

an air carrier to the general public, with reasonable accommodations, as needed, provided by the carrier.

*Scheduled service* means any flight scheduled in the current edition of the Official Airline Guide, the carrier's published schedule, or the computer reservation system used by the carrier.

*Shared-use automated airport kiosk* means a self-service transaction machine that is jointly owned, controlled or leased by an airport operator and carriers and/or an independent service provider and that provides carrier software applications which enable customers to independently access flight-related services.

*TSA* means the Transportation Security Administration, an agency of the Department of Homeland Security.

*United States or U.S.* means the United States of America, including its territories and possessions.

[Docket OST-2004-19482, 73 FR 27665, May 13, 2008, as amended at 78 FR 67914, Nov. 12, 2013]

### § 382.5 When are U.S. and foreign carriers required to begin complying with the provisions of this part?

As a U.S. or foreign carrier, you are required to comply with the requirements of this part on May 13, 2009, except as otherwise provided in individual sections of this part.

### § 382.7 To whom do the provisions of this part apply?

(a) If you are a U.S. carrier, this Part applies to you with respect to all your operations and aircraft, regardless of where your operations take place, except as otherwise provided in this part.

(b) If you are a foreign carrier, this part applies to you only with respect to flights you operate that begin or end at a U.S. airport and to aircraft used for these flights. For purposes of this part, a "flight" means a continuous journey in the same aircraft or with one flight number that begins or ends at a U.S. airport. The following are some examples of the application of this term:

*Example 1 to paragraph (b):* A passenger books a nonstop flight on a foreign carrier from New York to Frankfurt, or Frankfurt to New York. Each of these is a "flight" for purposes of this Part.

*Example 2 to paragraph (b):* A passenger books a journey on a foreign carrier from

New York to Prague. The foreign carrier flies nonstop to Frankfurt. The passenger gets off the plane in Frankfurt and boards a connecting flight (with a different flight number), on the same foreign carrier or a different carrier, which goes to Prague. The New York-Frankfurt leg of the journey is a "flight" for purposes of this Part; the Frankfurt-Prague leg is not. On the reverse routing, the Prague-Frankfurt leg is not a covered flight for purposes of this Part, while the Frankfurt-New York leg is.

*Example 3 to paragraph (b):* A passenger books a journey on a foreign carrier from New York to Prague. The plane stops for refueling and a crew change in Frankfurt. If, after deplaning in Frankfurt, the passengers originating in New York reboard the aircraft (or a different aircraft, assuming the flight number remains the same) and continue to Prague, they remain on a covered flight for purposes of this Part. This is because their transportation takes place on a direct flight between New York and Prague, even though it had an interim stop in Frankfurt. This example would also apply in the opposite direction (Prague to New York via Frankfurt).

*Example 4 to paragraph (b):* In Example 3, the foreign carrier is not subject to coverage under this Part with respect to a Frankfurt-originating passenger who boards the aircraft and goes to Prague, or a Prague-originating passenger who gets off the plane in Frankfurt and does not continue to New York.

(c) As a foreign carrier, you are not subject to the requirements of this part with respect to flights between two foreign points, even with respect to flights involving code-sharing arrangements with U.S. carriers. As a U.S. carrier that participates in a code-sharing arrangement with a foreign carrier with respect to flights between two foreign points, you (as distinct from the foreign carrier) are responsible for ensuring compliance with the service provisions of subparts A through C, F through H, and K with respect to passengers traveling under your code on such a flight.

*Example 1 to paragraph (c):* A passenger buys a ticket from a U.S. carrier for a journey from New York to Prague. The ticket carries the U.S. carrier's code and flight number throughout the entire journey. There is a change of carrier and aircraft in Frankfurt, and a foreign carrier operates the Frankfurt-Prague segment. The foreign carrier is not subject to the provisions of Part 382 for the Frankfurt-Prague segment. However, the U.S. carrier must ensure compliance with the applicable provisions of Part 382 on the Frankfurt-Prague segment with

## § 382.9

## 14 CFR Ch. II (1–1–14 Edition)

respect to passengers flying under its code, and the Department could take enforcement action against the U.S. carrier for acts or omissions by the foreign carrier.

(d) As a foreign carrier, if you operate a charter flight from a foreign airport to a U.S. airport, and return to a foreign airport, and you do not pick up any passengers in the U.S., the charter flight is not a flight subject to the requirements of this part.

(e) Unless a provision of this Part specifies application to a U.S. carrier or a foreign carrier, the provision applies to both U.S. and foreign carriers.

(f) If you are an indirect carrier, §§ 382.1 through 382.15 of this part apply to you. §§ 382.17 through 382.157 of this part do not apply to you except insofar as provided by § 382.11(b).

(g) Notwithstanding any provisions of this part, you must comply with all FAA safety regulations, TSA security regulations, and foreign safety and security regulations having legally mandatory effect that apply to you.

[Docket OST–2004–19482, 73 FR 27665, May 13, 2008, as amended at 74 FR 11471, Mar. 18, 2009; 75 FR 44887, July 30, 2010]

### **§ 382.9 What may foreign carriers do if they believe a provision of a foreign nation’s law conflicts with compliance with a provision of this part?**

(a) If you are a foreign carrier, and you believe that an applicable provision of the law of a foreign nation precludes you from complying with a provision of this part, you may request a waiver of the provision of this Part.

(b) You must send such a waiver request to the following address: Assistant General Counsel for Aviation Enforcement and Proceedings, C–70 U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W96–322, Washington, DC 20590.

(c) Your waiver request must be in English and include the following elements:

(1) A copy, in the English language, of the foreign law involved;

(2) A description of how the foreign law applies and how it precludes compliance with a provision of this part;

(3) A description of the alternative means the carrier will use, if the waiver is granted, to effectively achieve the objective of the provision of this part

subject to the waiver or, if applicable, a justification of why it would be impossible to achieve this objective in any way.

(d) The Department may grant the waiver request, or grant the waiver request subject to conditions, if it determines that the foreign law applies, that it does preclude compliance with a provision of this part, and that the carrier has provided an effective alternative means of achieving the objective of the provisions of this part subject to the waiver or have demonstrated by clear and convincing evidence that it would be impossible to achieve this objective in any way.

(e)(1) If you submit a waiver request on or before September 10, 2008, the Department will, to the maximum extent feasible, respond to the request before May 13, 2009. If the Department does not respond to the waiver request by May 13, 2009, you may continue to implement the policy or practice that is the subject of your request until the Department does respond. The Department will not take enforcement action with respect to your implementation of the policy or practice during the time prior to the Department’s response.

(2) If you submit a waiver request after September 10, 2008, the Department will, to the maximum extent feasible, respond to the request by May 13, 2009 or within 180 days of receiving it, whichever is later. If the Department does not respond to the waiver request by this date, you may continue to implement the policy or practice that is the subject of your request until the Department does respond. However, the Department may take enforcement action with respect to your implementation of the policy or practice during the time between May 13, 2009 and the date of the Department’s response.

(3) If you submit a waiver request after September 10, 2008, and the request pertains to an applicable provision of the law of a foreign nation that did not exist on September 10, 2008, you may continue to implement the policy or practice that is the subject of your request until the Department responds to the request. The Department will, to the maximum extent feasible, respond to such requests within 180 days of receiving them. The Department will not