

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 198**

[Docket No. 28893; Notice No. 97-5]

RIN 2120-AF23

Aviation Insurance**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing to revise Title 14 Code of Federal Regulations (CFR) part 198 to provide for the issuance of insurance for certain types of flight operations and for the issuance of insurance for certain ground support activities essential to flights insured under the Aviation Insurance Program. Also, the amendments would redefine the activation of insurance coverage, revise the process for amending insurance policies, increase the binders for non-premium insurance coverage, and reflect new statutory authority. The proposed amendments would allow the FAA to be more responsive to the aviation industry when commercial insurance coverage cannot be obtained on reasonable terms, and the insurance coverage can be provided by the Aviation Insurance Program.

DATES: Comments must be received on or before June 2, 1997.

ADDRESSES: Comments on the proposed rule should be mailed or delivered in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-200), Docket No. 28893, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@faa.dot.gov. Comments may be examined in the Rules Docket, Room 915G, weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Eleanor Eilenberg, Office of Aviation Policy and Plans, APO-330, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3090.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to

the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above.

All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received.

All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this rulemaking, will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 28893." The postcard will be date and time stamped and mailed to the commenter.

Availability of NPRM

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section (telephone: 703-321-3339), the **Federal Register's** electronic bulletin board service (telephone: 202-512-1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin board service (telephone: 202-267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov> or the **Federal Register's** webpage at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the notice number of this NPRM.

Person interested in being placed on the mailing list for future NPRM's should request, from the above office, a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

In 1951, the Congress amended the Civil Aeronautics Act of 1938 by adding a new Title XIII which authorized the Secretary of Commerce, with the approval of the President, to provide aviation war risk insurance adequate to meet the needs of U.S. air commerce and the Federal Government. This insurance could only be issued when the Secretary of Commerce found that war risk insurance was commercially unavailable on reasonable terms and conditions.

The war risk insurance program was established to provide the insurance necessary to enable air commerce to continue to the event of war. This was needed because of several factors: commercial war risk insurance policies contained automatic cancellation clauses in the event of major war; the geographical coverage of commercial war risk insurance could be restricted upon reasonable notice to air carriers; and rates for commercial war risk insurance could be raised without limit upon reasonable notice to air carriers.

The Aviation Insurance Program was incorporated in Title XIII of the Federal Aviation Act of 1958. Statutory responsibility for the program was subsequently transferred to the Department of Transportation at the time of its creation in 1967. The Secretary of Transportation later delegated this authority to the Federal Aviation Administrator (39 CFR 1.47(b)).

The definition of war risk in Title XIII was that traditionally employed by commercial underwriters and, as a matter of policy, the FAA had always conservatively interpreted the definition. In the early 1970's, this definition led to uncertainty about the extent of the Administrator's statutory authority to provide insurance against loss or damage arising from, for example, undeclared wars, hijackings, and terrorist acts. Because of a combination of the progressive exclusion of these new risk from commercial all risk policies, and the failure of the traditional definition of war risk to cover these risks, a potential gap in insurance coverage occurred with the possibility of abrupt termination of important air services in emergency situations.

In recognition of the fact that the Administrator needed broad insurance authority in extraordinary circumstances to insure air services determined to be in the national interest, Congress amended Title XIII on November 9, 1977. These amendments, included in Public Law (Pub. L.) 95-

163, removed from Title XIII all references to risk categories. They authorized the Administrator to provide insurance against loss or damage due to any risk arising from operations of aircraft in foreign air commerce or between two points outside the United States deemed by the President to be in the foreign policy interests of the United States. However, such insurance could only be issued if commercial insurance for those operations was not available on reasonable terms and conditions. The January 15, 1986, amendment to part 198 reflected the 1977 amendments to Title XIII.

Between 1975 and 1990, there was little use of the insurance authority. The FAA, insured without premium, about 50 military charter flights from the United States to Central America in 1983 and 1984. Otherwise, commercial insurance for flights to most areas of the world was available. Since 1990, the Aviation Insurance Program has been used much more than in the 1975–1990 period, but air carriers can usually still obtain commercial insurance.

