Aviation Regulatory Update

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FIFTH CIRCUIT VACATES DOT'S ANCILLARY FEES RULE

On February 3, 2026, the United States Court of Appeals for the Fifth Circuit (the "Fifth Circuit") vacated DOT's Enhancing Transparency of Airline Ancillary Service Fees rulemaking, holding that regulators failed to comply with the Administrative Procedure Act's notice-and-comment requirement. By way of brief background, several major U.S. air carriers, along with Airlines for America, filed a lawsuit against DOT in May 2024 alleging that regulated entities did not have sufficient opportunity to comment on a study used by DOT when promulgating the Ancillary Fees Rule in violation of the Administrative Procedure Act. Since the Ancillary Fees Rule would have required U.S. and foreign air carriers to disclose additional charges for checked luggage, carry-on bags, and changing or canceling reservations up front, regulated entities argued that DOT's reliance upon the study to justify its cost–benefit analysis without seeking industry input was unlawful. During oral arguments, DOT conceded as much and stated that regulators indeed violated the APA by neglecting to provide additional notice and the opportunity to comment on the study. While the Ancillary Fees Rule has officially been vacated, DOT plans to start all over again so carriers should anticipate a new rulemaking on this topic in the near future.

PARTIAL GOVERNMENT SHUTDOWN IMPACTS TSA OPERATIONS

On February 14, 2026, the United States government went into a partial shutdown, affecting the U.S. Department of Homeland Security which includes federal agencies such as CBP and TSA. Approximately 95 percent of TSA personnel are designated as "essential" workers and will continue working without pay during the shutdown. With that said, extended government shutdowns have historically resulted in high rates of government personnel calling out sick or not showing up to work, as seen during the most recent government shutdown in late 2025. At that time, the FAA was forced to instruct U.S. air carriers to reduce domestic flights due to significant air traffic controller staffing shortages. While this shutdown does not directly impact air traffic controllers, there will be adverse impacts on TSA personnel, raising the potential for significant delays at U.S. airport security checkpoints and other travel disruptions.

Due to the funding lapse, DHS initially announced that two programs (TSA PreCheck and Global Entry) would be suspended. Given that both programs permit millions of air travelers to expedite airport security screening, there was swift pushback from the aviation industry, including Airlines for America, such that DHS reversed course and clarified on February 22, 2026, that TSA PreCheck will remain operational, yet Global Entry will be

suspended for the time being. If not resolved quickly, the suspension of Global Entry will require enrolled travelers to use standard security screening and thus TSA security wait times are expected to increase at most U.S. airports.

OFAC LAUNCHES VOLUNTARY SELF-DISCLOSURE PORTAL

On February 6, 2026, the Treasury Department's Office of Foreign Assets Control announced a new online Voluntary Self-Disclosure Portal (available here) where regulated entities can voluntarily self-disclose apparent violations of OFAC-administered sanctions. As the federal agency responsible for administering and enforcing U.S. economic and trade sanctions, OFAC often investigates airlines, air charter operators, travel agents, and service providers to mitigate illegal trafficking networks which often exploit transportation services to circumvent U.S. sanctions. OFAC regulations are enforced on a strict liability basis which means that those enforcing U.S. economic and trade sanctions do not need to prove fault or intent to take enforcement action and issue a significant civil penalty. To encourage compliance among regulated entities, OFAC advised that voluntary self-disclosures will be a significant mitigating factor when the agency determines whether to take enforcement action and could even result in a fifty (50) percent reduction in any penalty assessed against violators. Foreign air carriers subject to OFAC-administered sanctions should contact legal counsel to strengthen internal controls so that they can promptly investigate and disclose potential violations as needed.

OFAC EXPANDS VENEZUELAN SANCTIONS RELIEF THROUGH PORT AND AIRPORT AUTHORIZATIONS

On February 10, 2026, OFAC issued General License ("GL") 30B, which authorizes transactions "ordinarily incident and necessary to operations or use of ports and airports in Venezuela" that would otherwise be prohibited under Venezuelan-related sanctions regulations, even if they involve the Government of Venezuela or Instituto Nacional de los Espacios Acuaticos. GL 30B supersedes GL 30A, which prohibited the use of ports and airports in Venezuela for "any transactions or activities related to the exportation or re-exportation of diluents, directly or indirectly, to Venezuela." This move comes as other federal agencies, including DOT, are loosening restrictions which were previously imposed on operations to/from Venezuela.

