

(b) Ticket agents doing business in the United States that sell or issue tickets for scheduled passenger air transportation on change-of-gauge services.

### § 258.3 Definitions.

As used in this part:

(a) *Air transportation* has the meaning ascribed to it in 49 U.S.C. 40102(5).

(b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that engages directly in scheduled passenger air transportation.

(c) *Change-of-gauge service* means a service that requires a change of aircraft en route but has only a single flight number.

(d) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(a)(45).

[64 FR 12860, Mar. 15, 1999, as amended by Doc. No. DOT-OST-2014-0140, 84 FR 15933, Apr. 16, 2019]

### § 258.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation that involves change-of-gauge service is prohibited as an unfair or deceptive practice or an unfair method of competition within the meaning of 49 U.S.C. 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

### § 258.5 Notice requirement.

(a) *Notice in schedules.* Carriers holding out or operating change-of-gauge services to, from, or within the United States shall ensure that in the written and electronic schedule information they provide to the public, to the Official Airline Guide and comparable publications, and to computer reservations systems, these services are shown as requiring a change of aircraft.

(b) *Oral notice to prospective consumers.* In any direct oral communication with a consumer in the United States concerning a change-of-gauge service, any carrier or ticket agent doing business in the United States shall tell the consumer before booking scheduled passenger air transportation to, from, or within the United States that the service requires a change of aircraft en route.

(c) *Written notice.* At the time of sale in the United States of transportation that includes a change-of-gauge service to, from, or within the United States, or, if no ticket is issued, no later than the time when the passenger checks in at the airport for the first flight in an itinerary that includes such a service, the selling carrier or ticket agent shall provide the following written notice:

#### NOTICE: CHANGE OF AIRCRAFT REQUIRED

For at least one of your flights, you must change aircraft en route even though your ticket may show only one flight number and have only one flight coupon for that flight. Further, in the case of some travel, one of your flights may not be identified at the airport by the number on your ticket, or it may be identified by other flight numbers in addition to the one on your ticket. At your request, the seller of this ticket will give you details of your change of aircraft, such as where it will occur and what aircraft types are involved.

### § 258.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999: §§ 258.1, 258.2, 258.3, 258.4, 258.5(a), 258.5(b), and 258.6.

(c) Compliance with § 258.5(c) is mandatory as of March 15, 2000.

[64 FR 46821, Aug. 27, 1999]

## PART 259—ENHANCED PROTECTIONS FOR AIRLINE PASSENGERS

Sec.

259.1 Purpose.

259.2 Applicability.

259.3 Definitions.

259.4 Contingency plan for lengthy tarmac delays.

259.5 Customer Service Plan.

259.6 Posting of contracts of carriage, tarmac delay contingency plans and customer service plans on websites.

259.7 Response to consumer problems.

259.8 Notify passengers of known delays, cancellations, and diversions.

AUTHORITY: 49 U.S.C. 40101(a)(4), 40101(a)(9), 40113(a), 41702, 41708, 41712, 42301, and 42305.

SOURCE: 74 FR 69002, Dec. 30, 2009, unless otherwise noted.

## § 259.1

### § 259.1 Purpose.

The purpose of this part is to mitigate hardships for airline passengers during lengthy tarmac delays and otherwise to bolster air carriers' accountability to consumers.

### § 259.2 Applicability.

This part applies to all the flights of a certificated or commuter air carrier if the carrier operates scheduled passenger service or public charter service using any aircraft originally designed to have a passenger capacity of 30 or more seats, and to all flights to and from the U.S. of a foreign air carrier if the carrier operates scheduled passenger service or public charter service to and from the U.S. using any aircraft originally designed to have a passenger capacity of 30 or more seats, except as otherwise provided in this part. This part does not apply to foreign air carrier charters that operate to and from the United States if no new passengers are picked up in the United States. Section 259.4 does not apply to a flight that diverts to the United States when the flight is operated by a foreign air carrier and scheduled to operate between two foreign points.