Since 1990, the Aviation Insurance Program has been mostly used to provide insurance for civil aircraft chartered by the military. The Department of Defense (DoD) under the National Airlift Policy relies on civil air carriers to meet its airlift requirements. Under the Civil Reserve Airfleet (CRAF) program, DoD contractually obligates airlines to provide aircraft and flight crews to meet mobilization transport requirements in exchange for shares of peacetime DoD transport business. This saves the DoD the expense of purchasing, operating, and maintaining a large standby transport aircraft fleet. Although the CRAF program is available, DoD usually can meet its transport requirements with aircraft and crews volunteered by the CRAF airlines without formal activation of the program. In fact, the CRAF has been activated only once in its history—during Operation Desert Shield/Storm.

Gaps between the FAA and commercial insurance coverage appeared during Operation Desert Shield/Storm as a result of the CRAF activation and the long post-Vietnam hiatus in program activity. Two such gaps could not be closed without new legislation. The more significant was the inability to cover domestic CRAF flight segments. Most of the airlines' commercial hull or liability war risk insurance policies excluded coverage for all CRAF flights while, by law, FAA-issued non-premium insurance could cover by only international flight segments. Thus, the airlines had to rely on direct indemnification from the DoD

for coverage of CRAF domestic flight segments (e.g., usually ferry flights to a military base to pick up troops and supplies destined for the theater of operations). In addition, flights transporting armed forces and military materiel on behalf of and pursuant to an agreement between the U.S. government and a foreign government, but not operated under a U.S. government contract, could not be covered by non-premium insurance. Title IV of the Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992, Pub. L. 102–581, gave FAA the authority to provide non-premium insurance coverage for these two previously uncoverable categories of flights. The FAA has been able to fill other coverage gaps administratively with successive revisions to its insurance policies, such as the costs of search and rescue attempts, runway foaming, and damage while the aircraft is outside the insured's control.

In 1994, Congress codified the Federal Aviation Act including the Aviation Insurance Program and related statutes into the main body of Title 49, United States Code (USC) at Chapter 443.

Aviation Insurance Program

Currently, Chapter 443 authorizes the Secretary of Transportation, subject to approval by the President, to provide aviation insurance coverage for American aircraft or foreign-flag aircraft operations deemed necessary to carry out the foreign policy of the United States and for which commercial insurance is unavailable on reasonable terms. This is a discretionary program. This insurance can be issued in two forms:

- *Non-Premium Insurance* is issued for American aircraft under contract to any Federal department or agency which has an indemnity agreement with the Department of Transportation (DOT). Applicants currently pay a one-time binder fee of \$200 per aircraft for non-premium insurance. This fee has not been adjusted since 1975. The Presidential approval required for the issuance of non-premium insurance is demonstrated by the standing Presidential approval of the indemnification agreements with the other Government agencies. In order to minimize the time needed to provide non-premium insurance coverage, upon receipt of the application from the carrier, the FAA will issue the carrier a standby non-premium insurance coverage, upon receipt of the application from the carrier, the FAA will issue the carrier a standby non-premium policy which lists the

registered aircraft of that carrier. Actual coverage for operations of these aircraft commences upon formal activation notice from the FAA which will detail the conditions and limits of the activated policy.

- *Premium Insurance* is provided for American aircraft or foreign-flag aircraft for regular commercial scheduled or charter service. The U.S. Government assumes the financial liability for claims in exchange for a premium. The Presidential approval required for premium insurance must be separately obtained for a period of not more than 60 days. The Presidential approval may be renewed for additional 60 day periods if so approved before each additional period. Under certain circumstances, this renewal authority has been and may be delegated to the Secretary of Transportation. As a general policy, premium insurance will not be made available for a U.S. government agency, whereas such agencies may request non-premium insurance.

Non-premium and premium insurance do not necessarily differ in risks covered for any given flight. The differences are in the categories of flights which may be covered and in the approval process. As noted above, wholly domestic flights may be covered by non-premium insurance whereas premium insurance may cover only flights between a U.S. point and a foreign point or between two foreign points. Presidential approval is specific to flights within the scope of each request for premium insurance, while Presidential approval is generic to all non-premium flights for agencies which have completed an indemnification agreement with the FAA.

Two basic types of coverage are offered under the FAA's Aviation Insurance Program, with limits of liability provided as follows:

- *Hull insurance* covers the loss of or damage to an aircraft hull. Coverage may not exceed the reasonable value of the aircraft as determined by the Secretary.

- *Liability insurance* covers bodily injury, personal injury, or death, and damage to or loss of property, including cargo, baggage, and personal effects. Coverage may not exceed the registered limits of liability on file with the FAA or the corresponding commercial coverage in effect on the date of loss.

Recent Experience

The FAA issued non-premium war risk insurance for over 5,000 flights in support of Operation Desert Shield/Storm. These flights were utilized to carry both troops and supplies into the

Middle East and evacuate American citizens from the area. Premium war risk insurance also was provided during Operation Desert Shield/Storm for 36 flights.

The FAA also has issued non-premium insurance for flights supporting recent humanitarian and peacekeeping operations. The FAA insured 155 flights by 11 different air carriers carrying troops and supplies to and from Somalia during Operation Restore Hope from December 1992 until early 1994. In 1993, the FAA insured troop and cargo flights to Kuwait City in support of Operation Desert Caravan. In 1994, the FAA insured flights in support of Operation Provide Hope providing humanitarian relief supplies to the Republic of Georgia. Commonwealth of Independent States. In September and October 1994, the FAA insured flights into Haiti in support of Operation Uphold Democracy. In April 1996, the FAA began insuring troop rotation flights between Tuzla, Bosnia, and Germany.

Prior to 1990, the last extensive use of FAA-issued insurance to cover commercial flight operations was in 1975. Since that time, commercial insurance industry practices evolved well beyond those prevailing in 1975 and earlier. The differences between coverage available from the commercial insurance industry and the coverage permitted under the Aviation Insurance Program's statutory authority has created insurance coverage gaps.

The coverage gaps were highlighted by the partial activation of the Civil Reserve Air Fleet (CRAF) during Operations Desert Shield/Storm, the first activation since the program's inception. A majority of the civil air carriers providing the airlift for Operation Desert Shield/Storm had their commercial war risk insurance automatically canceled upon CRAF activation. As a result, the air carriers depended on FAA-issued insurance.

The coverage gaps and the carriers' dependence on FAA-issued insurance caused Congress, the air carrier industry, and the FAA to review the aviation insurance program's statutory authority. Section 401(a) of Public Law 102-581 (October 31, 1992), expanded the FAA's authority to issue non-premium insurance coverage for domestic flight segments; for goods and services (i.e., spares support, refueling, etc.) in direct support of operations conducted under contract to the indemnifying agency; and for transport of military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country and for

goods and services in direct support thereof. The FAA further addressed coverage gaps by adopting new procedures and policies: e.g., the revision of the FAA's standard non-premium hull and liability policies and the development of endorsements to those policies to meet the specific insurance needs of DOD contract carriers. Additionally, the FAA is proposing, in this document, to provide insurance for all insurable interests consistent with current commercial aviation insurance practice.

The Aviation Insurance Program has been used repeatedly over the last five years as the U.S. continues its involvement in international peacekeeping and humanitarian endeavors, and as DOD continues its reliance on civil aircraft. This continuing frequent use has significantly increased the administrative cost of maintaining the Aviation Insurance Program. In order to conform insurance program practices to changes in implementation authority, to improve program efficiency, and to offset incurred administration cost due to increased frequency of utilization of the Aviation Insurance Program, the FAA proposes the following amendments.

