

Aviation Regulatory Update

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FAA EXTENDS FLIGHT LIMITS AT MAJOR NEW YORK AREA AIRPORTS

On June 18, 2026, the Federal Aviation Administration issued several orders extending current flight limits at John F. Kennedy International Airport, LaGuardia Airport, and Newark Liberty International Airport, respectively, due to persistent congestion and delay concerns within the New York metropolitan area. During the slot-controlled hours, the FAA plans to maintain the current limits of 81 scheduled operations per hour at JFK, 71 scheduled operations per hour at LGA, and 72 scheduled operations per hour at EWR. All U.S. and foreign air carriers conducting scheduled operations at JFK, LGA, and/or EWR should monitor this matter closely as the FAA can modify existing flight limits with minimal notice if warranted to mitigate air traffic controller staffing shortages within the New York area. Carriers operating to any of the three major New York City area airports should also be aware that the FAA continues to evaluate whether potential rulemaking will be necessary in the future to codify best practices and policies for slot-controlled airports. If not extended further, the operational limits at JFK and LGA will expire on **October 28, 2028**, while modified limits on scheduled arrivals and departures at EWR will take effect on **October 25, 2026**, and expire on **October 30, 2027**. In connection with the above, the FAA also extended the waiver of minimum slot usage requirements at JFK and LGA through **October 30, 2027**.

INDUSTRY CONTINUES TO WAIT FOR DOT GUIDANCE ON PASSENGER RIGHTS SUMMARY RULE

Despite at first identifying May 26th as the date upon which U.S. and foreign air carriers would be required to submit a one-page document summarizing their policies and procedures regarding compensation owed to passenger for certain delays, diversions, cancellations, mishandled baggage, and involuntary denied boarding, DOT has yet to issue a subsequent notice announcing Office of Management and Budget approval. This notice of OMB approval is required before covered carriers can begin submitting their one-page document to DOT. Without such specific instructions on how to submit their Passenger Rights Summary, covered U.S. and foreign air carriers must continue to wait for clarity from DOT on how to comply with the Passenger Rights Summary rulemaking. Notwithstanding the above, we strongly recommend that carriers prepare their Passenger Rights Summaries so that they are ready to submit at the appropriate time and then post their summaries online within 90 days of submission to DOT.

OFAC PUBLISHES INTRODUCTORY GUIDE TO BOOST COMPLIANCE

On June 1, 2026, the U.S. Department of the Treasury's Office of Foreign Assets Control published an informational guide to provide U.S. and foreign entities with a better understanding of how OFAC-administered sanctions are enforced and how failure to comply with those sanctions could result in substantial civil and criminal penalties. The informational guide addressed several OFAC "hot" topics, including but not limited to, the following:

- Persons and entities who must comply with OFAC regulations;
- Internal control and risk management best practices;
- Annual and on demand reporting requirements due to OFAC sanctions;
- Recordkeeping requirements for each transaction subject to OFAC's regulations, including transactions processed pursuant to license(s);
- Consequences of noncompliance and related enforcement actions carried out pursuant to OFAC's Economic Sanctions Enforcement Guidelines; and
- Voluntary self-disclosures of apparent violations via OFAC's Disclosure portal (available [here](#)).

Since OFAC sanctions can apply broadly to prevent dealings with an entire country (e.g., North Korea) or a particular foreign governmental regime, commercial entities operating across the globe, including foreign airlines, should routinely review the Specially Designated Nationals and Blocked Persons List (available [here](#)) and other OFAC sanctions lists to verify that they are not interacting with any individuals or entities that could be sanctioned due to some nexus to a targeted country, geographic region, activity, or regime. This frequently requires U.S. and foreign entities operating internationally to adopt a risk-based approach to compliance so they can routinely update their sanctions compliance program based on individualized country-by-country risk profiles.