[Docket No. DOT-OST-2019-0144, 86 FR 23270, May 3, 2021]

### § 259.3 Definitions.

*Business days* means Monday through Friday excluding Federal holidays in the United States.

*Certificated air carrier* means a U.S. carrier holding a certificate issued under 49 U.S.C. 41102 to conduct passenger service or holding an exemption to conduct passenger operations under 49 U.S.C. 41102.

*Commuter air carrier* means a U.S. carrier that has been found fit under 49 U.S.C. 41738 and is authorized to carry passengers on at least five round trips per week on at least one route between two or more points according to a published flight schedule using small aircraft as defined in 14 CFR 298.2.

*Covered carrier* means a certificated carrier, a commuter carrier, or a foreign air carrier operating to, from or within the United States, conducting scheduled passenger service or public charter service with at least one air-

## 14 CFR Ch. II (1-1-25 Edition)

craft having a designed seating capacity of 30 or more seats.

*Foreign air carrier* means a carrier that is not a citizen of the United States as defined in 49 U.S.C. 40102(a) that holds a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing direct foreign air transportation.

*Large hub airport* means an airport that accounts for at least 1.00 percent of the total enplanements in the United States.

*Main aircraft door* means the door used for boarding. In situations in which there are multiple doors that can be used for boarding, the last door closed is the main aircraft door.

*Medium hub airport* means an airport accounting for at least 0.25 percent but less than 1.00 percent of the total enplanements in the United States.

*Non-hub airport* means an airport with 10,000 or more annual enplanements but less than 0.05 percent of the country's annual passenger boardings.

*Prompt refund* means refunds made within 7 business days after the earliest date the refund was requested as set forth in 14 CFR 260.6(a)(2) as required by 14 CFR 374.3 for credit card purchases, and within 20 calendar days after the earliest date the refund was requested as set forth in 14 CFR 260.6(a)(2) for cash, check, debit card, or other forms of purchases.

*Serious communicable disease* means a communicable disease as defined in 42 CFR 70.1 that can cause serious health consequences (*e.g.*, breathing problems, organ damage, neurological difficulties, death) and can be easily transmitted by casual contact in an aircraft cabin environment (*i.e.*, easily spread to others in an aircraft cabin through general activities of passengers such as sitting next to someone, shaking hands, talking to someone, or touching communal surfaces). For example, the common cold is readily transmissible in an aircraft cabin environment but does not have severe health consequences. AIDS has serious health consequences but is not readily transmissible in an aircraft cabin environment. Both the common cold and AIDS

would not be considered serious communicable diseases for purposes of this part. SARS is readily transmissible in an aircraft cabin environment and has severe health consequences. SARS would be considered a serious communicable disease for purposes of this part.

*Small hub airport* means an airport accounting for at least 0.05 percent but less than 0.25 percent of the total enplanements in the United States.

*Suitable disembarkation point* means a location at an airport where passengers can deplane from an aircraft.

*Tarmac delay* means the period of time when an aircraft is on the ground with passengers and the passengers have no opportunity to deplane.

[Doc. No. DOT-OST-2010-0140, 76 FR 23164, Apr. 25, 2011, as amended by Docket No. DOT-OST-2019-0144, 86 FR 23270, May 3, 2021; DOT-OST-2016-0208, 89 FR 32832, Apr. 26, 2024; DOT-OST-2022-0089, 89 FR 65536, Aug. 12, 2024]

#### § 259.4 Contingency Plan for Lengthy Tarmac Delays.

(a) *Adoption of plan.* Each covered carrier, as defined by § 259.3, shall adopt a Contingency Plan for Lengthy Tarmac Delays for its scheduled and public charter flights at each U.S. large hub airport, medium hub airport, small hub airport, and non-hub airport at which it operates or markets such air service, except as specified in § 259.2, and shall adhere to its plan's terms.

(b) *Contents of plan.* Each Contingency Plan for Lengthy Tarmac Delays shall include, at a minimum, assurances that the covered carrier shall comply with the requirements set forth in paragraph (c) of this section.

