

## Aviation Regulatory Update

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### DEADLINE TO AVOID GOVERNMENT SHUTDOWN LOOMS

A potential government shutdown looms here in the U.S. if lawmakers fail to pass legislation averting a shutdown before **midnight on September 30, 2025**. If a shutdown occurs on October 1, 2025, most federal agencies will be affected by a lapse in annual appropriations. In preparation for a potential shutdown, the Office of Management and Budget instructed federal agencies last week to submit reduction in force plans as the Trump administration intends to permanently reduce the federal workforce if lawmakers cannot avert a shutdown before midnight on September 30th. We are standing by to assist as needed in the event of a shutdown.

### DOT DELAYS CERTAIN WHEELCHAIR RULE PROVISIONS PENDING NEW RULEMAKING

On September 30, 2025, the U.S. Department of Transportation delayed enforcement of certain provisions of the Wheelchair Rule until **December 31, 2026**, while DOT undertakes a new rulemaking titled "Airline Obligations to Accommodate Air Travelers with Disabilities Using Wheelchairs" (the "Wheelchair Rule II"). The Department anticipates a notice of proposed rulemaking for Wheelchair Rule II in August 2026. Covered carriers can expect the NPRM to address the following provisions of the current Wheelchair Rule, which are the only provisions delayed by DOT's action:

- Airlines' liability when passengers' wheelchairs or other assistive devices are not timely returned in the condition they were received;
- Frequency of required refresher training of airline employees and contractors;
- Pre-departure notifications to passengers that check wheelchairs or scooters of their right to contact a Complaint Resolution Official and file a claim; and
- Reimbursements of the difference between the fare on a flight a wheelchair or scooter user took, and the fare on a flight that the wheelchair or scooter user would have taken if his or her wheelchair or scooter had been able to fit on the flight

This latest move by the Department comes after prior exercises of enforcement discretion earlier this year and a lawsuit filed by major U.S. air carriers alleging that the Wheelchair Rule exceeded DOT's statutory authority

and thus violated the Administrative Procedure Act. While U.S. air carriers continue to litigate the Wheelchair Rule in the United States Court of Appeals for the Fifth Circuit and DOT moves forward with Wheelchair Rule II, carriers should continue to comply with other provisions of the Wheelchair Rule given that enforcement is only delayed for the four (4) previously identified provisions. All other provisions of the Wheelchair Rule are enforceable at this time.

## **TRUMP ADMINISTRATION ANNOUNCES SPRING 2025 UNIFIED AGENDA OF REGULATORY ACTIONS**

On September 4, 2025, the Trump administration released the Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions, a biannual government-wide publication of current agency rulemaking efforts and what industry can expect from U.S. regulators in the coming months. The Spring 2025 Unified Agenda identifies several Biden-era consumer protection initiatives which the Trump administration does not plan to pursue. For instance, DOT plans to rescind the Ancillary Fees Rule. This rule would have required U.S. air carriers, foreign air carriers, and ticket agents to clearly disclose passenger-specific or itinerary-specific fees for services (i.e., transporting a first checked bag, second checked bag, and carry-on bag; and changing or canceling a reservation) whenever fare and schedule information was provided for flights to, within, and from the U.S.

DOT will also withdraw the proposed Biden-era Airline Passenger Rights rulemaking which would have required airlines to pay passengers cash compensation, rebook affected passengers free of charge on the next available flight, and cover expenses (i.e., meals, overnight lodging, related transportation) for disrupted flights. Additional future changes could impact (1) the definition of a flight cancellation that would entitle consumers to ticket refunds, (2) the meaning of timely bag delivery for domestic and international flights, (3) automatic refunds of ancillary fees for services not provided, and (4) carrier obligations to consumers affected by a serious communicable disease, among others.

## **DOT ENDS DELTA/AEROMEXICO ANTITRUST IMMUNITY COME JANUARY 2026**

On September 15, 2025, the Department issued Order 2025-9-8 terminating approval of the Delta/Aeromexico joint venture as well as the accompanying grant of antitrust immunity. While DOT used to grant ATI indefinitely, recent approvals have been subject to periodic review. In this proceeding, DOT found that the Delta/Aeromexico joint venture is adverse to the public interest (and substantially reduces competition) due to changed circumstances since DOT first granted ATI in December 2016. Specifically, recent actions of the Government of Mexico have restricted the U.S.-Mexico air services market, including arbitrarily removing slots from longstanding slot holders at Benito Juarez International Airport and prohibiting all-cargo operations at MEX. These issues – and particularly concerns about access to MEX by other U.S. air carriers, have been a concern of DOT since ATI was granted in 2016.

