

Aviation Regulatory Update

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DOT TO REQUIRE CARRIERS TO DEVELOP AND POST ONLINE ONE-PAGE DOCUMENT ON PASSENGER RIGHTS

On April 24, 2026, the U.S. Department of Transportation published a final rule requiring covered air carriers to submit to DOT and post to their websites a one-page summary of passenger rights ("Passenger Rights Summary"). This new rulemaking implements a requirement set forth in the FAA Reauthorization Act of 2018, and as such, DOT issued this final rule without first providing the public with an opportunity to comment.

This rule will be incorporated into 14 C.F.R. 259, which applies to all U.S. and foreign air carriers operating to, from, or within the United States, conducting scheduled passenger service or public charter service with at least one aircraft having a designed seating capacity of thirty (30) or more seats.

The Passenger Rights Summary must cover the carrier's policies regarding:

- Rebooking options, refunds, meals, and lodging for flight delays of various lengths.
- Rebooking options, refunds, meals, and lodging for flight diversions.
- Rebooking options, refunds, meals, and lodging for flight cancellations.
- Compensation for mishandled baggage, including delayed, damaged, pilfered (stolen), or lost baggage.
- Voluntary relinquishment of a ticketed seat due to overbooking or priority of other passengers.
- Involuntary denial of boarding and forced removal for whatever reason, including for safety and security reasons.

This final rule becomes effective on May 26, 2026. Carriers should therefore be prepared to submit their Passenger Rights Summary to DOT by **May 26, 2026**. Please note, however, DOT will not begin accepting submissions until it publishes a separate notice announcing OMB approval and providing specific submission instructions. That notice is forthcoming and we will update you as soon as it is published.

Carriers must also be prepared to post their Passenger Rights Summary in a prominent location on their websites within 90 days after submission of the summary to DOT.

A carrier's Passenger Rights Summary must comply with existing DOT regulations, including those pertaining to oversales and automatic refunds for cancellations, significantly changed flights, and lost or significantly delayed baggage. Please do not hesitate to contact us if you have any questions regarding this rule or would like assistance drafting or reviewing your Passenger Rights Summary.

FAA ORDERS LONG-AWAITED FLIGHT REDUCTIONS AT ORD

On April 16, 2026, the Federal Aviation Administration finalized scheduling limits at Chicago O'Hare International Airport to mitigate congestion and prevent widespread flight delays. With some 3,080 flights planned on peak days at ORD, the FAA order will limit operations to a total of 2,708 flights per day during the Summer 2026 season. This represents a significant reduction from planned scheduling levels, meaning that U.S. air carriers will need to work cooperatively with the FAA's Slot Administration Office to cut more than 300 daily flights. Importantly, the FAA's scheduling reduction order only applies to U.S. air carriers and therefore foreign air carriers will not be required to reduce operations at ORD. Unscheduled operations (i.e., cargo, charter, or nonscheduled foreign air carrier operations) will be accommodated on a "first come, first serve" basis subject to both FAA and ORD approval. Before the scheduling limits take effect on **June 2, 2026**, U.S. air carriers are advised to modify their schedules and notify passengers of affected itineraries as soon as possible. Changes to U.S. air carrier schedules could have downstream effects on connecting traffic to/from ORD so codeshare partners should plan accordingly. Failure to comply with scheduling limits could result in civil penalties of up to \$75,000 per flight above the prescribed limits. Limitations at ORD are set to expire on **October 24, 2026**, unless extended further by U.S. regulators.

DOT AMENDS PRIOR CONSENT ORDER AND CREDITS FRONTIER FOR COMPENSATING AFFECTED PASSENGERS

On April 17, 2026, DOT's Office of General Counsel published Order 2026-4-11 which amended a prior consent order issued against Frontier Airlines. The prior consent order was issued under the former Biden administration and alleged that Frontier had violated 49 U.S.C. 41712 and 14 C.F.R. 399.81 by holding out three (3) chronically delayed flights between August 2022 and April 2023. A \$650,000 civil penalty was assessed against Frontier even after the U.S. air carrier complied with the investigation conducted by DOT's Office of Aviation Consumer Protection and settled the matter to avoid protracted litigation. Rather than applying overly broad interpretations of DOT's consumer protections laws to penalize airlines, the amended consent order seeks to incentivize U.S. and foreign air carriers to make meaningful investments in technological innovations to enhance the passenger experience. The revised penalty, for example, awarded Frontier with a credit of \$162,500 for voluntarily providing compensation to affected consumers and for investing in pro-consumer innovations to streamline the airline's mobile application notification system. As U.S. and foreign air carriers work diligently to comply with DOT's consumer protections laws, the amended Frontier consent order seems to signal a willingness by current regulators to work with industry to best serve the traveling public through a commonsense approach to enforcement.

