

Aviation Regulatory Update

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CHANGES TO U.S. TRAVEL RESTRICTIONS AS OF JANUARY 1, 2026

On December 29, 2025, U.S. Customs and Border Protection published a Carrier Liaison Program Bulletin following President Trump's Presidential Proclamation 10998 dated December 16, 2025 which fully and partially restricts certain foreign nationals from entering the United States effective at **12:01 AM Eastern Daylight Time ET on January 1, 2026**. In compliance with Presidential Proclamation 10998, the U.S. Department of State will fully or partially suspend entry for and visa issuance to nationals of 39 countries. Full entry restrictions will apply to nationals of Afghanistan, Burma, Burkina Faso, Chad, Republic of the Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Laos, Libya, Mali, Niger, Sierra Leone, Somalia, South Sudan, Sudan, Syria, and Yemen. Nationals of Angola, Antigua and Barbuda, Benin, Burundi, Cote D'Ivoire, Cuba, Dominica, Gabon, The Gambia, Malawi, Mauritania, Nigeria, Senegal, Tanzania, Togo, Tonga, Venezuela, Zambia, and Zimbabwe will be subject to partial restrictions for nonimmigrant B-1/B-2 visitor visas and F, M, J student and exchange visitor visas, and all immigrant visas. There are limited exceptions for the following categories:

- Certain diplomatic and official visas
- Immigrant visas for ethnic and religious minorities facing persecution in Iran
- Dual nationals applying with a passport of a nationality not subject to a suspension
- Special Immigrant Visas (SIVs) for U.S. government employees
- Participants in certain major sporting events
- Lawful Permanent Residents (LPRs)

To be clear, Presidential Proclamation 10998 **only** applies to foreign nationals who are outside the United States on the effective date **and** do not currently hold a valid visa on the effective date (i.e., January 1, 2026, at 12:01 a.m. EST). Even if they are currently outside the United States, foreign nationals holding valid visas as of the effective date are **not** subject to Presidential Proclamation 10998 and will not have their valid visas revoked at this time. Airline personnel must comply with these restrictions to verify that only authorized travelers are permitted to board flights to/from the United States.

DOT PAUSES ENFORCEMENT OF CERTAIN REFUND OBLIGATIONS

On December 5, 2025, the U.S. Department of Transportation issued a notice of enforcement discretion regarding the Airline Refunds and Other Consumer Protections rule. In short, the Department will not enforce the refund requirements in 14 C.F.R. 260.6, 14 C.F.R. 260.9 and 14 C.F.R. 399.80(l) for cancelled flights when flights are renumbered, so long as passengers are rebooked on flights under a new flight number. While DOT's current refund regulations automatically classify flight number changes as flight cancellations making passengers eligible for a refund, DOT paused enforcement of such refund requirements until **June 30, 2026**. To be clear, the Department's notice of enforcement discretion does **not** affect the enforcement of ticket refund or notification obligations for any other situations. This move comes after several U.S. air carriers and trade associations urged the Department to reconsider the current definition of a cancelled flight. In correspondence to DOT, Alaska, American, and Airlines for America reasoned that the current regulatory definition is overly broad and that flight number changes are made for many reasons (e.g., commercial concerns, operational flexibility, and FAA safety-related compliance) without adversely impacting passengers.

OACP HOLDS ACERS MEETING AHEAD OF JANUARY 2026 DISABILITY REPORTING DEADLINE

On December 10, 2025, DOT's Office of Aviation Consumer Protection held a virtual meeting to discuss issues with passengers self-selecting the nature of their complaint (e.g., disability, refunds, flight cancellations) within DOT's new complaint reporting system (i.e., ACERS). To the extent possible, OACP requests that carriers submit recategorization requests for those complaints which were incorrectly identified by passengers as a disability or discrimination complaint. Starting January 1, 2026, DOT plans to implement a new complaint form on ACERS to dissuade passengers from selecting multiple complaint categories unrelated to written narratives because inaccurate categorizations can distort carrier-specific data presented in DOT's Air Travel Consumer Report.

U.S. and foreign air carriers operating at least one aircraft with 60 or more passenger seats to, from, or within the United States were also reminded that they must submit a report to DOT summarizing the disability-related complaints received by the carrier during the prior calendar year. Even if carriers did not receive any written disability-related complaints in the preceding calendar year, they are still required to file a "zero" report showing no such complaints. Failure to comply with DOT's disability-related reporting requirements can result in enforcement action and considerable monetary penalties. Carriers can begin submitting reports on ACERS in early January with the final deadline to submit 2025 disability reports being **Monday, January 26, 2026**.

