status categories in question is contrary to established national anti-discrimination policy.

[PS-93, 45 FR 36062, May 29, 1980]

#### § 399.37 Joint fares.

There should be joint fares in all markets over all routings within the contiguous 48 states and the District of Columbia as follows:

(a) *Level.* The level shall not exceed the sum of the maximum local fares permitted by this subpart minus one tax-rounded coach ceiling terminal charge for each interline connection, and in any event shall not exceed the sum of the actual local fares.

(b) *Division.* Joint fares shall be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement. However, where a joint fare is equal to the sum of the actual local fares, each carrier shall get the local fare as its share.

[PS-92, 45 FR 24119, Apr. 9, 1980, as amended by PS-95, 45 FR 42255, June 24, 1980]

#### § 399.39 Equipment purchase deposits.

Equipment purchase deposits are advance payments made by air carriers to manufacturers for the purchase of

equipment to be delivered in the future, or funds segregated by air carriers for this purpose. It is the policy of the Board not to recognize equipment purchase deposits in an air carrier's investment base for ratemaking purposes. When equipment is acquired by an air carrier and placed in air-transport service, the Board will recognize in the air carrier's investment base interest on purchase deposits on such equipment capitalized and amortized in accordance with the Uniform System of Accounts and Reports for Certificated Air Carriers (part 241 of this chapter).

[PS-32, 32 FR 5370, Mar. 30, 1967]

#### § 399.40 Tariffs for domestic air transportation on or after January 1, 1983.

The Board will not approve or accept any tariff filings for interstate or overseas air transportation to be performed on or after January 1, 1983. Any tariffs for such transportation that do not specify an earlier expiration date shall expire at midnight on December 31, 1982.

[PS-107, 47 FR 14893, Apr. 7, 1982]

#### § 399.41 Zones of limited suspension for international cargo rates.

(a) *Applicability.* This section states the Board's policy for suspending rate changes for the transportation of property in foreign air transportation. It does not affect the Board's authority to suspend any rate as unjustly discriminatory, unduly preferential, or unduly prejudicial. This section applies to rate changes by all direct air carriers and direct foreign air carriers.

(b) *Standard foreign rate levels.* For each market in foreign air transportation, the standard foreign rate level for the carriage of property shall be the bulk general commodity rates in effect in that market on April 1, 1982, as adjusted in accordance with paragraph (f) of this section. However, the general commodity rate for shipments larger than 500 kg. shall be deemed to be the same as the 500 kg. rate for the purposes of this paragraph, regardless of any different rate in effect in the market.

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(c) *Ceilings of limited rate suspension.* Except as provided in paragraph (d) of this section, the Board will not suspend as unreasonable any proposed rate for foreign air transportation of property equal to or less than the following levels:

(1) For all bulk rates (GCR's and SCR's) in the Atlantic region, 20 percent above the standard foreign rate level.

(2) For all bulk rates (GCR's and SCR's) in the Pacific region, 15 percent above the standard foreign rate level.

(3) For all bulk rates (GCR's and SCR's) in the Western Hemisphere region (except Mexico and Canada), 5 percent above the standard foreign rate level.

(4) For all bulk rates (GCR's and SCR's) in Canada/Mexico transborder markets, 10 percent above the standard foreign rate level for the Western Hemisphere.

(5) For all container rates, no maximum level.

(d) *Extraordinary circumstances.* The Board may suspend any tariff if it finds that:

(1) The suspension is in the public interest because of unreasonable regulatory action by a foreign government with respect to rate proposals of an air carrier, or

(2) All of the following extraordinary circumstances are present:

(i) It is highly probable that the fare would be found unreasonable after investigation;

(ii) There is a substantial likelihood of immediate and irreparable harm to the public if the rate is allowed to go into effect; and

(iii) The suspension is required by the public interest.

(e) *Burden of proof.* Persons requesting tariff suspension under paragraph (d) of this section shall have the burden of producing convincing evidence that the conditions of that paragraph are present.

(f) *Standard foreign rate level adjustments.* (1) The Board will periodically adjust the standard foreign rate levels to reflect the percentage change in average operating costs per available ton-mile since the previous adjustment.

(2) Costs will be averaged for three regions—the Atlantic, the Pacific, and

Western Hemisphere—and applied equally among all markets in each region.

(3) Cost computations will be based on scheduled freighter and combination service by U.S. air carriers.

(4) Adjustments will be made on April 1 and October 1 of each year, or more frequently as the Board finds appropriate.

(5) In computing costs under this section, the Board will make no adjustments for load factors, aircraft utilization, or other matters due to operational decisions made solely by carrier management. However, the Board retains the discretion to normalize costs for strikes, mandatory aircraft groundings, and other occurrences not solely due to management decisions.

(g) *Definitions.* For the purpose of this section:

(1) *GCR* means general commodity rate.

(2) *SCR* means specific commodity rate.

(3) *Container rate* means any rate specifically applicable to property tendered to the carrier in a unit load devise.

[PS-109, 48 FR 4279, Jan. 31, 1983]

§ 399.42 **Flight equipment depreciation and residual values.**

For rate-making purposes, for air carriers receiving subsidy under section 406 of the Act, it is the policy of the Board that flight equipment depreciation will be based on the conventional straight-line method of accrual, employing the service lives and residual values set forth below:

[In percent]

	Service life in years	Residual value as percent of cost
Turbofan equipment:		
4-engine .....	14	2
3-engine .....	14	2
2-engine .....	14	2
Turbojet equipment:		
4-engine .....	10	5
2-engine .....	10	5
Turboprop equipment:		
4-engine .....	12	5
2-engine .....	10	15
Wide-body equipment:		
4-engine .....	16	10
3-engine .....	16	10