

**§ 248.4 Time for filing reports.**

The report required by this part shall be filed with the Office of Airline Information within 15 days after the due date of the appropriate periodic BTS Form 41 Report, filed for the 12-month period covered by the audit report, or the date the accountant submits its audit report to the air carrier, whichever is later.

[ER-1351, 48 FR 32756, July 19, 1983, as amended at 60 FR 66725, Dec. 26, 1995]

**§ 248.5 Withholding from public disclosure.**

The special reports required to be filed by § 248.2 shall be withheld from public disclosure, until further order of the BTS, if such treatment is requested by the air carrier at the time of filing.

[ER-420, 29 FR 13799, Oct. 7, 1964, as amended at 60 FR 66725, Dec. 26, 1995]

## PART 249—PRESERVATION OF AIR CARRIER RECORDS

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AUTHORITY: 49 U.S.C. 329 and chapters 401, 411, 413, 417.

SOURCE: ER-1214, 46 FR 25415, May 6, 1981, unless otherwise noted.

NOTE: The recordkeeping requirements contained in this part have been approved by the Office of Management and Budget under control number 2138-0006.

## Subpart A—General Instructions

**§ 249.1 Applicability.**

Subparts A and B of this part apply to:

(a) Air carriers, as defined in 49 U.S.C. 40102, that hold either certificates of public convenience and necessity or certificates for all-cargo air service.

(b) Public charter operators, as defined in part 380 of this chapter.

(c) Overseas military personnel charter operators, as defined in part 372 of this chapter.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

**§ 249.2 Definitions.**

For the purposes of this part:

*Authorized representatives of the DOT* means any persons, including special agents and auditors, designated by the DOT to perform inspections, audits, or examinations within the purview of the DOT's authority.

*Certificated air carrier* means the holder of a certificate of public convenience and necessity issued by the Department of Transportation under 49 U.S.C. 41102 or a certificate for all-cargo air service issued by the Department of Transportation under 49 U.S.C. 41103.

*Final adjudication* means the expiration date of the last possible period of review or reconsideration of a given case, by the DOT or by a court, that is provided by applicable statute or regulation.

*Open mail rate period* means the time interval between the date of institution of a new mail rate proceeding or the start of service over a new route for which no mail rate has previously been fixed, and the date upon which a DOT order setting the final mail rate becomes legally effective.

*Pending case* means any case that the DOT is empowered to hear before its final adjudication.

*Records* include all documents that are related to, or constitute integral links in developing the history of, or facts regarding, financial transactions

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or physical operations of a particular segment, operating division, or entire system of the carrier's operations. The term includes any copy of initially prepared documents which bear approvals, comments, or notations which were added and are of significance to a full explanation of recorded facts or information. The term *records* means not only accounting records in a limited technical sense but all other evidentiary accounts of events such as memoranda, correspondence, working sheets, tabulating equipment listings punched cards, computer-produced listings, microfilm, and magnetic storage media (*i.e.*, magnetic tapes, disks). The term *records* also means microform and/or tape reproductions of documents made as authorized by this subpart. In addition, the term *records* includes any of the above-described materials coming into the possession of the air carrier through merger, consolidation, succession, transfer, or other acquisition.

*Supporting papers (records)* means any group of documentary papers, such as memoranda, correspondence, working sheets, etc., that assist in upholding the accuracy or clarity of related records.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

#### § 249.3 Preservation of records.

(a) All records listed in §§ 249.20 and 249.21 may be preserved on either paper or nonerasable microfilm (see § 249.4). However, a paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in a machine-readable medium such as punched cards, magnetic tapes, and disks. The records maintained in machine-readable media and the underlying data used in their preparation shall be preserved for the periods prescribed in §§ 249.20 and 249.21. A paper or microfilm record shall not be destroyed after transfer to a machine-readable medium before expiration of the prescribed period; however, a waiver permitting the early destruction of paper or microfilm records transferred to a machine-readable medium may be granted by the Director, Office of Airline Information, when it is demonstrated by the requesting car-

rier that the substantive purpose of the retention requirement will be met by retention of the information in machine-readable form (see § 249.10).

