

**Office of the Secretary****14 CFR part 259****[Docket No. DOT-OST-2025-2349]****RIN 2105-ZA50****Airline Customer Service Commitments for Controllable Flight Disruptions: Unscheduled Maintenance in Response to FAA Airworthiness Directives**

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (Department or DOT).

ACTION: Notification of enforcement discretion.

SUMMARY: On November 28, 2025, the Federal Aviation Administration (FAA) issued Emergency Airworthiness Directive (EAD) 2025-24-51 requiring airlines to replace or modify affected elevator aileron computers (ELAC) used in certain Airbus aircraft. Due to the significant impact of the EAD on the fleets of some U.S. airlines, clarity was requested from the Department's Office of Aviation Consumer Protection (OACP) regarding airlines' responsibility to provide amenities such as meals and hotels for consumers affected by cancellations or significant delays due to unscheduled maintenance required to comply with the EAD. The largest U.S. airlines have generally committed to provide free rebooking, hotel, and meals to mitigate passenger inconveniences when the cause of a cancellation or significant delay was due to circumstances within the airline's control. This notice announces that as a matter of enforcement discretion, OACP will not treat cancellations or lengthy delays resulting from unscheduled maintenance in response to an airworthiness directive that cannot be deferred or must be addressed before a flight to be due to circumstances within airline control for the purposes of these types of airlines customer service commitments.

DATES: This enforcement policy is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and remains in effect until further notice or conclusion of the

Department's rulemaking titled Revisions to Cause of Airline Delay Categories (RIN 2105-AF29), whichever occurs first.

ADDRESSES: This notification of enforcement discretion may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register' website at www.federalregister.gov and the Government Publishing Office's website at www.GovInfo.gov.

FOR FURTHER INFORMATION CONTACT: John Wood or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-366-9342 (phone), 202-366-7152 (fax), C70notice@dot.gov (email).

SUPPLEMENTARY INFORMATION: The Department's regulations require the largest U.S. airlines (Reporting Carriers)¹ to collect and report to the Department's Bureau of Transportation Statistics (BTS) the causes of airline delays in five broad categories—Air Carrier, National Aviation System (NAS), Extreme Weather, Late-arriving Aircraft, and Security.² The categories for the causes of cancellation are the same, except there is no Late-arriving Aircraft category.³ BTS has published a Reporting Directive with a list of examples of causes for delays and cancellations that it believes are within the control of the air carrier.⁴ According to the BTS Reporting Directive, Reporting Carriers must report maintenance issues using the Air Carrier

¹ Reporting Carriers for calendar year 2025 are as follows: Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Envoy Air, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, PSA Airlines, Republic Airways, SkyWest Airlines, Southwest Airlines, Spirit Airlines, and United Airlines. *See* 14 CFR 234.2; BTS Technical Reporting Directive #39—Reporting Air Carriers for Calendar Year 2025, Bureau of Transportation Statistics (Dec. 3, 2024), <https://www.bts.gov/sites/bts.dot.gov/files/2024-12/Technical%20Directive%20No%20%2039%20On-Time%202025.pdf>.

² 14 CFR 234.4(a)(17) to (a)(21); 14 CFR 234.4(i).

³ 14 CFR 234.4(a)(16); 14 CFR 234.4(h).

⁴ *See id.*, *supra* note 2, pages 27-28.

causal category.⁵ The regulations also provide that maintenance is a circumstance within the control of the airline.⁶

Airlines are also obligated to abide by their customer service commitments, including the commitments the largest U.S. airlines have made in their customer service plans that apply when cancellations or lengthy delays are due to circumstances within the control of the airline. The largest U.S. airlines that sell tickets have generally committed to provide free rebooking, complimentary hotel accommodations, and meals or meal vouchers to affected passengers in these circumstances. The Department displays airline commitments regarding services and compensation to mitigate passenger inconvenience caused by a delay or cancellation due to circumstances within the control of an airline on its online Airline Cancellation and Delay Dashboard.⁷ The Department has aligned the “controllable” standard for its dashboard with the Air Carrier causal category that airlines use when reporting cancellations and delays to BTS. The FAA Reauthorization Act of 2024 (2024 FAA Act) codified this approach in statute.⁸

BTS is currently engaged in rulemaking to update the causal categories for reportable delays and cancellations, including removing certain actions from the Air Carrier category, as required by section 511 of the 2024 FAA Act.⁹ One such circumstance that must be excluded from the Air Carrier category is unscheduled maintenance.¹⁰ The rulemaking will also address

⁵ See *id.*

⁶ 14 CFR 234.4(h)(1) (“Air carrier cancellations are due to circumstances that were within the control of the air carrier (e.g., lack of flight crew, maintenance, etc.).”).

⁷ Airline Cancellation and Delay Dashboard, <https://www.transportation.gov/airconsumer/airline-cancellation-delay-dashboard>.

⁸ FAA Reauthorization Act of 2024, Pub. L. No. 118-63 (May 16, 2024). Section 506 of the Act added 49 U.S.C. § 42308, which reads as follows: “The website on which such dashboard is displayed shall explain the circumstances under which a delay or cancellation is not due to circumstances in the control of the large air carrier . . . *consistent with section 234.4 of title 14, Code of Federal Regulations.*” (emphasis added). 49 U.S.C. § 42308(a)(2).

⁹ Revision to Cause of Airline Delay Categories (RIN: 2105-AF29), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2105-AF29>.

¹⁰ 2024 FAA Act, section 511(b)(7).

the creation of a new category for tracking delays and cancellations due to instructions from the FAA air traffic control system.¹¹

The Department is issuing this notice to address the question of whether cancellations and delays due to an airline's compliance with EAD 2025-24-51¹² should be considered within the control of an airline given the congressional mandate to exclude unscheduled maintenance from the air carrier category. Section 511(b) of the 2024 FAA Act states that "[u]nscheduled maintenance, including in response to an airworthiness directive, manifesting outside a scheduled maintenance program that cannot be deferred or must be addressed before flight" is a cause that "shall not" be included in the Air Carrier reporting category. Cancellations and delays due to compliance with EAD 2025-24-51 fall within the carve-out from the Air Carrier category described in section 511(b) because the EAD required unscheduled maintenance that could not be deferred. Therefore, as a matter of enforcement policy, OACP will not take action against airlines that do not provide services, amenities, or compensation promised in their customer service plans to mitigate passenger inconvenience from controllable flight disruptions in instances when flights are delayed or cancelled due to unscheduled maintenance in response to an airworthiness directive that cannot be deferred or must be addressed before flight such as was the case with EAD 2025-24-51.

Regardless of this statement of enforcement discretion, the Department recognizes that airlines will often go beyond what is required by law to care for customers and may still choose to provide meals, hotels, free rebooking, and other amenities to passengers affected by flight disruptions voluntarily as a matter of good customer relations. To determine whether a flight disruption was due to unscheduled maintenance to comply with an airworthiness directive that cannot be deferred or must be addressed before flight like EAD 2025-24-51, OACP would

¹¹ See *id.* at section 511(a).

¹² See Federal Aviation Administration EAD No. 2025-24-51 (Nov. 28, 2025), <https://drs.faa.gov/browse/excelExternalWindow/DRSDOCID170146585920251129034243.0001>.

consider whether the delay or cancellation would have occurred *but for* the actions taken to comply with the EAD. We note that, consistent with current DOT regulations and the BTS Reporting Directive, the Department expects airlines to report cancellations and delays due to compliance with EAD 2025-24-51 in the Air Carrier category.

This notice represents guidance and is not meant to bind the airlines in any way. It also does not prejudice the outcome of the Department's rulemaking titled Revisions to Airline Cause of Delay Categories (RIN 2105-AF29). The notice is intended to address the operational difficulties resulting from airline compliance with a departmental safety rule of immediate applicability and effect, and to clarify existing legal requirements and the Department's enforcement priorities. It will not be relied upon by the Department as a separate basis for affirmative enforcement action or other administrative penalty.

Issued on December 5, 2025 in Washington, D.C., under authority delegated in 49 CFR

1.27(n):

Gregory Zerzan
General Counsel

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