(c) *Requirements.* Covered carriers must comply with the following requirements:

(1) For all domestic flights, each covered U.S. air carrier shall provide a passenger on a flight experiencing a tarmac delay at a U.S. airport the opportunity to deplane before the tarmac delay exceeds three hours in duration, subject to the exceptions in paragraph (c)(3) of this section;

(2) For all international flights, each covered carrier shall provide a passenger on a flight experiencing a

tarmac delay at a U.S. airport the opportunity to deplane before the tarmac delay exceeds four hours in duration, subject to the exceptions in paragraph (c)(3) of this section;

(3) A covered U.S. carrier that experiences a tarmac delay at a U.S. airport must comply with paragraphs (c)(1) and (2) of this section, and a covered foreign air carrier must comply with paragraph (c)(2) of this section, unless:

(i) For departing flights, the flight begins to return to a suitable disembarkation point no later than three hours (for domestic flights) or four hours (for international flights) after the main aircraft door is closed in order to deplane passengers. If the aircraft is in an area that is not under the carrier's control, the aircraft has begun to return to a suitable disembarkation point when a request is made to the Federal Aviation Administration control tower, airport authority, or other relevant authority directing the aircraft's operations. If the aircraft is in an area that is under the carrier's control, the aircraft has begun to return to a suitable disembarkation point when the pilot begins maneuvering the aircraft to a suitable disembarkation point;

(ii) The pilot-in-command determines that deplaning passengers at a suitable disembarkation point would jeopardize passenger safety or security, or there is a safety related or security related reason why the aircraft cannot leave its position on the tarmac to deplane passengers; or

(iii) Air traffic control advises the pilot-in-command that returning to a suitable disembarkation point to deplane passengers would significantly disrupt airport operations;

(4) For all flights during a tarmac delay, each covered carrier must provide adequate food and potable water no later than two hours after the start of the tarmac delay, unless the pilot-in-command determines that safety or security considerations preclude such service;

(5) For all flights, each covered carrier must ensure operable lavatory facilities, as well as adequate medical attention if needed, during a tarmac delay;

(6) For all flights, each covered carrier must notify the passengers on board the aircraft during a tarmac delay regarding the status of the delay when the tarmac delay exceeds 30 minutes, and thereafter each covered carrier may provide subsequent updates, including flight status changes, as the carrier deems appropriate;

(7) For all departing flights and diversions, each time the opportunity to deplane exists at a suitable disembarkation point, each covered carrier must timely notify the passengers on board the aircraft that the passengers have the opportunity to deplane;

(8) Each covered carrier must ensure that it has sufficient resources to implement its Contingency Plan for Lengthy Tarmac Delays, as set forth in paragraphs (a) and (b) of this section; and

(9) Each covered carrier must ensure that its Contingency Plan for Lengthy Tarmac Delays, as set forth in paragraphs (a) and (b) of this section, has been coordinated with the following entities:

(i) Airport authorities (including terminal facility operators where applicable) at each U.S. large hub airport, medium hub airport, small hub airport, and non-hub airport that the carrier serves, as well as its regular U.S. diversion airports;

(ii) U.S. Customs and Border Protection (CBP) at each large U.S. hub airport, medium hub airport, small hub airport, and non-hub airport that is regularly used for that carrier's international flights, including regular U.S. diversion airports; and

(iii) The Transportation Security Administration (TSA) at each U.S. large hub airport, medium hub airport, small hub airport, and non-hub airport that the carrier serves, including regular U.S. diversion airports.

(d) *Diversions.* For purposes of this section, a diverted flight is treated as an arriving flight up to the point that an opportunity to deplane is provided to passengers. Once an opportunity to deplane is provided, the diversion is treated as a departing flight, and after that point, the departure delay exception in paragraph (c)(3)(i) of this section applies if the carrier begins to return to a suitable disembarkation

point in order to deplane passengers as required by the exception.

(e) *Code-share responsibility.* The tarmac delay contingency plan of the carrier under whose code the service is marketed governs, if different from the operating carrier, unless the marketing carrier specifies in its contract of carriage that the operating carrier's plan governs.

