

“Rebooting” Air Carrier Operations in the U.S. – Key Considerations (October 2021)

As the air transportation industry struggles through a second year of COVID-19 and its variants, one bright spot is the increasing number of vaccinated and/or recovered individuals and the gradual reopening of international borders to travel. Several international carriers that severely curtailed service or even ceased operations are in the process of re-opening U.S. routes and stations.

After an extended period of operational disruption – potentially including losses of experienced personnel, disruptions to company operations and processes, and cessations of operations – carriers are well-advised to “get back to basics” as soon as possible and focus on regulatory compliance.

Training is Key

Carrier personnel who have been laid off or reassigned may understandably need training (or refresher training) concerning their duties and company policies when they return. Carriers are obligated to train employees (and even contractors) concerning DOT’s disability-related regulations pursuant to 14 CFR § 382.141, and returning to work after an absence represents a good opportunity to implement training and refresher training.

More specifically, “all personnel who deal with the traveling public” must be trained to proficiency “as appropriate to the duties of each employee” concerning:

- DOT’s disability-related regulations (i.e., 14 CFR Part 382);
- the carrier’s own policies and procedures;



The firm’s practice encompasses virtually every aspect of aviation law, including advising domestic and foreign airlines on compliance with the DOT’s regulations and policies. For further information regarding the matters discussed in this article, please contact any of the following attorneys:

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- for “personnel involved in providing boarding and deplaning assistance, the use of the boarding and deplaning assistance equipment used by the carrier and appropriate boarding and deplaning assistance procedures that safeguard the safety and dignity of passengers”; and,
- “awareness and appropriate responses” to passengers with a disability depending on their differing abilities; and awareness of various ways persons with disabilities may communicate requests for accommodation.”¹

Part 382 also requires that contractors who deal with the travelling public receive function-specific training.² All employees who must be trained under Part 382 are required to undergo refresher training every three years.³ A recent survey conducted by the Air Carrier Access Act Advisory Committee showed that only about 68% of airlines that responded to the survey conduct recurrent training regarding Part 382 and the carrier’s procedures.⁴

Finally, employees designated as complaint resolution officials (CRO) must be trained concerning the requirements of Part 382 and their duties as a CRO.⁵ CROs are required to undergo refresher training every year.⁶

Aside from mandatory training such as that required by Part 382, training about denied boarding compensation and lengthy tarmac delays is always advised, as these are areas of DOT focus during airport compliance audits (discussed below).

Carriers are advised to ensure their training programs are reviewed by counsel to ensure they conform with their legal obligations to conduct operations in a non-discriminatory manner.

Airport Station Compliance

Reopening a station on a route is a challenging and complex task involving several local, state, and federal agencies. Stations play a critical role in DOT’s regulation of consumer protection matters, as in many instances arriving at a station will be the first time a customer will encounter carrier personnel. DOT personnel also conduct unannounced airport inspections, which may result in enforcement action.⁷

During the course of these inspections, DOT personnel frequently seek to confirm compliance on the same major subjects:

- accurate denied boarding compensation statements and notices;
- accurate baggage liability signage;
- providing copies of the carriers’ contract of carriage upon request and posting accurate notices related to inspection of terms/contracts; and,

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- providing of current copies of Part 382.

These represent some, but not all, of the regulatory requirements carriers must meet at their U.S. stations. Violations of these provisions, resulting from DOT airport station inspections, may result in enforcement and civil penalties.⁸

Tarmac Delay Contingency Plans

DOT requires covered carriers to adopt tarmac delay contingency plans containing minimum assurances for carrier responses to lengthy tarmac delay incidents.⁹ Carriers must coordinate the implementation of these plans with airport authorities, Customs and Border Protection, and the Transportation and Security Administration at each U.S. airport they serve, including airports regularly used for diversions.¹⁰ Reopening a U.S. station represents an excellent opportunity to update plans as necessary (e.g., update contact information due to staff turnover) and to reconfirm that the plan has been properly coordinated – and that the carrier can actually document such coordination. In the event of a lengthy tarmac delay incident, it is likely that DOT will request evidence that the plan was actually “coordinated” with the relevant authorities and agencies.

Don’t Go it Alone

Carriers operating to the U.S. face a host of complex regulatory requirements impacting restarted operations and opening new routes. It is very important that after a period of extended disruption that carriers seek counsel to ensure compliance.

¹ 14 CFR 382.141(a)(1)-(3).

² 14 CFR 382.141(a)(6).

³ 14 CFR 382.141(a)(5).

⁴ See “A Report on Assistance at Airports and on Aircraft and Related Training,” issued by the Air Carrier Access Act Advisory Committee’s Subcommittee on Assistance at Airports and on Aircraft and Related Training, DOT-OST-2018-0204-0020 (July 2021).

⁵ 14 CFR 382.141(a)(7).

⁶ 14 CFR 382.141(a)(1).

⁷ See, e.g., Southwest Airlines (Order 2018-1-5); Allegiant Airlines (Order 2018-1-6); American Airlines (Order 2016-8-30); United Air Lines (Order 2016-8-31).

⁸ See, e.g., Frontier Airlines (Order 2017-08-27); Air Canada (Order 2018-5-27); Alaska Airlines (Order 2016-8-32).

⁹ 14 C.F.R. 14 CFR § 259.4(a)-(c).

¹⁰ 14 C.F.R. 14 CFR § 259.4(c)(9).