

(2) Nothing in this section shall be deemed to require foreign air carriers to permit smoking aboard aircraft.

(b) A foreign government objecting to the application of paragraph (a) of this section on the basis that paragraph (a) provides for extraterritorial application of the laws of the United States may request and obtain a waiver of paragraph (a) from the Assistant Secretary for Aviation and International Affairs, provided that an alternative smoking prohibition resulting from bilateral negotiations is in effect.

[Docket DOT-OST-2011-0044, 81 FR 11427, Mar. 4, 2016]

#### § 252.8 Extent of smoking restrictions.

The restrictions on smoking described in §§ 252.4 and 252.5 shall apply to all locations within the aircraft.

[Docket DOT-OST-2011-0044, 81 FR 11428, Mar. 4, 2016]

#### § 252.9 Ventilation systems.

Air carriers shall prohibit smoking whenever the ventilation system is not fully functioning. Fully functioning for this purpose means operating so as to provide the level and quality of ventilation specified and designed by the manufacturer for the number of persons currently in the passenger compartment.

#### § 252.11 Aircraft on the ground.

(a) Air carriers shall prohibit smoking whenever the aircraft is on the ground.

(b) With respect to the restrictions on smoking described in § 252.5, foreign air carriers shall prohibit smoking from the time an aircraft begins enplaning passengers until the time passengers complete deplaning.

#### § 252.17 Enforcement.

Air carriers and foreign air carriers shall take such action as is necessary to ensure that smoking by passengers or crew is not permitted where smoking is prohibited by this part, including but not limited to aircraft lavatories.

[Docket DOT-OST-2011-0044, 81 FR 11428, Mar. 4, 2016]

## PART 253—NOTICE OF TERMS OF CONTRACT OF CARRIAGE

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AUTHORITY: 49 U.S.C. 40113, 40114, 41501, 41504, 41506, 41509, 41510, 41511, 41702, and 41711.

SOURCE: ER-1302, 47 FR 52134, Nov. 19, 1982, unless otherwise noted.

#### § 253.1 Purpose.

The purpose of this part is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for scheduled service in interstate and overseas passenger air transportation.

[ER-1302, 47 FR 52134, Nov. 19, 1982, as amended by Doc. No. DOT-OST-2014-0140, 84 FR 15932, Apr. 16, 2019]

#### § 253.2 Applicability.

This part applies to all scheduled direct air carrier operations in interstate and overseas air transportation. It applies to all contracts with passengers, for those operations, that incorporate terms by reference.

[ER-1323, 48 FR 6318, Feb. 11, 1983, as amended by Doc. No. DOT-OST-2014-0140, 84 FR 15932, Apr. 16, 2019]

#### § 253.3 Definitions.

*Large aircraft* means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

*Passenger* means any person who purchases, or who contacts a ticket office or travel agent for the purpose of purchasing, or considering the purchase of, air transportation.

*Ticket office* means station, office, or other location where tickets are sold that is under the charge of a person

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employed exclusively by the carrier, or by it jointly with another person.

#### § 253.4 Incorporation by reference in the contract of carriage.

(a) A ticket or other written instrument that embodies the contract of carriage may incorporate contract terms by reference (*i.e.*, without stating their full text), and if it does so shall contain or be accompanied by notice to the passenger as required by this part. In addition to other remedies at law, an air carrier may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if notice of the term has not been provided to that passenger in accordance with this part.

(b) Each air carrier shall make the full text of each term that it incorporates by reference in a contract of carriage available for public inspection at each of its airport and city ticket offices.

(c) Each air carrier shall provide free of charge by mail or other delivery service to passengers, upon their request, a copy of the full text of its terms incorporated by reference in the contract. Each carrier shall keep available at all times, free of charge, at all locations where its tickets are sold within the United States information sufficient to enable passengers to order the full text of such terms.

(The notice requirements contained in paragraphs (b) and (c) were approved by the Office of Management and Budget under control number 3024-0061)

[ER-1302, 47 FR 52134, Nov. 19, 1982, as amended by ER-1309, 47 FR 54764, Dec. 6, 1982]

#### § 253.5 Notice of incorporated terms.

Except as provided in § 253.8, each air carrier shall include on or with a ticket, or other written instrument given to a passenger, that embodies the contract of carriage and incorporates terms by reference in that contract, a conspicuous notice that:

(a) Any terms incorporated by reference are part of the contract, passengers may inspect the full text of each term incorporated by reference at the carrier's airport or city ticket offices, and passengers have the right, upon request at any location where the

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carrier's tickets are sold within the United States, to receive free of charge by mail or other delivery service the full text of each such incorporated term;

(b) The incorporated terms may include and passengers may obtain from any location where the carrier's tickets are sold within the United States further information concerning:

(1) Limits on the air carrier's liability for personal injury or death of passengers, and for loss, damage, or delay of goods and baggage, including fragile or perishable goods;

(2) Claim restrictions, including time periods within which passengers must file a claim or bring an action against the carrier for its acts or omissions or those of its agents;

(3) Rights of the carrier to change terms of the contract. (Rights to change the price, however, are governed by § 253.7);

(4) Rules about reconfirmation of reservations, check-in times, and refusal to carry;

(5) Rights of the carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate air carrier or aircraft, and rerouting.