FAA PROPOSES MULTIMILLION DOLLAR PENALTY OVER AIRCRAFT MAINTENANCE VIOLATIONS

On February 20, 2026, the FAA announced a $2,839,900 civil penalty against PEMCO World Air Services, an aircraft repair station based in Tampa, Florida, for purportedly violating aircraft maintenance regulations. Between September 2022 and November 2023, FAA investigators contend that PEMCO knowingly used expired products when performing maintenance on U.S. air carrier aircraft, including five (5) Frontier aircraft. As the U.S. regulator responsible for ensuring consistent maintenance of planes, helicopters, and other aircraft, the FAA takes improper maintenance and quality control allegations very seriously as demonstrated by the sizable penalty proposed against PEMCO. Given that the FAA's Aviation Litigation Division can impose remedies ranging from an informal action to revocation of an operator's or repair station's certificate, regulated entities should bolster their internal compliance by maintaining copies of relevant maintenance records, including logbooks, Airworthiness Directive compliance records, and historical maintenance records where possible. Carriers who contract with aircraft repair stations for maintenance services should conduct due diligence on their vendors to verify that only certificated mechanics, repairmen, repair stations, and qualified maintenance personnel are performing maintenance and alteration work on covered aircraft. Doing so improves the ability of carriers to promptly identify and correct safety problems before FAA inspections.

CBP PROPOSES ELECTRONIC BOND TRANSMISSION REQUIREMENT

On February 13, 2026, U.S. Customs and Border Protection issued a proposed rulemaking that would require all bonds, bond amendments, and terminations to be transmitted electronically to CBP, thereby eliminating the use of paper bonds. Carriers operating to/from the United States are required to obtain requisite customs bonds (e.g., Type 1, Type 2, and/or Type 3 bonds, depending on their operations) to ensure compliance with CBP requirements. When certain legal and regulatory obligations have not been satisfied, CBP can then collect fees and fines from the customs bonds of carriers that fail to comply with applicable regulations, such as the collection and remittance of Customs User Fees or the payment of certain duties. The proposed rule would require that bonds secured by a surety be transmitted by the surety or the surety's authorized agent, and bonds secured by cash in lieu of surety be transmitted by the principal on the bond. To further centralize and modernize the customs bond process, CBP officials want to terminate the current paper-intensive process for submission of bonds so that carriers subject to customs bond requirements can promptly apply for and renew bonds via an electronic interface. If interested, CBP will accept public comments on the proposed rule through **April 14, 2026**.

CTA WILL INDEX MINIMUM LIABILITY INSURANCE AMOUNTS

On February 2, 2026, the Canadian Transportation Agency (the "CTA") announced that minimum liability insurance amounts will be indexed for inflation effective **July 1, 2026**. As required by Canada's Air Transportation Regulations, the CTA requires carriers to maintain minimum liability insurance amounts to ensure sufficient compensation for passenger injuries, death, and property damage in the event of aviation accidents. To further protect the traveling public, Canadian regulations also make sure that the CTA updates required minimum liability insurance amounts every five (5) years to account for inflation. Carriers operating to, from, or within Canada should review the below chart and update insurance documents accordingly. For clarity, the updated minimum liability insurance requirements apply to both passenger liability and public liability, based on aircraft seating capacity and maximum certified take-off weight ("MCTOW").

Liability Type	Current	Effective July 1, 2026
Passenger liability	CAD 595,000 for each passenger seat	CAD 735,000 for each passenger seat
Public liability		
Aircraft MCTOW less than 3,402 kg (7,500 lbs.)	CAD 1,985,000	CAD 2,450,000
Aircraft MCTOW between 3,402 kg and 8,165 kg (between 7,500 lbs. and 18,000 lbs.)	CAD 3,970,000	CAD 4,900,000
Aircraft MCTOW greater than 8,165 kg (18,000 lbs.)	CAD 3,970,000 + an amount determined by multiplying CAD 655 by the number of kg an aircraft's MCTOW exceeds 8,165 kg	Aircraft MCTOW greater than 8,165 kg (18,000 lbs.)

