

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 259, 260, 399

[Docket No. DOT-OST-2022-0089]

RIN 2105-AF04

Airline Ticket Refunds and Consumer Protections

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

ACTION: Extension of comment period on proposed rule.

SUMMARY: The U.S. Department of Transportation (Department or DOT) is extending through December 16, 2022, the period for interested persons to submit comments to its proposed rule on Airline Ticket Refunds and Consumer Protections.

DATES: Comments should be filed by December 16, 2022. Late-filed comments will be considered to the extent practicable. Petitions for a hearing pursuant to 14 CFR 399.75(b)(1) must also be filed by December 16, 2022.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2022-0089 by any of the following methods:

- Federal eRulemaking Portal: go to <https://www.regulations.gov> and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. S.E., West Building Ground Floor, Room W12-140, Washington, D.C., 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. S.E., Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251

Instructions: You must include the agency name and docket number DOT-OST-2022-0089 or the Regulatory Identification Number (RIN 2105-AF04) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents and comments received, go to <https://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Clereece Kroha or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Ave. S.E., Washington, D.C., 20590, 202-366-9342 (phone), clereece.kroha@dot.gov or blane.workie@dot.gov (e-mail).

SUPPLEMENTARY INFORMATION: On August 22, 2022, The Department of Transportation (DOT or Department) published in the Federal Register a notice of proposed rulemaking (NPRM) that proposes to codify its longstanding interpretation that it is an unfair business practice for a U.S. air carrier, a foreign air carrier, or a ticket agent to refuse to provide requested refunds to consumers when a carrier has cancelled or made a significant change to a scheduled flight to, from, or within the United States, and consumers found the alternative transportation offered by the carrier or the ticket agent to be unacceptable (87 FR 51550). The NPRM proposes to define, for the first time, the terms significant change and cancellation. It would also require U.S. and foreign airlines and ticket agents inform consumers that they are entitled to a refund if that is the case before making an offer for travel credits, vouchers, or other compensation in lieu of refunds. The Department further proposes to require that U.S. and

foreign air carriers and ticket agents provide non-expiring travel vouchers or credits to consumers holding non-refundable tickets for scheduled flights to, from, or within the United States who are unable to travel as scheduled in certain circumstances related to a serious communicable disease. If the carrier or ticket agent received significant financial assistance from the government as a result of a public health emergency, the Department proposes to require U.S. and foreign air carriers and ticket agents provide refunds, in lieu of non-expiring travel vouchers or credits. The NPRM proposes to allow carriers and ticket agents to require consumers provide evidence to support their assertion of entitlement to a travel voucher, credit, or refund. The NPRM provided for a comment period of 90 days after publication of the NPRM in the *Federal Register*, i.e., November 21, 2022.

On September 6, 2022, Airlines for America (A4A) and International Air Transport Association (IATA) (jointly “Airline Petitioners”) requested an extension of 60 days for the comment period of this rulemaking. According to Airline Petitioners, the Department’s proposals would significantly change airline ticket refund regulations, affecting refund and voucher rights and obligations of not only airlines but also ticket agents, booking entities, and consumers, which require a thorough and careful consideration of all potential impacts and unintended consequences of this rule for the traveling public. Airline Petitioners state that additional time is needed to adequately collect and consider all the relevant and necessary information to finalize this critical rule. Furthermore, Airline Petitioners point out that the NPRM asks comments on various scenarios in addition to the proposed rule and the additional questions posed by the Department warrant an in-depth analysis that will reasonably require more than 90 days to collect from all interested parties, and to review and comment.

On September 27, 2022, the Travel Technology Association, the American Society of Travel Advisors, and Travel Management Coalition (jointly “Distribution Petitioners”) requested an extension of 30 days for the comment period of this rulemaking. Distribution Petitioners states that the NPRM raises over 100 substantial issues for comments and the issues pertaining to

public health emergencies are particularly novel in terms of the regulatory response proposed. Distribution Petitioners state that additional time is needed to allow each of their members to develop and prepare comments that would be most useful for the Department in reaching a fully informed decision.

Through this notice, the Department grants an extension of 25 days, or until December 16, 2022, for the public to comment on the NPRM. In doing so, the Department acknowledges that the NPRM raises numerous important issues, including the alternatives to the proposals that the Department is seeking information on, which requires in-depth analysis and consideration by stakeholders. The Department believes that granting a 25-day extension of the original 90-day comment period, is sufficient to allow stakeholders to conduct a thorough and careful consideration of all potential impacts and prepare comments. The Department has also taken into consideration the work of the Aviation Consumer Protection Advisory Committee (ACPAC) in relation to this rulemaking. Following the issuance of the NPRM, the ACPAC devoted a full day to discuss the NPRM and listen to public comments. The ACPAC is scheduled to meet again on December 9, 2022 to deliberate on what, if any, recommendations it will make to the Department regarding this rulemaking. The Department believes that extending the comment period for the NPRM until one week after the ACPAC meeting would provide the public an opportunity to consider the discussions and any recommendation of the ACPAC and provide further comments to the Department. Accordingly, the Department extends the time for comments on the proposed rule from November 21, 2022, to December 16, 2022.

In the request for extension of comment period, Airline Petitioners seek clarifications from the Department on various issues raised in the NPRM. Distribution Petitioners also state that several issues raised by Airline Petitioners are of particular interest to Distribution Petitioners and the Department's clarifications on those issues are needed for them to prepare

comments on those issues. The Department's responses to the list of questions raised by Airline Petitioners have been posted in the rulemaking docket.

Signed in Washington, D.C., on or around this 7th day of November 2022, under authority delegated at 49 U.S.C. 1.27n.

John E. Putnam,
General Counsel.