(Approved by the Office of Management and Budget under control number 3024-0061)

[ER-1302, 47 FR 52134, Nov. 19, 1982, as amended by ER-1309, 47 FR 54764, Dec. 6, 1982; ER-1370, 48 FR 54591, Dec. 6, 1983; ER-1375, 49 FR 5064, Feb. 10, 1984]

#### § 253.6 Explanation of incorporated terms.

Each air carrier shall ensure that any passenger can obtain from any location where its tickets are sold within the United States a concise and immediate explanation of any terms incorporated by reference, concerning the subjects listed in § 253.5(b).

(Approved by the Office of Management and Budget under control number 3024-0061)

[ER-1302, 47 FR 52134, Nov. 19, 1982, as amended by ER-1309, 47 FR 54764, Dec. 6, 1982]

#### § 253.7 Direct notice of certain terms.

A carrier may not impose any terms restricting refunds of the ticket price,

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imposing monetary penalties on passengers, or raising the ticket price consistent with §399.88 of the chapter, unless the passenger receives conspicuous written notice of the salient features of those terms on or with the ticket.

[Doc. No. DOT-OST-2010-0140, 76 FR 23163, Apr. 25, 2011, as amended by Doc. No. DOT-OST-2014-0140, 84 FR 15932, Apr. 16, 2019]

### § 253.8 Qualifications to notice requirements.

(a) If notice is not provided in accordance with §253.5 at a ticket sales location outside of the United States that is not a U.S. air carrier ticket office, the price paid for the portion of such ticket that is for interstate and overseas air transportation shall be refundable without penalty if the passenger refuses transportation by the carrier. Each air carrier shall ensure that passengers who have bought tickets at those locations without the notice required in §253.5 are given that notice not later than check-in for the travel in interstate or overseas air transportation, and that conspicuous notice is included on or with the ticket stating that the price for that travel is refundable without penalty.

(b) An air taxi operator (including a commuter air carrier) not operating under subpart I of part 298 of this chapter shall not be considered to have incorporated terms by reference into its contract of carriage merely because a passenger has purchased a flight segment on that carrier that appears on ticket stock that contains a statement that terms have been incorporated by reference. However, such an air taxi operator may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if notice of the term has not been provided to the passenger in accordance with this part.

[ER-1370, 48 FR 54591, Dec. 6, 1983]

### § 253.9 Retroactive changes to contracts of carriage.

An air carrier may not retroactively apply to persons who have already bought a ticket any material amendment to its contract of carriage that

has significant negative implications for consumers.

[Doc. No. DOT-OST-2007-0022, 74 FR 69002, Dec. 30, 2009]

### § 253.10 Notice of contract of carriage choice-of-forum provisions.

No carrier may impose any contract of carriage provision containing a choice-of-forum clause that attempts to preclude a passenger, or a person who purchases a ticket for air transportation on behalf of a passenger, from bringing a claim against a carrier in any court of competent jurisdiction, including a court within the jurisdiction of that passenger's residence in the United States (provided that the carrier does business within that jurisdiction).

[Doc. No. DOT-OST-2010-0140, 76 FR 23163, Apr. 25, 2011]

## PART 254—DOMESTIC BAGGAGE LIABILITY

Sec.

- 254.1 Purpose.
- 254.2 Applicability.
- 254.3 Definitions.
- 254.4 Carrier liability.
- 254.5 Notice requirement.
- 254.6 Periodic adjustments.

AUTHORITY: 49 U.S.C. 40113, 41501, 41504, 41510, 41702, and 41707.

SOURCE: ER-1374, 49 FR 5071, Feb. 10, 1984, unless otherwise noted.

### § 254.1 Purpose.

The purpose of this part is to establish rules for the carriage of baggage in interstate and intrastate air transportation. The part sets permissible limitations of air carrier liability for loss, damage, or delay in the carriage of passenger baggage and requires air carriers to provide certain types of notice to passengers.

[ER-1374, 49 FR 5071, Feb. 10, 1984, as amended at 64 FR 70575, Dec. 17, 1999]

### § 254.2 Applicability.

This part applies to any air carrier that provides charter or scheduled passenger service in interstate or intrastate air transportation.

[ER-1374, 49 FR 5071, Feb. 10, 1984, as amended at 64 FR 70575, Dec. 17, 1999]