CBP ISSUES GUIDANCE ON VISA BOND PILOT PROGRAM

On December 22, 2025, CBP issued a bulletin clarifying visa bond obligations imposed by the U.S. Department of State's Visa Bond Pilot Program ("VBPP"). After determining earlier this year that nationals from certain countries need visa bonds before traveling to or from the United States, the State Department implemented the pilot program to require any citizen or national traveling on a passport issued by one of the countries listed below to post a visa bond in connection with applying for B-1/B-2 nonimmigrant visas. Citizens and nationals of the following countries are subject to the VBPP:

- Bhutan (effective January 1, 2026)
- Botswana (effective January 1, 2026)
- Central African Republic (effective January 1, 2026)
- Guinea (effective January 1, 2026)

- Guinea Bissau (effective January 1, 2026)
- Namibia (effective January 1, 2026)
- Turkmenistan (effective January 1, 2026)
- Malawi (effective August 20, 2025)
- Zambia (effective August 20, 2025)
- The Gambia (effective October 11, 2025)
- Mauritania (effective October 23, 2025)
- Sao Tome and Principe (effective October 23, 2025)
- Tanzania (effective October 23, 2025)

All visa holders who have posted a visa bond under the VBPP must enter and exit the United States through one of the following ports of entry:

- Boston Logan International Airport (BOS)
- John F. Kennedy International Airport (JFK)
- Washington Dulles International Airport (IAD)
- Newark Liberty International Airport (EWR)
- Hartsfield-Jackson Atlanta International Airport (ATL)
- Chicago O'Hare International Airport (ORD)
- Los Angeles International Airport (LAX)
- Toronto Pearson International Airport (YYZ)
- Montréal-Pierre Elliott Trudeau International Airport (YUL)

Carriers could be subject to civil penalties for each passenger from the above-referenced countries who fails to comply with visa bond requirements. Please also note that visa bonds issued under the VBPP are for single entries only with payment being made through the U.S. Department of the Treasury's online payment platform Pay.gov.

OACP PROVIDES REQUESTED GUIDANCE ON EAD COMPLIANCE

On December 10, 2025, DOT's Office of Aviation Consumer Protection responded to carrier requests for guidance following the Federal Aviation Administration's issuance of Emergency Airworthiness Directive 2025-24-51 on November 28, 2025. Issuance of the EAD grounded thousands of Airbus aircraft worldwide to immediately replace or modify software impacted by intense solar radiation. Due to the EAD and the widespread fleet disruptions it caused, U.S. air carriers petitioned OACP for regulatory guidance on carrier obligations, if any, to provide amenities such as meals and hotels for passengers affected by cancellations or significant delays because of unscheduled maintenance required to comply with the EAD at issue.

As a matter of enforcement policy, the regulatory guidance confirmed that OACP "will not take action against airlines that do not provide services, amenities, or compensation promised in their customer service plans to mitigate passenger inconvenience from controllable flight disruptions in instances when flights are delayed or cancelled due to unscheduled maintenance in response to an airworthiness directive that cannot be deferred or must be addressed before flight such as was the case with EAD 2025-24-51."

To determine whether future operational difficulties are due to unscheduled maintenance resulting from an FAA safety directive, OACP will evaluate whether the delay or cancellation would have occurred “but for” the actions taken to comply with the EAD. Carriers should be generally aware of this OACP enforcement policy if future EADs trigger worldwide AOGs, and questions arise as to whether cancellations or lengthy delays are due to circumstances within the carrier’s control.

TSA REQUIRING PAYMENT FROM THOSE TRAVELING WITHOUT ACCEPTABLE ID

On December 1, 2025, the Transportation Security Administration finalized plans to require passengers traveling without an acceptable form of ID to pay \$45. The new fee applies per individual for a ten (10) day period so long as the individual can successfully verify his or her identity for each use during the 10-day period. Those passengers traveling without an acceptable ID will be required to pay the fee starting on February 1, 2026. Acceptable forms of ID include the following:

