



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**NOTICE TO AIRLINES AND COMPANIES
WRITING AVIATION INSURANCE POLICIES**

May 16, 2003

Part 205 of the U.S. Department of Transportation's regulations (14 CFR 205) provides that no U.S. or foreign direct air carrier may engage in air transportation between or to or from points in the United States unless it has in effect aircraft accident liability insurance coverage meeting the requirements of that part. Under that rule, it is the responsibility of each U.S. and foreign air carrier to maintain on file with the Department a correct and up-to-date certificate of insurance (OST Form 6410 or 6411) evidencing current insurance coverage.

Section 205.7(a) of that rule provides, in part, that:

“[E]ach policy of aircraft accident liability insurance . . . shall specify that it shall remain in force, and may not be replaced, canceled, withdrawn, or in any way modified to reduce the minimum standards set forth in this part, or to change the extent of coverage by the insurer or the carrier, nor expire by its own terms in regard to coverage for the carrier in its common carrier operations in air transportation, until 10 days after written notice by the insurer (in the event of replacement, by the retiring insurer), or by the insurer's representative, or by the carrier to the Department. . .which 10-day notice period shall start to run from the date such notice is actually received at the Department.”¹

Notwithstanding the many insurance certificates and notifications that the Department receives each year, we are becoming increasingly concerned that we are not receiving, or not receiving in a timely manner, required notices/endorsements reflecting changes in a carrier's insurance coverage. The purpose of this notice is to bring this situation to the attention of carriers and insurers and their representatives, and to ask each to take steps to ensure that the Department is informed in a timely manner of changes in a carrier's liability insurance coverage.

While cancellations and changes or reductions in coverage are of primary import to us, a growing gap in our ability to monitor airline insurance coverage occurs when an insured's policy expires by its own terms and the insured obtains replacement coverage through another insurer. Even though there arguably may be no lapse in coverage for the traveling public, frequently the Department does not receive either a notice from the retiring insurer that the policy is expiring, or a certificate of insurance completed by the new insurer showing replacement coverage. This failure to provide notice violates the requirement that a currently effective certificate of insurance be maintained on file with the Department. We wish to take this opportunity to remind carriers that the failure to maintain proper insurance violates Part 205 and, by operation of law, renders a carrier's authority ineffective and subjects the carrier and its principals to enforcement action. Failure to have proper insurance may also constitute an unfair or deceptive practice or unfair method of competition in violation of 49 U.S.C. 41712. Pursuant to 49 U.S.C. 46301, carriers and their principals are subject to civil penalties of \$2,500 for each such violation and \$2,500 for each day each such violation continues.

¹ An exception to the 10-day advance notification is contained in section 205.4(b) which provides that, where “coverage is by type or class of aircraft or by specific aircraft, endorsements that add previously unlisted aircraft or aircraft types or classes to coverage, or that delete listed aircraft, types, or classes from coverage, shall be filed . . . not more than 30 days after the effective date of the endorsements.”

The failure to maintain up-to-date certificates of insurance may, pursuant to Department rules, have unintended consequences on an insurer's liability, as well. Although, under Part 205, it is the ultimate responsibility of each U.S. and foreign air carrier to ensure that the insurance information on file with the Department is correct at all times, as a practical matter, a clear majority of insurance forms, cancellation notices, etc., are sent to the Department directly by the insurer (or its representatives). Thus, the Department's regulations provide for, and we also ask, insurers or their representatives to promptly inform the Department when insurance cancellations, expirations or other insurance changes occur. We wish to remind insurers that, in the absence of proper notification to the Department--whether it is the failure of the insurer, its representative, or the airline--the intent and effect of our rules is that the insurance coverage on file with the Department *remains in effect* and any notice period for changes that limit existing coverage does not begin until the required notice is received, possibly exposing insurers that fail to ensure such notification to unintended risks.

We appreciate the cooperation of all parties in addressing the issues discussed in this Notice. [REDACTED]

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