FAA FINES ALASKA FOR ALLOWING INTOXICATED PASSENGERS TO BOARD

The FAA recently fined Alaska Airlines \$165,000 for letting visibly intoxicated passengers board flights in violation of safety regulations. Due to the significant risks associated with drunken passengers who could become unruly and threaten crew members/other passengers, federal regulations prohibit carriers from allowing passengers who appear intoxicated to board an aircraft. Even after consenting to an audit of airline policies/practices and implementing enhanced training for flight attendants to ensure proper handling of intoxicated passengers, Alaska was nevertheless hit with \$165,000 in civil penalties because regulators remained concerned about eleven (11) alleged incidents which occurred on board Alaska flights between February 2024 and February 2025. Carriers are strongly encouraged to have detailed policies and procedures in place to outline both crew member and ground handler personnel duties when responding to disturbances involving the consumption and/or service of alcoholic beverages on board.

OACP DISMISSES AVIATION CONSUMER PROTECTION-RELATED PASSENGER COMPLAINTS

On June 12, 2026, DOT's Office of Aviation Consumer Protection dismissed several complaints initially filed against foreign air carriers asserting a myriad of consumer protection violations. The following two dismissals highlight the importance of defending against DOT complaints when warranted by the facts because doing so can prevent protracted enforcement proceedings:

1. **Order 2026-6-7** – A passenger contended that Turkish Airlines engaged in unfair and deceptive practices in violation of 49 U.S.C. § 41712 by failing to provide a passenger's child with adequate accommodations following a flight delay. Despite those assertions, DOT found that Turkish did not engage in an unfair or deceptive practice because the carrier undertook reasonable efforts to mitigate the delay's impact in compliance with its Customer Service Plan and Conditions of Carriage. When dismissing the complaint against Turkish, DOT cited to the fact that the carrier rebooked the affected passengers on the next available flight and provided meal vouchers even though such vouchers were not required by DOT rules. For clarity among regulated entities, OACP explained that 14 C.F.R. 250 only requires U.S. and foreign air carriers to provide compensation to affected passengers who are involuntarily denied boarding when the flight at issue is oversold. In this instance, DOT dismissed the complaint because Turkish acted promptly to mitigate the flight delay at issue and provided compensation in excess of what was required by law.
2. **Order 2026-6-8** – Lufthansa also faced an unfair and deceptive practices claim from a passenger who asserted that the carrier violated the Montreal Convention when it failed to promptly reimburse him for damage caused by delay of his checked baggage. While DOT acknowledged that a violation of the Montreal Convention generally constitutes an unfair and deceptive practice, the factual record did not support such a finding against Lufthansa because the carrier fully reimbursed the passenger up to applicable liability limits for interim expenses during the delay of his checked baggage and thus satisfied its obligations under the Montreal Convention. DOT's dismissal of the Lufthansa complaint underscored the importance of reimbursing passengers for their provable expenses under the Montreal Convention because doing so can effectively moot a complaint alleging noncompliance with a carrier's liability for damage caused by delay of his or her checked baggage.

POTENTIAL CHANGES ON THE HORIZON FOR PASSENGER RIGHTS IN EUROPE

On June 15, 2026, following more than a decade of negotiations, the Council of the European Union and the European Parliament announced a conditional agreement intending to modernize the EU regulation on air passenger rights (i.e., Regulation (EC) No 261/2004). In addition to clarifying and expanding a passenger's right to compensation in the event of a flight cancellation or delay, the agreement introduces new passenger rights to update the regulatory framework which has not been amended since the 2004 enactment. For instance, the agreement contemplates new rights, including a prohibition of denying boarding because a passenger did not take an outbound flight (i.e., a "no-show"). To provide transparency to the traveling public, the agreement explains that a passenger opting to reroute following a cancellation or denied boarding must be offered an alternative route within three (3) hours at the carrier's own expense. If the carrier neglects to offer rerouting within three hours, passengers are permitted under the agreement to make their own arrangements regarding an alternative route and receive reimbursement of up to 400 percent of the original ticket price. While the conditional agreement must still be approved by both the European Parliament and the Council of the European Union, U.S. and foreign air carriers should thoroughly evaluate the implications of the agreement and seek legal counsel to ensure ongoing compliance. Once formally adopted, the agreement is expected to become effective in 2027.