- REAL ID – Compliant driver's licenses or other state photo identity cards issued by Department of Motor Vehicles (or equivalent)
- State-issued Enhanced Driver's License (EDL) or Enhanced ID (EID)
- U.S. passport
- U.S. passport card
- DHS trusted traveler cards (Global Entry, NEXUS, SENTRI, FAST)
- U.S. Department of Defense ID, including IDs issued to dependents
- Permanent resident card
- Border crossing card
- An acceptable photo ID issued by a federally recognized Tribal Nation/Indian Tribe, including Enhanced Tribal Cards (ETCs)
- HSPD-12 PIV card
- Foreign government-issued passport
- Canadian provincial driver's license or Indian and Northern Affairs Canada card
- Transportation Worker Identification Credential (TWIC)
- U.S. Citizenship and Immigration Services Employment Authorization Card (I-766)
- U.S. Merchant Mariner Credential
- Veteran Health Identification Card (VHIC)

Passengers without an acceptable ID will be permitted to pay the increased fee online before traveling. While TSA encourages passengers to pay online before arriving at the airport, there will be an option to pay the new fee at or near security checkpoints at most U.S. airports. **Before TSA starts collecting the fee on February 1, 2026, passengers should be advised that traveling without an acceptable ID will require a payment of \$45 fee to cover alternative identity verification expenses.** While this new TSA Confirm.ID fee places no new requirements on carriers, airlines should nevertheless consider including information on their website to alert customers of this new TSA fee in the event that passengers do not travel with one of the above-referenced acceptable forms of ID.

CBP PROPOSES CHANGES TO DATA COLLECTED DURING ESTA APPLICATION

On December 10, 2025, CBP published a notice requesting comments on proposed data collection changes to the Electronic System for Travel Authorization (“ESTA”) application process. By way of background, citizens of designated countries looking to participate in the Visa Waiver Program can currently apply via ESTA for stays of up to 90 days without obtaining a B-1 or B-2 visa. Despite economic benefits to the United States such as each participating country being required to grant U.S. citizens similar visa-free access, CBP could require the following information from ESTA applicants:

- Selfie photo
- Alternative names
- National ID or Personal ID number
- Global Entry/NEXUS/SENTRI ID number
- Employer contact information
- Name, address, and phone number(s) of U.S. point of contact

In addition to the above data elements, CBP might also require ESTA applicants to provide their social media history from the past five (5) years as well as several “high-value data elements” based national security concerns. While applicants can currently apply for an ESTA via the ESTA website or the ESTA Mobile application, CBP plans to make the ESTA Mobile application the lone platform to obtain a new ESTA. If implemented, the proposed changes might also be adopted by other countries, which could disrupt international travel. Comments on the proposed ESTA changes must be submitted no later than **February 9, 2026**.

TSA ADJUSTS CIVIL MONETARY PENALTY AMOUNT FOR INFLATION

On December 29, 2025, TSA published a technical amendment modifying the maximum civil monetary penalties which were last revised by the U.S. Department of Homeland Security on January 2, 2025. Since the FAA Reauthorization Act of 2024 authorized TSA to increase the statutory maximum civil monetary penalty amounts for security-related violations, the technical amendment raised the maximum amount to **\$42,657** per violation (up to a total of **\$1,200,000** per civil penalty action). Carriers and ground handlers at U.S. airports should take this opportunity to ensure compliance with TSA regulations, especially those concerning screening protocols and employee badging procedures. Doing so can proactively identify areas of concern at a time when TSA continues to aggressively enforce strict compliance with TSA and other airport specific security requirements.

DOT UNVEILS FIRST-EVER NATIONAL ADVANCED AIR MOBILITY STRATEGY

On December 17, 2025, DOT launched the Advanced Air Mobility National Strategy to safely implement AAM operations throughout the United States. When announcing the innovative Strategy, Transportation Secretary Duffy identified forty (40) recommendations to facilitate and accelerate the adoption of AAM technologies in the coming years. Those 40 recommendations were developed by the Advanced Air Mobility Interagency Working Group following the passage of the Advanced Air Mobility Coordination and Leadership Act in 2022. During the last few years, the Department and AAM stakeholders have worked closely to support the safe, secure, and coordinated introduction of AAM capabilities with a specific focus on four distinct strategic action phases, referred to as **LIFT**.

1. **Leverage** Existing Programs to Support Innovation and Begin Operations
2. **Initiate** Engagement with Partners, Research and Development, and Smart Planning

3. **Forge** New Policy and Models Responsive to Public Needs
4. **Transform** the Aviation Ecosystem

To avoid unnecessary delays and duplicative efforts among federal agencies, Transportation Secretary Duffy hopes the Strategy will foster robust public-private execution of the 40 recommendations and suggested next steps. In addition to federal agencies, the Department noted that coordination with state, local, tribal, and territorial governments will be essential as eVTOLs, and other highly automated aircraft become commonplace at and around U.S. airports. While industry participants are focused on upgrading airport infrastructure and modifying regulatory frameworks to accommodate eVTOLs, the Strategy makes clear that both U.S. and foreign air carriers will need to provide comprehensive input on how best the Department can incorporate AAM operations into U.S. airspace without disrupting existing commercial service.