Should conditions improve in the U.S.-Mexico market and if Mexico begins to fully comply with the U.S.-Mexico Air Transport Agreement, the Order clarified that Delta and Aeromexico can “refresh the record and seek to demonstrate that a new joint venture will meet statutory standards.” Of note, the Order permits Delta and Aeromexico to continue cooperating through codesharing, frequent flyer program cooperation, and other joint marketing activities. Absent further legal proceedings, the termination becomes effective **January 1, 2026**.

## **FAA EXTENDS AND AMENDS LIMIT ON NEWARK LIBERTY INTERNATIONAL AIRPORT OPERATIONS**

On September 25, 2025, the Federal Aviation Administration extended limits on the number of scheduled operations permitted at Newark Liberty International Airport through October 24, 2026, while simultaneously

increasing the operating limitation from 68 to 72 hourly operations. To prevent potential airport congestion and delays for passengers traveling through EWR, the FAA plans to work cooperatively with carriers over the next two IATA scheduling seasons (i.e., through October 24, 2026) to facilitate more balanced operations. Please be advised that the FAA will not currently accommodate new scheduled operations at EWR. Should carriers seek to pursue unscheduled operations, such as cargo, charter, or nonscheduled foreign air carrier operations, the FAA will accommodate such requests on a “first come, first serve” basis. Any such requests must be submitted to and approved by the FAA Slot Administration (7-awa-slotadmin@faa.gov). This action takes effect on **October 26, 2025**.

## **DOT AND FAA CONSIDER PART 380 DEFINITIONAL RULEMAKING**

On September 22, 2025, DOT and FAA proposed a series of “long-term” actions, including potentially removing references to public charter operations and Part 380 from the regulatory definitions of scheduled operation, on-demand operation, and supplemental operation. The FAA first requested comments on this matter back in August 2023 when regulators planned to address the so-called public charter operator exception from the FAA regulations for scheduled Part 121 operators via rulemaking. The exception means that public charter operations are excepted from the regulatory definition of “scheduled operation” and are rather included in the definition of “supplemental operation” regardless of whether such operations are offered in advance to the public. Absent this regulatory exception, public charter operators would be required to comply with the operating rules applicable to other commercial operators, including Part 121 operators.

Considering the above, DOT recently granted Skywest Charterer, LLC a Commuter Air Carrier Authorization despite objections from Air Line Pilots Association, International, among others, that on-demand charter services are virtually indistinguishable from scheduled flights. Objecting parties broadly argued that public charter flights using 30 or fewer passenger seat aircraft should be required to operate under Part 121. Doing so would require public charter operators to comply with the additional safety regulations normally applicable to scheduled air carriers. Despite those arguments, DOT declined to opine on whether commuter passenger operations under Part 380 constitute scheduled service, yet regulators left the door open to future rulemaking. Public charter operators should watch closely in this regard should regulators initiate rulemaking to bring public charters operators under the Part 121 regulatory umbrella.

## **FAA PROMOTES AIR MOBILITY OPERATIONS WITH NEW PILOT PROGRAM**

On September 12, 2025, DOT and FAA announced a new pilot program, known as the Electric Vertical Takeoff and Landing Integration Pilot Program, seeking to accelerate the deployment and subsequent implementation of advanced air mobility aircraft nationwide. Potential eIPP operations include piloted and unmanned approaches to:

- Short-range air taxis
- Longer-range, fixed wing flights
- Cargo
- Logistics and supply serving emergency management, medical transport, or offshore energy facilities
- Increasing automation safety

Only state, local, tribal, or territorial governments with a U.S.-based private sector partner can apply for participation in the pilot program. Eligible applicants must submit proposals by **December 11, 2025**.

**MENTAL HEALTH IN AVIATION ACT PASSES THE HOUSE AND MOVES TO THE SENATE**

On September 8, 2025, the U.S. House of Representatives passed the Mental Health in Aviation Act which would, among other things, require the FAA Administrator to revise regulations within two years to promote mental health disclosure and treatment among aviation personnel, including pilots and air traffic controllers. The Act, sponsored by assorted aviation stakeholders including the Air Line Pilots Association, Airlines for America, and the National Air Traffic Controllers Association, would fund the recruitment and training of more aviation medical examiners and psychiatrists. Advocates believe that current FAA regulations prevent aviation professionals from seeking mental health care by imposing unfair penalties on those who seek treatment. The bipartisan Act now moves across the Hill to the Senate’s Committee on Commerce, Science, and Transportation for further consideration.