Explanation of Proposed Changes

In general, the FAA has broad discretion and judgment in determining the acceptable level of risk to be insured against under a given set of circumstances, and the policies and procedures to be followed in the administration of the insurance program. The proposals contained herein would not compromise this basic premise.

Section 198.1

Section 198.1 would be published with editorial changes reflecting language used in the codification of the Federal Aviation Act.

Section 198.1(b) would be revised to expand the operations covered under the Aviation Insurance Program. This proposed amendment would include, as eligible operations, those in domestic or foreign air commerce if non-premium insurance is sought.

Section 198.3

Section 198.3(b) would be revised to expand the authority to cover flights operated pursuant to an agreement between the United States and a foreign government. A requirement for the airline to have a current copy of its commercial insurance policy on file would be added. In addition, this section would be changed to explain

when insurance policies are actually in force and when they are in standby status. The section would be divided into paragraphs that clarify and correct the intent of the section.

Section 198.5

Section 198.5 would be published with editorial changes reflecting language used in the codification of the Federal Aviation Act, and would clarify that any other insurable item may be insured if eligible for insurance under § 198.1.

Section 198.7

Section 198.7 would be published with editorial changes reflecting language used in the codification of the Federal Aviation Act, and with the deletion of prior language requiring the approval of the agency on whose behalf contract air services are to be performed.

Section 198.9

Section 198.9 would be revised to add flexibility for applicants applying for insurance. The FAA office administering the Aviation Insurance Program would provide guidance and necessary forms to apply for insurance. Appendix A would be removed. Also, a requirement that the applicant provide evidence of the unavailability of commercial insurance would be added. A provision that the standby non-premium policy only provides actual coverage when formally activated by the FAA has been included.

Section 198.11

Section 198.11 would be revised to reflect editorial changes, and to include language relating to other insurable items.

Section 198.13

Section 198.13 would be changed to reflect administrative payment procedures. The proposed language would provide generic instructions for greater flexibility of this section.

Section 198.15

Section 198.15 would revise the current \$200 binder for non-premium insurance, established in 1975, updating it for the inflation by the annual cumulative Consumer Price Index (CPI) rounded to the nearest \$25. For example, using the latest annual cumulative CPI available, (2.760 for 1995), the binder would be \$550 (calculation: $\$200 \times 2.760$, rounded to the nearest \$25) per aircraft or other insurable item. In the future, the binder amount would be adjusted annually for newly registered aircraft and other insurable items to reflect future

increases in the CPI, rounded to the nearest \$25. The binder would continue to be a one-time charge, so that, once an aircraft operator registers an aircraft or other insurable item, no additional binder charge would be due while the operator continues to operate that aircraft or other insurable item.

After publication of the final rule, the binder that is set forth in the final rule would be adjusted not more frequently than annually based on changes in the Consumer Price Index of All Urban Consumers (CPI) published by the Secretary of Labor. The adjusted binders would also be published in the "Notice" section in the **Federal Register**. This procedure would permit binder adjustments in a timely manner. However, in no event would an adjusted binder exceed the FAA's cost for providing a service. The adjusted binders would become effective in accordance with the notice which sets forth the adjusted binders. The increased binder would apply only to each insured carrier's aircraft and other insurable items registered after the effective date of the final rule.

Section 198.15(d) would be added to state FAA's long standing policy that when an operator acquires an aircraft previously covered under another operator's policy, the new operator must register it in the same manner as an aircraft not previously covered. The insurance registrations are not transferable.

Section 198.17

Section 198.17 would be revised to reflect the coverage of goods and services provided in direct support of aircraft operations as allowed now by law.

Appendix A to Part 198—Form of Application to Section 198.9

Appendix A would be removed to simplify administration of the Aviation Insurance Program. The FAA office administering the program would provide forms upon request.