DOT CLOSES PROBE INTO DELTA'S 2024 CROWDSTRIKE-RELATED MELTDOWN

DOT recently closed its investigation into Delta Air Lines' handling of the July 2024 operational meltdown that followed a widespread CrowdStrike software update which forced Delta to cancel approximately 7,000 flights and delay more than 10,000 over five days, affecting approximately 1.3 million customers and reportedly costing the carrier approximately \$500 million. DOT opened the probe at issue after Delta recovered more slowly than

other major U.S. airlines but ultimately ended the matter without seeking penalties. According to DOT, its review determined that Delta passengers received prompt refunds, adequate baggage assistance, and appropriate assistance for passengers with disabilities. When closing the matter, DOT directed Delta to continue providing adequate customer service assistance, including timely notification of the right to seek a refund.

DOT SLOW WALKS U.S. RETALIATION IN DUBLIN PASSENGER CAP DISPUTE

On June 5, 2026, DOT issued Order 2026-6-4 which further postponed regulatory action in the passenger cap dispute at Dublin Airport. Even though Airlines for America first filed a complaint under the International Air Transportation Fair Competitive Practices Act in January 2026, U.S. regulators continue to slow walk any decision on whether to impose sanctions and/or limit the economic authority of certain European air carriers, especially as the judicial and legislative processes in Ireland plays out. The Irish government recently took an important step towards removing the passenger cap as Ireland's Minister for Transport Darragh O'Brien confirmed that legislation abolishing the passenger cap at DUB should be enacted in the coming weeks. A final legislative package authorizing Ireland's Minister for Transport to amend or otherwise revoke the existing passenger restrictions and proactively prevent any future caps could be passed in short order. As DOT views the situation, carriers should expect an "imminent" resolution of A4A's complaint because intergovernmental negotiations are postured to resolve the dispute shortly and protect historic U.S. air carrier slot rights at DUB without restoring to retaliatory measures.

TSA COLLECTION OF \$45 FEE FROM PASSENGER TRAVELING WITHOUT REAL ID DRAWS SCRUTINY FROM LAWMAKERS

On June 8, 2026, lawmakers in the U.S. House of Representatives targeted Transportation Security Administration's new \$45 fee for air travelers who do not have a REAL ID or other accepted form of identification, arguing that collection of such a fee lacks statutory authority. By way of brief background, TSA finalized plans last December to require passengers traveling without an acceptable form of ID to pay \$45 with an option to pay this so-called TSA Confirm.ID fee at or near security checkpoints at most U.S. airports. While the new TSA Confirm.ID fee placed no new requirements on U.S. or foreign air carriers, there have been concerns about unnecessary disruptions to the traveling public, especially since there does not appear to be clear statutory authority for TSA to collect the fee in the first place. In defense of the new \$45 fee, TSA officials contend that it is needed to cover the costs associated with validating identification for passengers who fail to present an acceptable form of identification (e.g., REAL ID, U.S. passport, foreign government-issued passport, permanent resident card, etc.) rather than requiring the American taxpayer to foot the bill. Members of the House Appropriations Committee appear unpersuaded by TSA's argument and now seek to defund the program through the annual U.S. Department of Homeland Security appropriations process.

LAWMAKERS UNCERTAIN OVER FUTURE OF AVIATION FUNDING SOLVENCY ACT

House Transportation Chairman Graves expressed serious doubt in recent weeks as to whether the Aviation Funding Solvency Act could be enacted into law before the next major government shutdown threat on October 1, 2026. Following the longest federal government shutdown in U.S. history last year, House and Senate lawmakers have been working on a legislative remedy which would guarantee that air traffic controllers are paid during future government shutdowns. If signed into law by President Trump, the Act would authorize the FAA to continue operating during a shutdown by drawing from the Aviation Insurance Revolving Fund, a self-sustaining account managed by the FAA which was originally established to cover "war risk" insurance claims for those U.S. airlines participating in the Civil Reserve Air Fleet. Despite strong bipartisan advocacy and support from Airlines for America, the National Air Traffic Controllers Association, and the U.S. Travel Association,

Chairman Graves explained that the Act appears to have stalled for the time being due to concerns that guaranteeing air traffic controller pay during future shutdowns would be unfair to other federal employees who would continue to work without pay.

****Editor's Note: Special thanks to Summer Associate Raymond Danner for his contributions to this Aviation Regulatory Update.***



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