(f) *Amendment of plan.* At any time, a carrier may amend its Contingency Plan for Lengthy Tarmac Delays to decrease the time for aircraft to remain on the tarmac for domestic flights covered in paragraph (c)(1) of this section, for aircraft to remain on the tarmac for international flights covered in paragraph (c)(2) of this section, for aircraft to begin to return to a suitable disembarkation point covered in paragraph (c)(3)(i) of this section, and for providing food and water covered in paragraph (c)(4) of this section. A carrier may also amend its plan to increase these intervals (up to the limits in this part), in which case the amended plan shall apply only to departures that are first offered for sale after the plan's amendment.

(g) *Written reports.* (1) Each covered operating carrier subject to this part shall submit to the Office of Aviation Consumer Protection of the U.S. Department of Transportation a written description of each of the flights it operates that experiences a tarmac delay of more than three hours (on domestic flights) and more than four hours (on international flights) at a U.S. airport no later than 30 days after the tarmac delay occurs.

(2) The written description referenced in paragraph (g)(1) of this section shall include, at a minimum, the following information:

(i) The name of the operating carrier, the name of the marketing carrier if the operating carrier is not the marketing carrier, and the flight number;

(ii) The originally scheduled origin and destination airports of the flight;

(iii) The airport at which the tarmac delay occurred and the date it occurred;

(iv) The length of the tarmac delay that occurred; and

(v) An explanation of the incident, including the precise cause of the

tarmac delay, the actions taken to minimize hardships for passengers (including the provision of food and water, the maintenance and servicing of lavatories, and medical assistance), and the resolution of the incident.

(3) The written description referenced in paragraph (g)(1) of this section shall be accompanied by a signed certification statement that reads as follows:

I, (Name) and (Title), of (Carrier Name), certify that the enclosed report has been prepared under my direction, and affirm that, to the best of my knowledge and belief, the report is true and correct, based on information available at the time of this report's submission.

Date:

Signature:

Email address and phone number:

(4) A U.S. air carrier that submits a report in accordance with paragraph (g) of this section is in compliance with the reporting mandate for U.S. air carriers in 49 U.S.C. 42301(h) with respect to the excessive tarmac delay reported.

(h) *Unfair and deceptive practice.* A carrier's failure to comply with the assurances required by this part and contained in its Contingency Plan for Lengthy Tarmac Delays will be considered to be an unfair and deceptive practice within the meaning of 49 U.S.C. 41712 that is subject to enforcement action by the Department.

[Docket No. DOT-OST-2019-0144, 86 FR 23270, May 3, 2021]

#### § 259.5 Customer Service Plan.

(a) *Adoption of Plan.* Each covered carrier must adopt a Customer Service Plan applicable to its scheduled flights as specified in paragraphs (b)(1) through (15) of this section and adhere to the plan's terms.

(b) *Contents of Plan.* Each Customer Service Plan shall address the following subjects and comply with the minimum standards set forth:

(1) Disclosing on the carrier's website, at the ticket counter, or when a customer calls the carrier's reservation center to inquire about a fare or to make a reservation, that the lowest fare offered by the carrier may be available elsewhere if that is the case;

(2) Notifying consumers of known delays, cancellations, and diversions as

required by 14 CFR 259.8 of this chapter;

(3) Delivering baggage on time, including making every reasonable effort to return mishandled baggage within 12 hours for domestic flights and within 15 or 30 hours for international flights consistent with the requirement of 14 CFR 260.5, compensating passengers for reasonable expenses that result due to delay in delivery as required by 14 CFR part 254 for domestic flights and as required by applicable international treaties for international flights, and reimbursing passengers for any fee charged to transport a bag if that bag is significantly delayed or lost as required by 14 CFR 260.5;

(4) Allowing reservations to be held at the quoted fare without payment, or cancelled without penalty, for at least twenty-four hours after the reservation is made if the reservation is made one week or more prior to a flight's departure, and disclosing its chosen twenty-four hour policy on the last page of the booking process;