DHS RESCINDS THREAT DETERMINATION AT VENEZUELAN AIRPORTS

On April 15, 2026, the U.S. Department of Homeland Security rescinded its prior June 2019 determination that conditions in Venezuela threatened the safety and security of passengers, aircraft, and crew. Following threat assessments at Maiquetía "Simón Bolívar" International Airport ("CCS") in Caracas and the fact that TSA re-established direct communications with the National Institute of Civil Aviation of Venezuela, DHS recently

reversed course and determined that conditions in Venezuela no longer threaten the safety and security of air travel. This comes as U.S. and foreign air carriers are working with regulators to resume direct passenger and cargo flights between the United States and Venezuela. For instance, American Airlines announced plans this month to resume non-stop service from Miami to CCS starting on April 30, 2026. As diplomatic relations between Venezuela and the United States improve, the latest DHS notice coincides with passengers now being able to purchase tickets on the American Airlines website for daily nonstop flights between the United States and Venezuela after a nearly seven (7) year suspension. Other U.S. and foreign air carriers are expected to follow suit to meet pent-up demand.

TREASURY SANCTIONS AVIATION PLAYERS TIED TO IRANIAN REGIME

On April 21, 2026, the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") announced significant sanctions against individuals, entities, and aircraft based in Iran, Turkey, and the United Arab Emirates due to their purported involvement in procuring and/or transporting weapons on behalf of the Iranian regime. Mahan Air, an Iranian airline and subsidiary of the Iran-based Sepehr Kaveh Kish International Trading Company, was identified as one such entity which continues to transport weapons to and from Iran. Given that OFAC named two Boeing 777-200s, with registrations EP-MTE and EP-MTB, as being owned and operated by Mahan Air, those within the aviation industry should take note and avoid any commercial or financial transactions involving Mahan Air and/or any assets it may hold under U.S. jurisdiction. Please be advised that U.S. and foreign persons who are found to have violated OFAC's regulations are subject to serious civil or criminal penalties on a strict liability basis. Those involved with the global aviation industry should conduct vigorous due diligence to determine whether a proposed transaction involves any OFAC-sanctioned person, entity, or territory.

FAA RAMPS UP ENFORCEMENT OF DRUG AND ALCOHOL TESTING REGULATIONS

On April 2, 2026, the FAA proposed a \$56,000 civil penalty against Milwaukee-based charter company Spring City for purportedly violating drug and alcohol testing regulations. After investigating Spring City employees who performed safety-sensitive functions between December 2023 and December 2024, the FAA found that five pilots and an aircraft mechanic were never subjected to drug and alcohol testing as required by applicable regulations. A similar \$304,272 civil penalty was proposed this month against Southwest Airlines for allegedly failing to perform follow-up drug or alcohol testing for 11 Southwest employees between August 2021 and July 2024. In addition to Spring City and Southwest, the FAA also proposed a \$255,000 civil penalty against American Airlines over allegations that it permitted several flight attendants who previously tested positive on drug and alcohol tests to resume their safety-sensitive duties before all required follow-up testing was completed.

The FAA's stringent drug and alcohol testing regulations are intended to prevent accidents and injuries resulting from the use of prohibited drugs or the misuse of alcohol by employees performing safety-sensitive functions in aviation. Even after they develop and implement compliant testing programs, covered air carriers are required to perform ongoing randomized drug and alcohol testing of safety-sensitive aviation personnel. Furthermore, when there are reasonable and articulable grounds to infer that specific employees are utilizing a prohibited drug, the FAA strongly recommends that employers conduct reasonable cause/suspicion testing to safeguard the flying public. Aviation enforcement under the second Trump administration continues to focus on safety regulations, including compliance with the FAA's drug and alcohol testing regulations, so carriers should be keenly aware of increased scrutiny in this area.

