

Aviation Regulatory Update

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INDUSTRY AWAITS FURTHER DOT GUIDANCE ON PASSENGER RIGHTS SUMMARY RULE

The U.S. Department of Transportation has not yet published any subsequent notice announcing Office of Management and Budget approval, which is required **before** U.S. and foreign air carriers can submit their one-page document summarizing passenger rights. By way of background, DOT published a final rule last month requiring covered air carriers to submit and post online a one-page summary of passenger rights (the "Passenger Rights Summary"). This requirement 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. While the rule's effective date is **May 26, 2026**, U.S. and foreign air carriers cannot comply until a valid OMB control number is issued and DOT provides guidance on the submission process. Without specific submission instructions, there is uncertainty as to whether carriers will be required to submit their Passenger Rights Summary on **May 26th**, or whether the compliance deadline will be delayed. Considering the above, carriers should have a "close to final" draft prepared so they can submit without delay once DOT begins accepting submissions, especially if submissions are required in short order. The Passenger Rights Summary must then be posted on carrier websites within 90 days of submission to DOT.

CDC AND CBP RESTRICT ENTRY FROM SEVERAL AFRICAN COUNTRIES DUE TO EBOLA OUTBREAK

On May 18, 2026, the Centers for Disease Control and Prevention ("CDC") issued an Order and invoked an emergency public health law to suspend entry for a period of thirty (30) days into the United States for all "covered aliens" who are non-excepted persons that have recently been in the Democratic Republic of the Congo, Uganda, or South Sudan within the last twenty-one (21) days (regardless of their country of origin). U.S. Customs and Border Protection ("CBP") also issued a bulletin through its Carrier Liaison Program indicating that the CDC will conduct enhanced public health screenings on arriving international travelers identified as having been present in any of the three countries within the last twenty-one (21) days. These notices were issued to protect the United States from the introduction of the Ebola virus as suspected cases increase worldwide and they further cited the Public Service Act as the statutory authority, which empowers U.S. regulators to prevent foreign nationals from entering the United States when necessary to avoid a "serious danger" posed by the

presence of a communicable disease. The notices specify that current entry restrictions do not apply to the following:

- U.S. citizens, U.S. nationals, and lawful permanent residents;
- Members of the armed forces of the United States and associated personnel, U.S. government personnel serving overseas, associated personnel, and their spouses and children;
- Persons whom CBP officers determine should be excepted; and
- Noncitizens who would otherwise be subject to this CDC order, who are permitted to enter the United States as part of a DHS-approved process.

A second CBP Carrier Liaison Program bulletin was then issued on May 20, 2026, noting that all operators of aircraft must ensure that “identified travelers” who have traveled to the Democratic Republic of the Congo, Uganda, or South Sudan within the last twenty-one (21) days must only land at Washington-Dulles International Airport (“IAD”). If passengers who have been to any of the affected countries within the last twenty-one (21) days do **not** have IAD listed as their first point of entry into the United States, airline personnel should either rebook passenger(s) on a flight with direct service to IAD (either on the same airline or through a partner airline), or deny boarding in compliance with current CDC and CBP arrival restrictions. Please take note that if a passenger is denied boarding (on the basis of a direct threat posed by a communicable disease), the airline must provide the affected passenger with a written explanation within ten (10) days explaining the reason(s) for the denial pursuant to 14 C.F.R. 382.

Current entry restrictions on travelers who departed from, or were otherwise present within, the Democratic Republic of the Congo, Uganda, or South Sudan could significantly disrupt 2026 FIFA World Cup-related international travel. Carriers should ensure strict compliance with CDC entry requirements and CBP Carrier Liaison Program bulletins. Failure to comply with public health regulations could subject carriers to significant monetary penalties and operational restrictions, including possible forced diversions. By way of recent example, on May 20, 2026, an Air France flight bound for Detroit was diverted to Montreal while en route because a Congolese passenger on board was denied entry into the United States. We will monitor this public health issue closely as the situation continues to evolve rapidly. Please do contact us with your questions to ensure compliance with public health guidelines.