(5) Providing prompt refunds in the original form of payment (*i.e.*, money is returned to an individual using whatever payment method the individual used to make the original payment, such as a check, credit card, debit card, cash, or airline miles) when ticket or ancillary service fee refunds, including checked bag fee refunds, are due pursuant to 14 CFR part 260 unless the consumer agrees to receive the refunds in a different form of payment that is a cash equivalent payment as defined in 14 CFR 260.2. Carriers may not retain a processing fee for issuing refunds that are due;

(6) Disclosing that consumers are entitled to a refund if that is the case when offering alternative transportation, travel credits, vouchers, or other compensation in lieu of refunds consistent with the requirement in 14 CFR 260.7. Disclosing any material restrictions, conditions, or limitations on travel credits, vouchers, or other compensation offered, regardless of whether consumers are entitled to a refund as described in 14 CFR 260.8 and 14 CFR 262.8.

(7) Providing, upon request, travel credits or vouchers that are transferrable and do not expire for at

## § 259.6

least five years from the date of issuance to a consumer due to a serious communicable disease impacting travel as described in 14 CFR part 262.

(8) Properly accommodating passengers with disabilities as required by part 382 of this chapter and as set forth in the carrier's policies and procedures and properly refunding passengers with disabilities and individuals in the same reservation as the individual with a disability who do not want to continue travel without the individual with a disability as required by 14 CFR 260.6(c);

(9) Meeting customers' essential needs during lengthy tarmac delays as required by § 259.4 of this chapter and as provided for in each covered carrier's contingency plan;

(10) Handling "bumped" passengers with fairness and consistency in the case of oversales as required by part 250 of this chapter and as described in each carrier's policies and procedures for determining boarding priority;

(11) Disclosing refund policies as required by 14 CFR part 260, cancellations policies, frequent flyer rules, aircraft seating configuration, and lavatory availability on the selling carrier's website, and upon request, from the selling carrier's telephone reservations staff;

(12) Notifying consumers in a timely manner of changes in their travel itineraries;

(13) Ensuring responsiveness to consumer problems as required by § 259.7 of this chapter;

(14) Identifying the services it provides to mitigate passenger inconveniences resulting from flight cancellations and misconnections; and

(15) Disclosing critical ancillary service fees to consumers on the carrier's online platform or when a customer contacts the carrier's reservation center to inquire about a fare or make a reservation in person or by telephone and disclosing policies for critical ancillary service fees to consumers on the carrier's online platform as required by § 399.85 of this chapter.

(c) *Self-auditing of plan and retention of records.* Each carrier that is required to adopt a Customer Service Plan shall audit its own adherence to its plan annually. Carriers shall make the results

## 14 CFR Ch. II (1–1–25 Edition)

of their audits available for the Department's review upon request for two years following the date any audit is completed.

[Doc. No. DOT-OST-2010-0140, 76 FR 23165, Apr. 25, 2011; 76 FR 45181, July 28, 2011; DOT-OST-2016-0208, 89 FR 32832, Apr. 26, 2024; DOT-OST-2022-0109, 89 FR 34674, Apr. 30, 2024]

### § 259.6 Posting of Contracts of Carriage, Tarmac Delay Contingency Plans and Customer Service Plans on websites.

(a) Each U.S. air carrier that has a website and each foreign air carrier that has a website marketed to U.S. consumers, and that is required to adopt a contingency plan for lengthy tarmac delays, shall post its current contingency plan on its website in easily accessible form.

(b) Each U.S. air carrier that has a website and each foreign air carrier that has a website marketed to U.S. consumers, and that is required to adopt a customer service plan, shall post its current customer service plan on its website in easily accessible form.

(c) Each U.S. air carrier that has a website and each foreign air carrier that has a website marketed to U.S. consumers shall post its current contract of carriage on its website in easily accessible form.