Paperwork Reduction Act

Information collection requirements in the proposed rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB Control Number 2120-0514.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations (JAR)

The FAA has determined that a review of the ICAO Standards and

Recommended Practices and JAR's is not warranted because there are no existing comparable rules.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the expected benefits to society outweigh the expected costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) Would generate benefits exceeding costs; (2) is not "significant" as defined in the Executive Order and DOT's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Through the proposed changes, the FAA would attempt to recover some of the costs of providing current services from the beneficiaries of these services. The proposed rule would not impose additional costs on society. The cost of administering the insurance program in 1995 amounted to about \$475,000. If the current \$200 binder is updated, as proposed, by the latest annual Consumer Price Index (CPI), 1995, and adjusted to the nearest \$25, the binder would be \$550. This figure, multiplied by the number of aircraft newly registered each year, which is estimated at 80, yields \$44,000. The increase is far less than the cost of administering the program; it amounts to 9.3% of 1995 administrative costs. The FAA has determined that the proposed change in the binder for non-premium insurance, if implemented, is equitable.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a significant (positive or negative) economic impact on a substantial number of small entities. Based on the standards and thresholds specified in FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that

the proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This proposed rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 does not apply.

International Trade Impact

The Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. The proposed rule would not have any impact on international trade as the registration fee would be the same for all carriers, foreign as well as domestic.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, October 4, 1993, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed above, including the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation would not be significant under Executive Order 12866, Regulatory Planning and Review, issued October 4, 1993. In addition, the FAA certifies that this proposal, if adopted, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal would not be considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and Order DOT 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations, of May 22, 1980. An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 198

Aircraft, Freight, Reporting and recordkeeping requirements, War risk insurance.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to revise 14 CFR part 198 as set forth below:

PART 198—AVIATION INSURANCE

Sec.

198.1 Eligibility of aircraft operation for insurance.

198.3 Basis of insurance.

198.5 Types of insurance coverage available.

198.7 Amount of insurance coverage available.

198.9 Application for insurance.

198.11 Change in status of aircraft.

198.13 Premium insurance—payment of premiums.

198.15 Non-premium insurance—payment of registration binders.

198.17 Ground support and other coverage.

Authority: 49 U.S.C. 106(g), 40113, 44301–44310; 49 CFR 1.47(b).

§ 198.1 Eligibility of aircraft operation for insurance.

An aircraft operation is eligible for insurance if—

(a) The President of the United States has determined that the continuation of that aircraft operation is necessary to carry out the foreign policy of the United States;

(b) The aircraft operation is—

(1) In foreign air commerce or between two or more places all of which are outside the United States if insurance with premium is sought; or

(2) In domestic or foreign air commerce, or between two or more places all of which are outside the United States if insurance without premium is sought; and

(c) The Administrator finds that commercial insurance against loss or damage arising out of any risk from the aircraft operation cannot be obtained on reasonable terms from an insurance carrier.

§ 198.3 Basis of insurance.

(a) Premium insurance may be made available if the requirements of § 198.1 are met.

(b) Subject to § 198.9(c), standby insurance without premium may be made available if all of the following conditions are met:

(1) A department, agency, or instrumentality of the U.S. Government seeks performance of air services operations, pursuant to a contract of the department, agency, or instrumentality; or transportation of military forces or

materiel on behalf of the United States, pursuant to an agreement between the United States and a foreign government.

(2) Such department, agency, or instrumentality of the U.S. Government has agreed in writing to indemnify the Secretary of Transportation against all losses covered by such insurance. Such an agreement, when countersigned by the President constitutes a determination that the continuation of that aircraft operation is necessary to carry out the foreign policy of the United States.

(3) A current copy of the aircraft operator's applicable commercial insurance policy or policies is on file with the FAA, including every endorsement making a material change to the policy. Updated copies of these policies must be provided upon each renewal of the commercial policy. Every subsequent material change by endorsement must be promptly provided to the FAA.

(c) Insurance is activated, placing the insurance in full force, as specified by the FAA's written notification to the operator and remains in force until such time as either of the following occurs:

(1) The requirements in § 198.1 are no longer met; or

(2) In the case of non-premium insurance, an aircraft operation is no longer performed under contract to a department, agency, or instrumentality of the U.S. Government; or pursuant to an agreement between the United States and a foreign government.