UNITED STATES AND MEXICO MAKE HEADWAY ON RESOLVING YEARSLONG AIR SERVICES DISPUTE

On May 5, 2026, DOT announced that the United States and Mexican governments came to an agreement over Mexico’s alleged violations of the U.S.-Mexico Air Transport Agreement, which is set forth in a Memorandum of Consultations (“MoC”). In 2025, DOT took several retaliatory actions against Mexican air carriers, such as disapproving all prospective schedules for any new proposed services or increase in frequency of existing services between NLU or MEX and any U.S. point as well as proposing a prohibition on combination services (i.e., belly cargo) operated by several Mexican air carriers between MEX and any U.S. airport. Citing productive steps toward resolving this longstanding aeropolitical dispute, DOT released the MoC and further stated that Mexico will, among other things:

- Incrementally increase capacity at MEX as renovations progress and conduct a capacity declaration process following international best practice;
- Provide U.S. all-cargo carriers fair and transparent access to previously operated capacity and to request and operate slots at MEX; and

- Amend slot policies to better align them with international best practice.

The Government of Mexico also indicated that it offered to return all rescinded historic slots to U.S. air carriers, and while some carriers were not immediately able to re-utilize those slots, they would remain available to U.S. air carriers as their planning timelines and cross border market conditions dictate. Both governments agreed to form a bilateral working group to closely monitor implementation of these commitments and evaluate U.S. regulatory measures.

AVIATION SAFETY OFFICIALS INVESTIGATE LAST YEAR'S FATAL UPS CRASH

On May 20, 2026, the National Transportation Safety Board concluded a two-day investigative hearing into the November 2025 crash of UPS flight 2976 at Louisville Muhammad Ali International Airport ("SDF") which killed over a dozen people. After the left wing caught fire, the aircraft at issue crashed shortly after takeoff from SDF en route to Daniel K. Inouye International Airport ("HNL") in Hawaii. During the first day of hearings, members of the NTSB questioned witnesses on several topics, including inspections, maintenance, and safety reporting related to the 1991 McDonnell Douglas MD-11 cargo aircraft. NTSB investigators learned that the original aircraft scheduled to carry cargo between SDF and HNL was sidelined at the last minute due to a fuel leak, meaning that UPS crew were forced to quickly switch aircraft to the 1991 McDonnell Douglas MD-11 aircraft to ensure their departure out of SDF. Representatives for Boeing and GE Aerospace were also in attendance due to reports that the bearing affixing the engine to the ill-fated aircraft had fractured and claims that Boeing knew, or should have known, of such structural risks since at least 2002. Even though Boeing issued compliance bulletins in recent years recommending periodic visual inspections and replacement of faulty bearings, NTSB probed to determine whether the aircraft manufacturer sufficiently alerted the FAA to prior failed bearing reports. Having concluded the hearings, the NTSB will develop safety recommendations aimed at preventing similar crashes in the future and will publish a final report in short order.

DOT ONCE AGAIN DELAYS ACTION IN DUBLIN PASSENGER CAP DISPUTE

On May 6, 2026, DOT issued Order 2026-5-4 in which U.S. regulators further delayed acting in a long running dispute over the passenger cap at Dublin International Airport ("DUB") even though Airlines for America continues to advocate for strict compliance with the U.S.-EU Air Transport Agreement to protect U.S. air carrier access to key slots at DUB. Despite the slow pace at which negotiations have taken place, DOT confirmed that intergovernmental discussions between the United States and the Republic of Ireland are proceeding such that a resolution to the contested passenger cap at DUB could be announced shortly. Aer Lingus and other European air carriers maintain that the passenger cap does not pose an imminent risk of harm to U.S. air carriers and therefore DOT should decline to take any retaliatory measures as intergovernmental negotiations continue. Some European air carriers, including low-cost Ryanair, are nevertheless pressuring the Irish government to remove the passenger cap without further delay to mitigate tension on the U.S.-EU aeropolitical relationship. If DOT were to act, most European air carriers urge U.S. regulators to deny A4A's pending complaint filed under the International Air Transportation Fair Competitive Practices Act because the passenger cap should be addressed through the judicial and legislative processes in Ireland rather than by retaliating against foreign air carriers at the expense of international passengers.