(b) Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it is complete and accurate. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner so that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity. Authorized representatives of the DOT shall be given immediate access to the carrier's facilities upon request.

(c) If any record which must be retained under the provisions of §§ 249.20 and 249.21 is included as an exhibit to another document which must also be retained, the carrier need only keep in its files one copy of the record to satisfy these record retention requirements. In these cases, the carrier shall establish adequate cross-references to assist in locating the record.

(d) The provisions in this part do not excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any records.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

#### § 249.4 Photographic copies.

(a) Any record may be transferred to nonerasable microfilm (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained on microfilm shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The microfilm shall be of a quality that can be easily read and that can be reproduced in paper similar in size to an original without loss of clarity or detail during the periods the records are required to be retained in §§ 249.20 and 249.21.

(c) Microfilm records shall be indexed and retained in such a manner as will render them readily accessible, and the

company shall have facilities available to locate, identify and read the microfilm and reproduce in paper form. Authorized representatives of the DOT shall be given immediate access to these facilities upon request.

(d) Any significant characteristic, feature, or other attribute which microfilm will not preserve shall be clearly indicated at the beginning of each roll of film or series of microfilm records if applicable to all records on the roll or series, or on the individual record, as appropriate.

(e) The printed side of printed forms need not be microfilmed for each record if nothing has been added to the printed matter common to all such forms, but an identified specimen of the form shall be on the film for reference.

(f) Each roll of film or series of microfilm records shall include a microfilm of a certificate stating that the photographs are direct and facsimile reproductions of the original records and they have been made in accordance with prescribed regulations. Such a certificate shall be executed by a person having personal knowledge of these facts. Where the microfilm is computer output, the microfilm certificate shall state that the information is complete and accurate. [ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

#### § 249.5 Storage of records.

Each carrier shall provide reasonable protection from damage by fire, floods, and other hazards for records subject to the provisions of this part.

#### § 249.6 Destruction of records.

(a) Upon the expiration of the period of preservation prescribed in this regulation, records may be destroyed at the option of the carrier.

(b) Unless otherwise specified, duplicate copies of records may be destroyed at any time if they contain no significant information not shown on the originals.

#### § 249.7 Restrictions on record destruction.

(a) Each carrier that has been named a party to a pending mail rate case shall retain all records remaining in its

custody as of the beginning of an "open mail rate period" until the occurrence of one of the following contingencies, whichever is first:

(1) Final adjudication of a DOT order fixing the final mail compensation payable for services rendered during an "open mail rate period."

(2) Receipt of a notice issued by the Director, Office of Airline Information in response to a written application filed by the carrier, authorizing the destruction of specifically identified categories of records. An application should be filed when the carrier believes that certain categories of records are not relevant to the proper processing of a pending mail proceeding. The application should list those categories of records which the carrier wants to destroy and its reasons for believing that the records are not necessary or useful in determining its statutory mail pay.

(b) Each carrier shall preserve records supporting the computation of subsidy mail pay in accordance with the provisions of § 249.20 unless the carrier has been advised that these computations are subject to further review and disposition by the Board. When the DOT is still reviewing the compensation amount after expiration of the normal retention period specified in § 249.20, these records must be retained until the carrier is notified by the Director, Office of Airline Information, that the records may be destroyed.

(c) Each carrier that has been named a party to an enforcement proceeding or against whom a third-party complaint has been filed shall retain all records relating to the case until the receipt of formal notification from the Director, Office of Airline Information, following a written application from the carrier, which authorizes the destruction of these records.

(d) Each carrier that has been named a party to a pending case which is not of a type discussed in paragraphs (a), (b), and (c) of this section, shall preserve all records according to the provisions of § 249.20 unless the Director, Office of Airline Information, notifies the carrier in writing that specific records shall be preserved until final adjudication of the pending case.