SENATE COMMITTEE ADVANCES AVIATION MENTAL HEALTH BILL

On April 14, 2026, the U.S. Senate Committee on Commerce, Science, and Transportation unanimously passed legislation which would direct the FAA to modernize its medical certification process to better support pilots and

air traffic controllers who seek mental health treatment. In addition to addressing longstanding stigmas which have historically discouraged pilots and air traffic controllers from seeking treatment, the legislation would also reform the FAA's special issuance medical certificate process and expand the list of approved medications for treating mental health conditions. By authorizing the FAA to recruit and train more aviation medical examiners while simultaneously conducting public awareness initiatives to reduce stigma around mental health care in aviation, advocates of the Mental Health in Aviation Act seek to codify revisions to the FAA's medical health regulations which were first proposed by the 2024 Mental Health and Aviation Medical Clearances Rulemaking Committee. The full U.S. Senate must now consider the legislative text before mental health guidance regulations for pilots and air traffic controllers can be modernized to reflect current attitudes.

CTA ISSUES NOTICE TO INDUSTRY CONCERNING TARIFF-RELATED EXEMPTIONS

On April 16, 2026, the Canadian Transportation Agency ("CTA") provided clarification on the application of the Canada Transportation Act and the Air Transportation Regulations ("ATR") following an announcement earlier this year that CTA would grant limited exemptions with respect to the filing of tolls (i.e., fares, rates, and charges) for international services and the publication of such tolls on a carrier's website for domestic services. Those exemptions apply to all air carriers, regardless of whether they are members of the International Air Transportation Association. Even though CTA granted exemptions from certain regulatory requirements, the notice to industry made clear that carriers are still required to set out tolls in their tariffs for both domestic and international services. Each air carrier must specify where they will be maintaining their toll tariffs once toll filing ceases (e.g., the Airline Tariff Publishing Company or IATA's The Air Cargo Tariff).

CTA clarified that carriers will **not** be exempt from the following requirements:

- Maintaining a tariff, including any fares, rates, or charges and any supporting terms and conditions;
- Applying the tolls set out in their tariffs to their air services;
- Allowing for the public inspection of air carriers' tariffs, including their tolls; and
- Filing with CTA their terms and conditions of carriage for international services as set out in their tariff, in the manner required by the ATR.
- Carriers should contact the Tariffs and Research Division via email (DTR-TRD@otc-cta.gc.ca) with any questions to ensure compliance as Canadian regulators implement the exemptions.

FIFTH CIRCUIT DECLINES TO REVIVE CRIMINAL CASE AGAINST BOEING

On March 31, 2026, the United States Court of Appeals for the Fifth Circuit issued an opinion in which a three-judge panel declined to reopen the criminal case against Boeing for conspiring to defraud regulators in connection with the FAA's evaluation of Boeing's 737 MAX aircraft. By way of brief background, the families of Boeing 737 MAX crash victims who opposed a lower court's dismissal of the criminal case filed petitions for a writ of mandamus with the Fifth Circuit in November 2025, and oral arguments were subsequently held in February 2026. Pursuant to the federal Crime Victims' Rights Act, the families requested that the Fifth Circuit remand the case to the district court over allegations that the U.S. Department of Justice and Boeing "illegally negotiated a deferred prosecution agreement" in violation of the Act's statutory protections, including the families' rights to confer, to be treated with fairness, and to receive timely notice of any deferred prosecution agreement.

The Fifth Circuit ultimately denied the petitions for a writ of mandamus because the three-judge panel found that DOJ did not violate the families' rights under the statute. To the contrary, the Fifth Circuit reasoned that DOJ treated the families with the "fairness" required by the Act and meaningfully conferred with them before entering into the non-prosecution agreement with Boeing on May 29, 2025. There was also no evidence within the record to indicate that DOJ failed to adequately confer with the families, nor did federal prosecutors mislead them about the non-prosecution agreement. Without such evidence, the Fifth Circuit affirmed the lower court ruling that government attorneys did not violate the Act and therefore the decision foreclosed the families' opportunity to revive the criminal prosecution.



This Aviation Regulatory Update is intended to keep readers current on developments in the law. It is not intended to be legal advice. If you have any questions, please contact [Evelyn Sahr](mailto:esahr@eckertseamans.com) at 202.659.6622 or esahr@eckertseamans.com; [Drew Derco](mailto:dderco@eckertseamans.com) at 202.659.6665 or dderco@eckertseamans.com; [Tyler Myers](mailto:trmyers@eckertseamans.com) at 202.659.6642 or trmyers@eckertseamans.com, or any other attorney at Eckert Seamans with whom you have been working.