OACP DISMISSES REFUND-RELATED COMPLAINTS FILED DURING COVID ERA

On May 8, 2026, DOT's Office of Aviation Consumer Protection ("OACP") dismissed several longstanding formal complaints alleging that U.S. and foreign air carriers violated 49 U.S.C. § 41712 ("Section 41712") by failing to provide refunds for cancelled flights during the COVID-19 pandemic. For instance, OACP dismissed two complaints which were initially filed against JetBlue in August 2020 alleging that the U.S. air carrier engaged in an unfair and deceptive practice under Section 41712 by failing to provide a refund for a flight which was subsequently cancelled. JetBlue responded to those allegations in September 2020 noting that the claimant voluntarily cancelled his non-refundable ticket before JetBlue ever cancelled the flight in question and JetBlue subsequently issued travel credits in accordance with its refund policy. After agreeing with those arguments, U.S. regulators found that the claimant failed to state a claim upon which relief may be granted and therefore no enforcement action was warranted. Other U.S. and foreign air carriers that enjoyed similar complaint dismissals included Delta Air Lines, Air New Zealand, and El Al Israel Airlines.

As the statutory prohibition against unfair and deceptive practices, Section 41712 provides OACP with broad statutory authority to commence potentially onerous enforcement actions against U.S. and foreign air carriers who are deemed to have engaged in unfair and deceptive practices in air transportation or the sale of air transportation. In recent years, airline passengers have been filing complaints under Section 41712 with increasing regularity so carriers should be aware of this trend and ensure that their personnel are well-equipped to respond to complaints contending that the carrier violated DOT consumer protection laws. These recent dismissals also stress how important contractual defenses within a carrier's Conditions of Carriage can be when responding to passenger complaints. Carriers should proactively modify their Conditions of Carriage to incorporate contractual protections, especially those concerning non-refundable tickets.

DOT ESTABLISHES NEW PASSENGER EXPERIENCE ADVISORY COMMITTEE

On May 12, 2026, DOT revealed the creation of the Passenger Experience Advisory Committee ("PEAC") to advise regulators on improvements to the airline passenger experience and customer service throughout the industry. PEAC members will include key stakeholders from across the industry, including representatives from airlines, U.S. airports, aircraft manufacturers, and aviation labor unions. In addition to improving coordination between DOT and other federal agencies interacting with passengers at U.S. airports, the PEAC will undertake the following duties:

- Evaluate ways to improve the comprehensive passenger experience;
- Analyze methods to bolster efficiency in the national airspace system affecting passengers;
- Scrutinize how aviation stakeholders could help federal agencies streamline security screening processes at U.S. airports; and
- Provide actionable recommendations to Transportation Secretary Duffy and FAA Administrator Bedford on how existing regulations should be amended to better serve the traveling public.

All PEAC meetings will be held virtually, and public participation will be permitted to ensure that all interested parties can attend. Absent renewal, the chartered PEAC will expire on **May 12, 2028**, and any recommendations will be sent to DOT's Office of the General Counsel for potential rulemaking activity. If you would like to receive periodic PEAC updates, we would be more than happy to pass along additional information as it becomes available.