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(e) Each carrier that is a party to litigation in a Federal court of which the DOT is also a party shall retain all records relating to the case until the receipt of formal notification from the Director, Office of Airline Information, following a written application from the carrier, which authorizes the destruction of these records.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

**§ 249.8 Premature loss or destruction of records.**

If records are destroyed or lost before the expiration of the prescribed retention period, a statement shall be prepared and submitted to the Director, Office of Airline Information, which lists, as accurately as possible, the unavailable records and describes the circumstances under which they became unavailable.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

**§ 249.9 Carriers going out of business.**

The records referred to in these regulations may be destroyed after the business is discontinued and the carrier is completely liquidated. The records may not be destroyed until dissolution is final and all transactions and litigations are completed. When a carrier is merged with another company which is regulated by the DOT, the successor company shall preserve records of the

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merged company in accordance with these regulations.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66725, Dec. 26, 1995]

**§ 249.10 Waiver of requirements.**

A waiver from any provision of this regulation may be made by the Director, Office of Airline Information, upon the Director's own initiative or upon submission of a written request by a carrier or group of carriers. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with the prescribed requirements would impose an unreasonable burden on the carrier, and that granting the waiver would be in the public interest.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

**Subpart B—Preservation of Records by Carrier**

**§ 249.20 Preservation of records by certificated air carriers.**

Each certificated air carrier shall retain its records according to the provisions of this section. Unless otherwise specified in the "Schedule of Records," each retention period shall begin on the date when the records are created or otherwise come into the possession of the carrier.

**SCHEDULE OF RECORDS**

[See footnote at end of table]

Category of records	Retention period
1. General and subsidiary ledgers or their equivalents:	
(a) General ledgers; subsidiary or auxiliary ledgers .....	3 years.
(b) Indexes to general and subsidiary ledgers .....	Do.
2. Journals and journal vouchers:	
(a) General and subsidiary journals, and journal vouchers .....	3 years.
(b) Papers forming a part of, or necessary to explain, journal entries; entry numbers .....	Do.
3. Voucher distribution registers or their equivalent .....	Do.
4. Accounts receivables and payables:	
(a) Traffic accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.	Do.
(b) General accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.	Do.
(c) Copies of invoices issued by the carrier which have been settled and all supporting papers.	1 year.
(d) Copies of Postal Service Forms: Weekly Summary of Airmail Dispatch (No. 2729) and POD Airmail Exemption Record (No. 2734) supporting mail pay claims which have been settled.	30 days.

## SCHEDULE OF RECORDS—Continued

[See footnote at end of table]

Category of records	Retention period
5. Subsidy records:	
(a) For each calendar year, all monthly records of operations, such as tabulations and summaries of miles flown and passenger-miles flown, pertaining to or part of operational records relevant to computation of subsidy mail pay.	3 years.
(b) For each calendar year, all basic original documents, such as pilots' flight logs and passenger lists relevant to a determination of the validity of a carrier's operations described in item (a) above.	Do.
6. The papers, records, or other evidence supporting financial and statistical reports to the BTS. These should include among others the following specific records: Internal administrative or operating reports; system reports of aircraft movements by trip number, showing arrivals, departures, flight delays and related information; bonds and other long-term debt records; stock records; corporate organization records; financial data in support of subsidy claims; minutes of meetings; carrier internal reports on internal controls and other internal audits and procedural studies; operational, management, accounting, financial, and legal service contracts and agreements; records and agreements relating to the lease or purchase and sale of company assets, including title papers, deeds, and similar records; insurance records; property and equipment records; tax records; accountants' and auditors' reports; records of receipts and disbursements including bank statements, check registers and cancelled checks; payroll registers of salaries and wages paid; cost accounting records for work orders; inventories of materials and supplies; and other source documents.	Do.
7. Funds reports and estimates of funds .....	1 year.
8. Consumer complaints:	
(a) Initial correspondence and record of action taken .....	3 years.
(b) Initial trip reports:	
(1) Traffic Data: Basic documents showing the number of passengers, and pounds of mail and property carried.	(1).
(c) Reservations reports and records:	
(1) Cards and charts constituting original source of passengers' names, telephone numbers, etc.	2 months.
(2) Telegrams and radio messages relating to the clearance of space, passenger dispatching, etc.	1 month.
(d) System report of airplane movements by trip number showing arrivals, departures, delays and related information.	3 years.
(e) Sales reports:	
(1) Sales ticket or other similar reports from stations, offices and agents .....	2 years.
(f) Auditors' coupons .....	1 year.
(g) Air waybills .....	Do.
(h) Flight coupons .....	Do.
(i) Ticket refund claims records and reports .....	Do.
(j) Records and reports relating to errors, oversales, irregularities and delays in handling passengers.	Do.
9. All documents which relate to the furnishing of transportation to candidates for political office or persons acting on their behalf which are required to be maintained following § 374a.7 of the subchapter.	2 years.
10. Correspondence and working papers relating to rate and route proceedings .....	3 years.

