

**SUMMARY:** The Department is publishing the following notice providing guidance on air carrier contract terms and policies relating to reimbursement of passenger expenses incurred in connection with lost, damaged or delayed baggage.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Lowry, Attorney, Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Ave., SE., Washington, DC 20590, (202) 366-9349.

#### United States of America

#### Department of Transportation

#### Office of the Secretary

#### Washington, DC

#### Guidance on Reimbursement of Passenger Expenses Incurred as a result of Lost, Damaged or Delayed Baggage

#### Notice

This notice is intended to give guidance to air carriers on their policies relating to the reimbursement of passengers' expenses in cases where baggage has been lost, damaged or delayed. We have learned that a number of airlines have adopted policies that purport to limit reimbursement for such expenses in a variety of ways.

These policies may be contained in contracts of carriage or, more often, in informal printed advisory handouts available from ticket counters or carrier agents. For example, we are aware of one such advisory handout that denies any reimbursement "for necessities" where the baggage is "expected" to reach the passenger within 24 hours of filing a delayed baggage report and limits reimbursement to actual expenses up to a fixed maximum amount per day after the first day. Also, some carriers may be providing reimbursement to passengers for incidental expenses incurred only after the outbound leg of a roundtrip.

The Department's baggage liability rule, 14 CFR part 254, contains no such limitations, and it is the enforcement policy of the Office of Aviation Enforcement and Proceedings (Aviation Enforcement Office) to consider any arbitrary limits on expense reimbursement incurred in cases involving lost, damaged or delayed baggage to violate part 254 and to constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. 41712. Section 254.4 states that an air carrier "shall not limit its liability for *provable direct or consequential damages* [emphasis added]" relating to lost, damaged or delayed baggage to less than \$3,300 per passenger. To meet the requirements of part 254 and the

requirements implicit in 49 U.S.C. 41712, carriers should remain willing to cover all reasonable, actual and verifiable expenses related to baggage loss, damage or delay up to the amount stated in part 254.

Carriers should, therefore, review their contracts of carriage and any supplemental printed materials with respect to provisions for reimbursement of direct or incidental expenses related to baggage loss, damage or delay. These should not include terms setting arbitrary limits on reimbursement, apart from those set forth in part 254. If appropriate, carriers should promptly modify any printed documents, such as internal procedures and guidance and consumer informational materials, to conform to the Department's rules and this guidance. After 90 days from the date of issue of this notice, the Aviation Enforcement Office will pursue enforcement action in appropriate cases where unlawful reimbursement policies are not corrected. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

Dated: October 9, 2009.

**Dayton Lehman Jr.,**

*Deputy Assistant General Counsel for Aviation Enforcement and Proceedings.*

*An electronic version of this document is available at <http://www.regulations.gov>.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Service Difficulty Report

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Operators and repair stations are required to report any malfunctions and defects to the Administrator.

**DATES:** Please submit comments by December 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Carla Mauney on (202) 267-9895, or by e-mail at: [Carla.Mauney@faa.gov](mailto:Carla.Mauney@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Federal Aviation Administration (FAA)

*Title:* Service Difficulty Report.

*Type of Request:* Extension without change of an approved collection.

*OMB Control Number:* 2120-0663.

*Form(s):* 8070-1.

*Affected Public:* A total of 7,695 Respondents.

*Frequency:* The information is collected on occasion.

*Estimated Average Burden per Response:* Approximately 9 minutes per response.

*Estimated Annual Burden Hours:* An estimated 6,107 hours annually.

*Abstract:* The administrator has determined, based on evaluation of previous accidents and other incidents, that certain events involving malfunctions and defects may be precursors to the recurrence of these accidents. As a result, operators and repair stations are required to report any malfunctions and defects to the Administrator.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES-200, 800 Independence Ave., SW., Washington, DC 20591.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

**Carla Mauney,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.*

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