Carriers licensed to provide air services to, from, or within Canada must submit their Certificate of Insurance (available here) and Certificate of Endorsement (available here) no later than **June 30, 2026**. Failure to do so could result in suspension of a carrier's CTA license along with additional penalties. We would be happy to assist should carriers have questions concerning the required minimum liability insurance amounts and/or general air licensing requirements.

DOT PROVIDES UPDATE ON NEW CONSUMER COMPLAINT FORM

On February 20, 2026, DOT's Office of Aviation Consumer Protection informed U.S. and foreign air carriers that a revised consumer complaint form was launched in early February 2026 via the Aviation Complaint, Enforcement, and Reporting System ("ACERS"). The updated complaint form was requested after OACP realized that passengers were inaccurately classifying complaints since the launch of ACERS in August 2025. Inaccurate classifications resulted in complaints which were improperly attributed to U.S. and foreign air carriers. To reduce the likelihood of passengers filing inaccurate complaints, DOT modified the complaint format and launched the new form on February 10, 2026. Should carriers continue to receive complaints from passengers which appear to be erroneously classified, DOT asks that impacted carriers contact OACP via email to remedy miscategorizations (oacp@dot.gov).

OIG TO AUDIT FAA'S OVERSIGHT OF REPAIR STATION CERTIFICATION PROCEDURES

On February 12, 2026, the FAA's Office of Inspector General announced that investigators would initiate an audit focused on consistency in certificating domestic repair stations. The FAA Reauthorization Act of 2024 requires periodic audits examining how consistently regulators interpret and apply policies regarding supplemental type certificates, repair stations, and technical standards orders. This audit is the third in that series. The FAA oversees more than 5,000 repair stations worldwide and uses a standardized five-phase process to evaluate and certificate stations across six general ratings, which determine what a repair station can do yet individual offices may interpret regulatory standards differently. This third audit will evaluate whether the FAA has adequate internal controls in place to ensure inspectors apply certification standards consistently.

DOT REQUESTS COMMENTS ON TRADE NAME REGISTRATIONS

On February 24, 2026, DOT published a notice and request for comments from carriers seeking new, reissued, or transferred economic authority in a new name or when carriers intend to hold out service using a trade name. Pursuant to 14 C.F.R. 215, U.S. and foreign air carriers holding DOT economic authority must register their name and/or trade name(s) in which they hold themselves out to the public. To ensure continued utility of collected information from applicants seeking to register such names, DOT now seeks input from regulated entities on how the trade name registration process could be improved in light of President Trump's broader deregulatory agenda. Comments will be accepted until **April 27, 2026**.

SOUTHWEST SUED FOLLOWING ALLEGED DISABILITY DISCRIMINATION

On February 11, 2026, a 64-year-old wheelchair user alleging that she suffers from severe panic disorder, filed a complaint in federal court against Southwest Airlines. The complaint alleges that Southwest refused to provide timely wheelchair assistance, leaving the passenger waiting for a "prolonged" period. According to the complaint, a courtesy cart eventually arrived to transport the passenger with disabilities to her gate and stopped on the way to allow her to briefly use the restroom. The passenger further alleges that the driver left her in the restroom where she was stuck until 10 to 15 minutes before she was scheduled to board her flight. To remedy her damages, the passenger seeks injunctive relief requiring Southwest to implement "reasonable policies,

training, supervision, and handoff protocols to ensure that requested assistance is prompt, coordinated, and not abandoned during connections," and damages for emotional distress, past and future medical and therapeutic expenses, and attorneys' fees.

As a reminder, U.S. and foreign air carriers subject to 14 C.F.R. 382 are responsible for training and ensuring that contractors provide training to their employees who deal directly with the traveling public. All employees who interact with the U.S. traveling public should receive initial training (recommended 8 hours). Refresher training must be given at least once every three (3) years to maintain proficiency (recommended 8 hours). Complaint Resolution Officials ("CROs") must receive annual refresher training (recommended 4-6 hours), and new hires should receive training before their employment commences or shortly thereafter. Failure to conduct the required training (and keep records) constitutes a violation of Part 382 and can subject carriers to significant risk of a penalty from DOT. Should you have any questions about, or require, training on Part 382 compliance, please do contact us.

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