

§ 399.42

14 CFR Ch. II (1-1-08 Edition)

(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

Office of the Secretary, DOT

Pt. 399, Subpt. C, Example

[PS-54, 38 FR 24643, Sept. 10, 1973, as amended by PS-99, 45 FR 82625, Dec. 16, 1980]

**§ 399.43 Treatment of leased aircraft.**

In determining the appropriate treatment of leased aircraft for ratemaking purposes, it is the Board's policy to recognize actual rental expenses. In unusual circumstances where the leased aircraft value (determined on a constructive depreciated basis) in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers (computed on the same basis), a reasonable profit element may be added which shall reflect the additional risks of operations with the leased aircraft, to the extent that such risks are not compensated by the return on investment. Such profit element would be determined by applying the standard rate of return, less 6 percentage points, to the value of the leased aircraft, on a constructive depreciated basis, to the extent the ratio

of such value to depreciated cost of owned aircraft plus the value of leased aircraft exceeds the average for the domestic air carriers. Rental cost plus allowable profit, if any, will not be recognized in amounts exceeding depreciation plus return on investment computed as if the aircraft had been purchased by the carrier.

[PS-44, 36 FR 7229, Apr. 16, 1971]

**§ 399.44 Treatment of deferred Federal income taxes for rate purposes.**

For rate-making purposes other than the determination of subsidy under section 406(b), it is the policy of the Board that Federal income tax expense should be based on the normal taxes that would be paid under the depreciation standards used for rate making, and that accumulated reserves for deferred taxes should be excluded from the recognized capitalization for rate-base purposes.

[PS-46, 36 FR 7232, Apr. 16, 1971]

EXAMPLE OF SIFL ADJUSTMENT

[Methodology for determining change in operating expense per available seat-mile]  
[See footnotes at end of table]

Year ended September 1979	Trunks	Locals	Trunks plus locals	Total passenger/cargo <sup>16</sup>
Total operating expense <sup>1</sup> (millions) .....	\$16,455	\$2,522	\$18,977	\$19,384
Less:				
All-cargo expenses <sup>2</sup> .....	269		269	269
Belly offset <sup>3</sup> .....	952	153	1,105	1,153
Nonscheduled <sup>4</sup> .....	141	46	187	205
Transport related <sup>5</sup> .....	379	31	410	416
Plus: Capitalized lease adjustment <sup>10</sup> .....	119	2	121	121
Passenger operating expense .....	14,833	2,294	17,127	17,462
Passenger fuel cost <sup>11</sup> .....			4,103	N.A.
Scheduled service ASM's (mils.) .....	281,671	33,051	314,722	318,459
Passenger nonfuel operating expense per ASM (dollars) .....			.04138	N.A.
Passenger fuel expense per ASM (dollars) .....			.01304	N.A.
Total passenger expense per ASM (dollars) .....			.05442	.05483
Year ended September 1978				
Total operating expense <sup>1</sup> (millions) .....	14,081	2,033	16,114	16,448
Less:				
All-cargo expenses <sup>2</sup> .....	282		282	282
Belly offset <sup>3</sup> .....	869	152	1,021	1,065
Nonscheduled <sup>4</sup> .....	193	53	246	256
Transport related <sup>5</sup> .....	419	30	449	454
Plus: Capitalized lease adjustment <sup>10</sup> .....	78	1	79	79
Passenger operating expense .....	12,396	1,799	14,195	14,470
Passenger fuel cost <sup>11</sup> .....			3,129	N.A.
Scheduled service ASM's (mils.) .....	262,068	27,067	289,135	292,255
Passenger nonfuel operating expense per ASM (dollars) .....			.03827	N.A.