(d) Insurance policies revert to standby status upon written notification by the FAA to the aircraft operator. A policy will remain in standby status until either—

(1) The insurance is activated by written notice; or

(2) The policy is canceled.

§ 198.5 Types of insurance coverage available.

Application may be made for insurance against loss or damage to the following persons, property, or interests:

(a) Aircraft, or insurable items of an aircraft, engaged in eligible operations under § 198.1.

(b) Any individual employed or transported on the aircraft referred to in paragraph (a) of this section.

(c) The baggage of persons referred to in paragraph (b) of this section.

(d) Property transported, or to be transported, on the aircraft referred to in paragraph (a) of this section.

(e) Statutory or contractual obligations, or any other liability, of the aircraft referred to in paragraph (a) of this section or of its owner or operator, of the nature customarily covered by insurance.

§ 198.7 Amount of insurance coverage available.

(a) For each aircraft or insurable item, the amount insured may not exceed the amount for which the applicant has otherwise insured or self-insured the aircraft or insurable item against damage or liability arising from any risk. In the case of hull insurance, the amount insured may not exceed the reasonable value of the aircraft as determined by the FAA or its designated agent.

(b) Policies issued without premium may be revised from time to time by the FAA with notice to the insured, to add aircraft or insurable items or to amend amounts of coverage if the insured has changed the amount by which it has otherwise insured or self-insured the aircraft or itself.

§ 198.9 Application for insurance.

(a) Application for premium or non-premium insurance must be made in accordance with the applicable form supplied by the FAA.

(b) Each applicant for insurance with premium under this part must submit to the FAA with its application a letter describing in detail the operations in which the aircraft is or will be engaged and stating the type of insurance coverage being sought and the reason it is being sought. The applicant must also submit any other information deemed pertinent by the FAA.

(c) Each applicant for premium or non-premium insurance must submit to the FAA evidence that commercial insurance is not available on reasonable terms for each flight or ground operation for which insurance is sought. Each aircraft operator who has a standby non-premium insurance policy must submit evidence to the FAA that commercial insurance is not available on reasonable terms before the FAA activates that policy. The adequacy of the evidence submitted is determined solely by the FAA.

(d) The standby non-premium policy issued to the aircraft operator does not provide actual coverage until formally activated by the FAA.

§ 198.11 Change in status of aircraft.

In the event of sale, lease, confiscation, requisition, total loss, or other change in the status of an aircraft or insurable items covered by insurance under this part, the insured party must notify the office administering the Aviation Insurance Program within 10 working days after the change in status.

§ 198.13 Premium insurance—payment of premiums.

The insured must pay the premium for insurance issued under this part

within the stated period after receipt of notice that premium payment is due and in accordance with the provisions of the applicable FAA insurance policy. Premiums must be sent to the FAA, and made payable to the FAA.

**§ 198.15 Non-premium insurance—
payment of registration binders.**

(a) The binder for initial registration is \$550 for each aircraft or insurable item. This binder is adjusted not more frequently than annually based on changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(b) An application for non-premium insurance must be accompanied by the proper binder, payable to the FAA. A binder is not returnable unless the application is rejected.

(c) Requests made after issuance of a non-premium policy for the addition of an aircraft or insurable item must be accompanied by the binder for each aircraft and insurable item.

(d) When an operator acquires an aircraft or insurable item that was previously covered under an active or standby policy, the new operator must register the aircraft or item on its policy and pay the binder for each aircraft and insurable item.

§ 198.17 Ground support and other coverage.

An aircraft operator may apply for insurance to cover any risks arising from the provision of goods or services directly supporting the operation of an aircraft that meets the requirements of § 198.3(b).

Issued in Washington, DC, on April 14, 1997.

John M. Rodgers,

Director, Office of Aviation Policy and Plans.
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