**AQI USER FEES INCREASE FOR FY 2026 EFFECTIVE OCTOBER 1, 2025**

On September 18, 2025, U.S. Customs and Border Protection reminded industry stakeholders via the Carrier Liaison Program that the user fee structure for the Agricultural Quarantine and Inspection program adjusts annually. CBP and the U.S. Department of Agriculture’s Animal and Plant Health Inspection Service administer the AQI program to intercept foreign agricultural pests and diseases. APHIS will update its agency web page on **October 1, 2025**, to reflect new rate adjustments. Below is the user fee schedule most applicable to carriers over the next few years.

AQI User Fee Category	Beginning October 1, 2025	Beginning October 1, 2026	Beginning October 1, 2027
Commercial Aircraft	\$300.78	\$320.61	\$340.90
International Air Passenger	\$3.84	\$3.98	\$4.12

**COMMERCE DEPARTMENT EASES EXPORT CONTROLS ON SYRIA**

On September 2, 2025, the U.S. Department of Commerce’s Bureau of Industry and Security published a final rule easing U.S. export controls for certain items to Syria, expanding existing license exceptions to include exports to Syria, and modifying license review policies for Syria. The final rule removes the general policy of denial and replaces it with a presumption of approval for certain commercial exports and reexports.

- The following license exceptions are now applicable to Syria:
- Consumer communications devices
- Temporary imports, exports, reexports, and transfers (in-country)
- Servicing and replacement of parts and equipment
- Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station
- Technology and software

- Baggage
- Aircraft, vessel, and spacecraft

Please be advised that the final rule does not lift the military embargo applicable to Syria nor does it provide relief to former Syrian President Bashar al-Assad or other persons BIS considers a threat to peace, security, or stability in the region.

## JETBLUE LOSES LAWSUIT AGAINST FLORIDA'S DEPARTMENT OF REVENUE

In 2024, JetBlue filed suit against Florida's Department of Revenue, alleging that it violated the commerce clause of the United States Constitution by imposing a tax on flight miles occurring outside of the state. Florida's approach calculates taxes for miles flown within the geographical area defined by state lines and encompasses large areas in the Gulf of Mexico (or Gulf of America), Atlantic Ocean and parts of neighboring Alabama and Georgia. This is unlike most other states, which typically use airport-based or revenue-based formulas for calculating tax, like departures and arrivals or tickets sold in a state. Florida's approach has been challenged by other airlines in the past, but the law remains the same. State attorneys in this case successfully argued that the authority to determine how taxes are apportioned rests within Florida's plenary power.

## JUDGE DISMISSES SOUTHWEST LAWSUIT AGAINST CITY OF SAN ANTONIO

On August 29, 2025, the United States District Court for the Western District of Texas dismissed a lawsuit filed by Southwest Airlines against the City of San Antonio, challenging the City's gate allocation process at San Antonio International Airport. Southwest filed suit in September 2024 after the City declined to grant Southwest gates in the newly designed Terminal C while other U.S. air carriers, most notably American and Delta, obtained access. According to Southwest, the criteria used to allocate gate space should have been governed and preempted by the Airline Deregulation Act of 1978. The Court rejected Southwest's preemption claim, holding that the City acted as a market participant rather than a regulator and that the City did not dictate the terms on which the airline operated. Since the City did not regulate Southwest's conduct nor did it prohibit certain routes or services, the Court found that the City's actions were not preempted by the ADA. Following the decision, Southwest announced plans to appeal the ruling and file a separate complaint with the FAA.

## NEW YORK'S LLC TRANSPARENCY ACT GOES INTO EFFECT JANUARY 1, 2026

New York's LLC Transparency Act goes into effect on **January 1, 2026**, meaning that existing and newly formed limited liability companies organized in the state of New York or registered to do business in New York state should be prepared to comply. The Act seeks to combat financial crime by requiring LLCs to disclose their ownership. Non-exempt LLCs must file annual reports with the New York Department of State containing specific information for each beneficial owner such as their legal name, date of birth, current home or business address, and a unique identification number (e.g., driver's license or passport). Existing LLCs must file reports by January 1, 2027, while new LLCs must file within 30 days of formation.