AMERICAN AND SOUTHWEST OBTAIN AMENDED CONSENT ORDERS

On December 9, 2025, DOT amended a prior consent order issued against American Airlines penalizing the carrier for disability-related violations. While American initially faced \$50,000,000 in civil penalties with \$25,000,000 payable over three equal installments, DOT amended the consent order and allowed American to reinvest monies allocated for remaining penalty payments to benefit passengers with disabilities. DOT intends for the amended consent order to incentive American, along with other carriers transporting passengers with wheelchairs, to invest in modern technology (e.g., equipment and systems that improve wheelchair handling for passengers with disabilities) and provide direct compensation to affected passengers.

Southwest also secured an amended consent order on similar grounds earlier this month. By way of background, the Department assessed a civil penalty of \$140 million against Southwest in December 2023 for operational failures stranding some two million passengers during the 2022 holiday season. Even though Southwest still owed \$11 million payable to the U.S. Treasury no later than January 31, 2026, DOT amended the prior consent order and provided the carrier with \$11 million in credits for significantly improving on-time performance metrics. Southwest was commended for investing more than \$1 billion to address operational resiliency issues which were the root cause of the 2022 meltdown. By amending the consent order, DOT trusts that carriers will be incentivized to reinvest so that the traveling public can experience improved operations.

Consumer protection advocates were quick to bemoan both amended consent orders as “crony capitalism” where mutually advantageous ties work to advantage major U.S. air carrier interests at the expense of consumers. Critics argue that American and Southwest were already making the investments to which DOT referenced such that amending the consent orders fails to protect passengers with disabilities and permits carriers to get off the proverbial hook for purported violations of consumer protection laws. In any event, U.S. and foreign air carriers under current DOT consent orders are strongly considering whether they too could request amendments to their consent orders. Savvy public-private relationships can prove mutually beneficial, especially when those benefits are realized by the flying public.

HOUSE TRANSPORTATION COMMITTEE ADVANCES ATC SHUTDOWN FUNDING PROPOSAL

On December 18, 2025, the U.S. House Committee on Transportation and Infrastructure passed the bipartisan Aviation Funding Solvency Act which would authorize the FAA, during future government shutdowns, to utilize the Aviation Insurance Revolving Fund to pay air traffic controllers. While the legislation now heads to the full U.S. House of Representatives for further consideration, this marks an important step towards insulating air traffic controllers from the consequences of lapses in federal funding. The proposal to pay air traffic controllers during shutdowns could face a contentious battle as several House lawmakers have claimed in recent weeks

that it would be unfair to treat federal employees differently merely because there are industry concerns about widespread aviation disruptions during government shutdowns. On the other hand, support for the Act is widespread among aviation stakeholders, including backing from Air Line Pilots Association International, Air Traffic Control Association, and Airlines for America. If lawmakers fail to enact the legislation by **January 30, 2026**, air traffic controllers could be forced to work without pay during future lapses in funding. This could result in the FAA once again implementing temporary flight restrictions at major U.S. airports because current federal government funding will expire at the end of January 2026.

DEMOCRATIC LAWMAKERS INTRODUCE CASH COMPENSATION BILL

Several Democratic members of the United States Senate recently introduced the Flight Delay and Cancellation Compensation Act seeking to require carriers to provide cash compensation and free rebooking for passengers facing significant delays and/or cancellations which were “directly attributable” to the carrier. If finalized, the Act would obligate carriers to reimburse passengers for hotels, meals, and transportation resulting from flight disruptions, regardless of the cause. The legislation follows DOT’s decision last month to withdraw an advance notice of proposed rulemaking which would have required carriers to pay affected passengers depending on the length of delays. The withdrawn rulemaking would have brought DOT into general alignment with what is currently required by regulators in other jurisdictions, notably Canada and the EU. At this time, there are no Republican senators supporting the legislation, making movement on this matter very unlikely unless and until Democrats retake the Senate majority after the 2026 midterm elections.



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; [Jay Julien](mailto:tmyers@eckertseamans.com) at 202.659.6648 [Tyler Myers](mailto:tmyers@eckertseamans.com) at 202.659.6642 or tmyers@eckertseamans.com, or any other attorney at Eckert Seamans with whom you have been working.