[Doc. No. DOT-OST-2010-0140, 76 FR 23165, Apr. 25, 2011]

### § 259.7 Response to consumer problems.

(a) *Designated advocates for passengers' interests.* Each covered carrier shall designate for its scheduled flights an employee who shall be responsible for monitoring the effects of flight delays, flight cancellations, and lengthy tarmac delays on passengers. This employee shall have input into decisions on which flights to cancel and which will be delayed the longest.

(b) *Informing consumers how to complain.* Each covered carrier shall make available the mailing address and e-mail or web address of the designated department in the airline with which to file a complaint about its scheduled service. This information shall be provided on the U.S. carrier's website (if any) and the foreign carrier's website (if marketed to U.S. consumers), on all

e-ticket confirmations and, upon request, at each ticket counter and boarding gate staffed by the carrier or a contractor of the carrier.

(c) *Response to complaints.* Each covered carrier shall acknowledge in writing receipt of each complaint regarding its scheduled service to the complainant within 30 days of receiving it and shall send a substantive written response to each complainant within 60 days of receiving the complaint. A complaint is a specific written expression of dissatisfaction concerning a difficulty or problem which the person experienced when using or attempting to use an airline's services.

(d) *Social networking sites.* Each covered carrier that uses a social networking site (e.g. Facebook, Twitter) and that does not intend for that site to be a vehicle for receipt of written consumer complaints subject to this section shall clearly indicate on the carrier's primary page on that social networking site that it will not reply to consumer complaints on that site and shall direct consumers to the carrier's mailing address and e-mail or website location for filing written complaints.

[Doc. No. DOT-OST-2010-0140, 76 FR 23165, Apr. 25, 2011]

**§ 259.8 Notify passengers of known delays, cancellations, and diversions.**

(a) Each covered carrier for its scheduled flights to, from or within the U.S. must promptly provide to passengers who are ticketed or hold reservations, and to the public, information about a change in the status of a flight within 30 minutes after the carrier becomes aware of such a change in the status of a flight. A change in the status of a flight means, at a minimum, a cancellation, diversion or delay of 30 minutes or more in the planned operation of a flight that occurs within seven calendar days of the scheduled date of the planned operation. The flight status information must at a minimum be provided in the boarding gate area for the flight at a U.S. airport, on the carrier's website, and via the carrier's telephone reservation system upon inquiry by any person.

(1) With respect to any U.S. air carrier or foreign air carrier that permits passengers and other interested persons to subscribe to flight status notification services, the carrier must deliver such notification to such subscribers, by whatever means the carrier offers that the subscriber chooses.

(2) The U.S. carrier or foreign air carrier shall incorporate such notification service commitment into its Customer Service Plan as specified in section 259.5 of this chapter.

(b) For its scheduled flights to, from or within the U.S. within 30 minutes after the carrier becomes aware of a flight cancellation, a flight delay of 30 minutes or more, or a flight diversion, each covered carrier must update all flight status displays and other sources of flight information that are under the carrier's control at U.S. airports with information on that flight irregularity.

(c) If an airport-controlled display system at a U.S. airport accepts flight status updates from carriers, covered carriers must provide flight irregularity information to that airport for the carrier's scheduled flights to, from or within the U.S. within 30 minutes after the carrier becomes aware of such a change in the status of a flight. Flight irregularity refers to flight cancellations, flight delays of 30 minutes or more, and diversions.

[Doc. No. DOT-OST-2010-0140, 76 FR 23166, Apr. 25, 2011; Docket No. DOT-OST-2014-0056, 81 FR 76829, Nov. 3, 2016]

**PART 260—REFUNDS FOR AIRLINE FARE AND ANCILLARY SERVICE FEES**

Sec.

- 260.1 Purpose.
- 260.2 Definitions.
- 260.3 Applicability.
- 260.4 Refunding fees for ancillary services that consumers paid for but that were not provided.
- 260.5 Refunding fees for significantly delayed or lost bags.
- 260.6 Refunding fare for flights cancelled or significantly delayed or changed by carriers.
- 260.7 Affirmative acceptance of an offer of alternative compensation.
- 260.8 Disclosing material restrictions, conditions, or limitations.