NTSB CHAIR URGES ACTION AS DEBATE OVER AIR SAFETY LEGISLATION CONTINUES

On May 14, 2026, National Transportation Safety Board Chair Homendy sent a letter to House and Senate lawmakers requesting that pending aviation safety legislation be enacted into law without further delay. By way of brief background, House and Senate lawmakers have taken two different approaches when it comes to passing aviation safety legislation following the fatal incident at DCA last January. The U.S. Senate unanimously passed the Rotorcraft Operations Transparency and Oversight Reform (“ROTOR”) Act last December while members of the U.S. House of Representatives came together in April 2026 to advance the Airspace Location and Enhanced Risk Transparency (“ALERT”) Act. Despite their different legislative approaches to preventing future midair collisions around highly congested U.S. airports, NTSB Chair Homendy applauded both ROTOR and ALERT as worthwhile efforts to improve U.S. aviation safety, yet the letter underscored that a compromise between the two approaches will likely be necessary before final passage. Families of those passengers who died during the January 2025 midair collision at DCA also published their own letter to House and Senate lawmakers on May 18, 2026, advocating for a single, comprehensive legislative approach to address all fifty of NTSB’s safety recommendations.

UNITED JOINS AMERICAN AND WILL RESTART SERVICE TO VENEZUELA

On May 12, 2026, United Airlines confirmed that it will offer direct flights between George Bush Intercontinental Airport in Houston and Simon Bolivar International Airport in Caracas starting on **August 11, 2026**. With the resumption of daily direct flights between Houston and Caracas in August, United will operate to Venezuela for the first time in about eight years. When United suspended nonstop service to Venezuela in June 2017, it marked a suspension of service for the first time in more than 20 years so United executives are very eager to join American at the same time as President Trump works with Venezuelan government officials to expand oil production in the Latin American region. Commercial ties between the two countries are expected to generate additional air services demand within the market. Venezuelan air carriers are also working directly with U.S. regulators to resume Venezuelan-operated commercial flights as demand increases.

LAWMAKERS ADVOCATE FOR SAFEGUARDS ACT TO ENHANCE AIRPORT SECURITY

On May 12, 2026, bipartisan lawmakers introduced the Spending Aviation Fees for Equipment, Guaranteeing Upgraded and Advanced Risk Detection and Safety Act (“SAFEGUARDS Act”) to bolster security at U.S. airports nationwide. The Act would mandate that all revenues collected via the Transportation Security Administration’s 9/11 Passenger Security Fee (“PSF”) be used only for aviation security improvements rather than redirecting portions of PSF revenues to other areas of federal spending. Under current law, one third of the revenue generated by PSFs can be redirected to the U.S. Department of the Treasury for deficit reduction purposes. While lawmakers recognize the benefits associated with deficit reduction, advocates of the Act argue that all PSF revenues should be reinvested into airport and aviation security upgrades consistent with the original statutory intent. If enacted into law, \$500 million each year would be specifically directed toward checked baggage explosive detection systems with another \$250 million each year being designated for TSA checkpoint technology improvements. Ahead of the 2026 FIFA World Cup, America 250, and the 2028 Olympics in Los Angeles, industry stakeholders, such as Airlines for America, U.S. Travel Association, American Airlines, Southwest Airlines, and the American Association of Airport Executives, support the legislation as a means to enhance the passenger experience for the millions of Americans who travel by air each year.

U.S. AIR CARRIERS CONCERNED ABOUT RISING FUEL COSTS

Earlier this month, DOT's Bureau of Transportation Statistics released March 2026 fuel cost and consumption numbers indicating that total fuel expenditures for U.S. air carriers increased by 56.4 percent when compared to February 2026. With tensions in the Middle East on the rise and Spirit's collapse blamed at least in part on rising jet fuel costs, U.S. air carriers, especially low-cost carriers like Allegiant, Avelo, and Frontier, are voicing their concerns to lawmakers. The Association of Value Airlines, for example, continues to advocate for potential financial relief to offset the rising fuel costs. The U.S.-Iran war continues to distinguish legacy carriers from their competitors as American, Delta, and United are adding flights and routes in former Spirit markets while low-cost carriers seek support from lawmakers to avoid the unfortunate fate of Spirit. Following Allegiant's successful acquisition of Sun Country earlier this month, additional consolidation activity could be on the horizon, especially if total fuel costs remain elevated for the foreseeable future.



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:tmyers@eckertseamans.com) at 202.659.6642 or tmyers@eckertseamans.com, or any other attorney at Eckert Seamans with whom you have been working.