<sup>1</sup> One year-mail-property; 2 years-passengers.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

**§ 249.21 Preservation of records by public charter operators and overseas military personnel charter operators.**

Each operator authorized under parts 372 and 380 of this chapter shall retain the following records for 6 months after completion or cancellation of the

flight or series of flights. The records shall be made available upon request of an authorized representative of the DOT.

(a) All receipts and statements of travel agents and all other documents which show deposits made by each charter participant or which show refunds to charter participants.

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(b) All receipts and statements of travel agents and all other documents which show or reflect commissions received, paid to, or deducted by travel agents in connection with the flight or series of flights.

(c) All statements, invoices, bills, and receipts from suppliers for furnishing of goods or services in connection with the tour or series of tours.

(d) All customer reservations records for each flight.

(e) All contracts with individual tour participants.

(f) All bank statements and reconciliations for escrow bank accounts opened and maintained in accordance with DOT regulations.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

### Subpart C—Regulations Relating to the Truth-in-Lending Act

#### § 249.30 Applicability.

This subpart is applicable to all air carriers and foreign air carriers as defined in 49 U.S.C. 40102, including, without limitation, direct carriers, air taxi operators registered under part 298 of this chapter, indirect air carriers registered under part 296 of this chapter, charter operators authorized under parts 372 and 380 of this chapter, and foreign air carriers holding permits to engage in indirect foreign air transportation issued under 49 U.S.C. 41302.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

#### § 249.31 Preservation and inspection of evidence of compliance.

Air carriers and foreign air carriers shall preserve evidence of compliance with the requirements imposed under Regulation Z of the Board of Governors of the Federal Reserve System (12 CFR part 226), implementing the provisions of Title I (Truth in Lending) and Title V (General Provisions) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*) other than the advertising requirements under §226.10 of regulation Z. This evidence shall be preserved for no less than 2 years after the date each disclosure is required to be made and shall be made available

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for inspection by authorized representatives of the DOT.

[ER-1214, 46 FR 25415, May 6, 1981, as amended at 60 FR 66726, Dec. 26, 1995]

### PART 250—OVERSALES

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

SOURCE: ER-1306, 47 FR 52985, Nov. 24, 1982, unless otherwise noted.

#### § 250.1 Definitions.

*Airport* means the airport at which the direct or connecting flight, on which the passenger holds confirmed reserved space, is planned to arrive or some other airport serving the same metropolitan area, provided that transportation to the other airport is accepted (i.e., used) by the passenger.

*Carrier* means (a) a direct air carrier, except a helicopter operator, holding a certificate issued by the Board pursuant to sections 401(d)(1), 401(d)(2), 401(d)(5), or 401(d)(8) of the Act, or an exemption from section 401(a) of the Act, authorizing the transportation of persons, or (b) a foreign route air carrier holding a permit issued by the Board pursuant to section 402 of the Act, or an exemption from section 402 of the Act, authorizing the scheduled foreign air transportation or persons.

*Comparable air transportation* means transportation provided to passengers at no extra cost by a carrier as defined above.