

PART 259—ENHANCED PROTECTIONS FOR AIRLINE PASSENGERS

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

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

§ 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 rule 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, with the following exceptions: §§ 259.5 and 259.7 do not apply to charter service.

§ 259.3 Definitions.

Certificated air carrier means a U.S. air carrier that holds a certificate issued under 49 U.S.C. 41102 to operate passenger service or an exemption from 49 U.S.C. 41102.

Commuter air carrier means a U.S. air carrier as established by 14 CFR 298.3(b) that 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.

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

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.

Small aircraft means any aircraft originally designed to have a maximum

passenger capacity of 60 or fewer seats or a maximum payload capacity of 18,000 pounds or less.

Tarmac delay means the holding of an aircraft on the ground either before taking off or after landing with no opportunity for its passengers to deplane.

§ 259.4 Contingency plan for lengthy tarmac delays.

(a) *Adoption of Plan.* Each covered carrier shall adopt a Contingency Plan for Lengthy Tarmac Delays for its scheduled and public charter flights at each large and medium hub U.S. airport at which it operates such air service and shall adhere to its plan's terms.

(b) *Contents of Plan.* Each Contingency Plan for Lengthy Tarmac Delays shall include, at a minimum, the following:

(1) For domestic flights, assurance that the air carrier will not permit an aircraft to remain on the tarmac for more than three hours unless:

(i) The pilot-in-command determines there is a safety-related or security-related reason (e.g., weather, a directive from an appropriate government agency) why the aircraft cannot leave its position on the tarmac to deplane passengers; or

(ii) Air traffic control advises the pilot-in-command that returning to the gate or another disembarkation point elsewhere in order to deplane passengers would significantly disrupt airport operations.

(2) For international flights that depart from or arrive at a U.S. airport, assurance that the air carrier will not permit an aircraft to remain on the tarmac at a large or medium hub U.S. airport for more than a set number of hours, as determined by the carrier and set out in its contingency plan, before allowing passengers to deplane, unless:

(i) The pilot-in-command determines there is a safety-related or security-related reason why the aircraft cannot leave its position on the tarmac to deplane passengers; or

(ii) Air traffic control advises the pilot-in-command that returning to the gate or another disembarkation point elsewhere in order to deplane passengers would significantly disrupt airport operations.

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(3) For all flights, assurance that the air carrier will provide adequate food and potable water no later than two hours after the aircraft leaves the gate (in the case of departure) or touches down (in the case of an arrival) if the aircraft remains on the tarmac, unless the pilot-in-command determines that safety or security considerations preclude such service;

(4) For all flights, assurance of operable lavatory facilities, as well as adequate medical attention if needed, while the aircraft remains on the tarmac;

(5) Assurance of sufficient resources to implement the plan; and

(6) Assurance that the plan has been coordinated with airport authorities at all medium and large hub airports that the carrier serves, including medium and large hub diversion airports.

(c) *Amendment of plan.* At any time, an air 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 (b)(1) of this section, for aircraft to remain on the tarmac for international flights covered in paragraph (b)(2) of this section, and for the trigger point for food and water covered in paragraph (b)(3) of this section. An air carrier may also amend its plan to increase these intervals (up to the limits in this rule), in which case the amended plan shall apply only to those flights that are first offered for sale after the plan's amendment.

(d) *Retention of records.* Each air carrier that is required to adopt a Contingency Plan for Lengthy Tarmac Delays shall retain for two years the following information about any tarmac delay that lasts at least three hours:

(1) The length of the delay;

(2) The precise cause of the delay;

(3) The actions taken to minimize hardships for passengers, including the provision of food and water, the maintenance and servicing of lavatories, and medical assistance;

(4) Whether the flight ultimately took off (in the case of a departure delay or diversion) or returned to the gate; and

(5) An explanation for any tarmac delay that exceeded 3 hours (*i.e.*, why

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the aircraft did not return to the gate by the 3-hour mark).

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

§ 259.5 Customer Service Plan.

(a) *Adoption of Plan.* Each covered carrier shall adopt a Customer Service Plan applicable to its scheduled flights and shall adhere to this plan's terms.

(b) *Contents of Plan.* Each Customer Service Plan shall, at a minimum, address the following subjects:

(1) Offering the lowest fare available;

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

(3) Delivering baggage on time;

(4) Allowing reservations to be held without payment or cancelled without penalty for a defined amount of time;

(5) Providing prompt ticket refunds;

(6) Properly accommodating passengers with disabilities and other special-needs, including during tarmac delays;

(7) Meeting customers' essential needs during lengthy tarmac delays;

(8) Handling "bumped" passengers with fairness and consistency in the case of oversales;

(9) Disclosing travel itinerary, cancellation policies, frequent flyer rules, and aircraft configuration;

(10) Ensuring good customer service from code-share partners;

(11) Ensuring responsiveness to customer complaints; and

(12) Identifying the services it provides to mitigate passenger inconveniences resulting from cancellations and misconnects.

(c) *Self-auditing of Plan and Retention of Records.* Each air carrier that is required to adopt a Customer Service Plan shall audit its own adherence to its plan annually. Carriers shall make the results of their audits available for the Department's review upon request for two years following the date any audit is completed.

§ 259.6 Notice and Contract of Carriage.

(a) Each air carrier that is required to adopt a Contingency Plan for Lengthy Tarmac Delays or a Customer Service Plan may include such plans in their Contract of Carriage.

(b) Each air carrier that has a Web site shall post its Contract of Carriage on its Web site in easily accessible form, including all updates to its Contract of Carriage.

(c) Each air carrier that is required to adopt a Contingency Plan for Lengthy Tarmac Delays shall, if it has a Web site but does not include such Contingency Plan for Lengthy Tarmac Delays in its Contract of Carriage, post its Contingency Plan for Lengthy Tarmac Delays on its Web site in easily accessible form, including all updates to its Contingency Plan for Lengthy Tarmac Delays.

(d) Each air carrier that is required to adopt a Customer Service Plan shall, if it has a Web site but does not include such Customer Service Plan in its Contract of Carriage, post its Customer Service Plan on its Web site in easily accessible form, including all updates to its Customer Service Plan.

§ 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 carrier's Web site (if any), on all e-ticket confirmations and, upon request, at each ticket counter and boarding gate staffed by the carrier.

(c) *Response to complaints.* Each covered carrier shall acknowledge receipt of each complaint regarding its scheduled service to the complainant within

30 days of receiving it and shall send a substantive 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.

PART 271—GUIDELINES FOR SUBSIDIZING AIR CARRIERS PROVIDING ESSENTIAL AIR TRANSPORTATION

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AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER-1398, 49 FR 49846, Dec. 24, 1984, unless otherwise noted.

§ 271.1 Purpose.

This part establishes the guidelines required by 49 U.S.C. 41736 to be used by the Department in establishing the fair and reasonable amount of compensation needed to ensure the continuation of essential air service to an eligible place under 49 U.S.C. 41731 and 41734. These guidelines are intended to cover normal carrier selection cases and rate renewal cases, and not necessarily emergency carrier selection cases.

[60 FR 43524, Aug. 22, 1995]

§ 271.2 Definitions.

As used in this part:

Eligible place means a place in the United States that—

(1) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(2) Received scheduled air transportation at any time between January 1, 1990, and November 4, 1990; and

(3) Is not listed in Department of Transportation Orders 89-9-37 and 89-12-52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute.