

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**ENFORCEMENT POLICY REGARDING REPORTING OF
MISHANDLED BAGGAGE AND WHEELCHAIR DATA**

NOTICE

The Department of Transportation's Office of Aviation Enforcement and Proceedings (Enforcement Office), a unit within the Office of the General Counsel, is issuing this notice to advise the public of the manner in which it intends to enforce the requirement for U.S. carriers to report mishandled baggage data to the Department for flights on or after January 2019.¹ The Department's Bureau of Transportation Statistics, Office of Airline Information (OAI), is issuing at the same time a technical reporting directive to provide instructions to carriers on how to report 2019 data.

On November 2, 2016, the Department of Transportation issued a final rule on reporting of data for mishandled baggage and wheelchairs transported in aircraft cargo compartments. See 81 FR 76300. This final rule changed the way that U.S. carriers report mishandled baggage to the Department. The rule directs the carriers to report the number of bags that were mishandled, as opposed to the number of mishandled bag reports filed by passengers. It also directs the carriers to report on the number of bags enplaned rather than the number of passenger enplanements. Further, it requires U.S. carriers for the first time to separately report the number of wheelchairs and scooters that were enplaned and the number of these items that were mishandled.² In a separate final rule issued on November 3, 2016, the Department further revised the mishandled baggage reporting requirements by expanding the threshold of reporting carriers to include smaller U.S. carriers and by requiring reporting carriers that market domestic codeshare flights to separately report this data for their codeshare flights. See 81 FR 76800. By a final rule issued in March 2017, the Department extended the compliance date of these amended reporting requirements from January 1, 2018, to January 1, 2019. See 82 FR 14437; 82 FR 14604.

¹ Pages 4-5 of this notice provide information to 2018 reporting carriers on submitting mishandled baggage data for flights operated between December 4, 2018 and December 31, 2018, pursuant to Section 441 of the FAA Reauthorization Act of 2018, Pub. L. No. 115-254 (Oct. 5, 2018).

² For purpose of this enforcement policy, the reporting of wheelchairs and scooters is treated in the same manner as conventional checked bags.

Since the publication of the November 2 and 3 final rules, the Enforcement Office has received inquiries from reporting carriers related to: (1) how carriers should report mishandled baggage data for flight segments in the same itinerary that were operated by different carriers; and (2) whether the mishandled baggage reporting requirement applies to bags transported on domestic segments of international itineraries.

Purely Domestic Itineraries with Multiple Operating Carriers

Under the mishandled baggage reporting requirements set forth in 14 CFR 234.6(b), for air transportation taking place on or after January 1, 2019, reporting carriers must submit to the Department, on a monthly basis, (1) the total number of bags enplaned, including gate-checked bags, valet bags, and interline bags enplaned in the cargo compartment for any domestic nonstop scheduled passenger flight operated by the carrier to or from a reportable airport; and (2) the total number of mishandled bags, as reported by or on behalf of passengers, that were mishandled while in the carrier's custody, including gate-checked bags, valet bags, and interlined bags and wheelchairs and scooters, for any domestic nonstop scheduled passenger flight operated by the carrier to or from a reportable airport. Reporting carriers must also report this information for any domestic nonstop scheduled flight marketed under only one U.S. carrier's (the reporting carrier's) designator code and operated by its codeshare partner to or from a reportable airport.

Airlines have pointed out to the Department challenges affecting their ability to effectively determine where and by whom a bag is mishandled when the bag belongs to a passenger who is traveling on an itinerary that contains multiple domestic flight segments operated by different carriers. These airlines stress that there are numerous complexities with reporting the number of actual mishandled bags when the bags pass through the custody of more than one carrier. The Department is concerned that these complexities may affect the ability of the carriers to report accurate data and has decided to address this issue in a future rulemaking, *Reporting of Data for Mishandled Baggage and Wheelchairs and Scooters in Aircraft Cargo Compartments II* (RIN: 2105-AE77). Our goal is for the mishandled baggage reporting requirements to be straightforward, clear, and designed to minimize burdens while effectively achieving its consumer protection objectives.

In the interim, when reporting mishandled bags data for domestic itineraries with multiple operating carriers on a single ticket, the Enforcement Office considers all carriers involved in the itinerary to be in compliance with the rule if:

- (1) the carriers accurately determine which carrier mishandled a bag while the bag was in its custody, and that carrier reports the mishandling to the Department; OR

- (2) the carriers, for bags other than valet bags,³ do not determine where or by whom a bag was mishandled, but the carriers agree to have the carrier that operated the last flight segment report the mishandling to the Department,⁴ if that carrier is a reporting carrier, and that carrier accurately reports in this manner to the Department.⁵⁶

Domestic Segments of International Itineraries

For air transportation taking place on or after January 1, 2019, the mishandled baggage reporting rule requires airlines to report to the Department on a “domestic system basis” mishandled baggage data for “any domestic nonstop scheduled passenger flight” to or from a reportable airport. See 14 CFR 234.6(b). Airlines assert that there are significant technical challenges to report mishandled baggage data for bags transported on domestic segments of international itineraries. Specifically, carriers state that when a passenger files a mishandled baggage claim upon concluding his or her international journey, it is often difficult for airlines to determine where the mishandling occurred and whether it occurred on a reportable domestic segment or a non-reportable international segment. Some airlines also contend that they do not view the rule as requiring them to provide mishandled baggage data for bags transported on domestic segments of international itineraries. These airlines note that they currently exclude, from their reports to the Department, mishandled baggage data for domestic segments of international itineraries.

Because the topic of including or excluding mishandled baggage data for bags transported on domestic segments of international itineraries was not specifically discussed in the preamble of the notice of proposed rulemakings, and this issue was also not raised during the notice and comment periods, the Department did not fully examine this issue in the November 2016 final rules. The Department plans to study this matter further and seek comment on it in the new rulemaking

³ Since valet bags are returned to the passenger by the carrier that accepted the bag, carriers choosing this option must report the actual mishandling of a valet bag.

⁴ This methodology is consistent with principles of International Air Transport Association’s (IATA) Resolution 780, which is a mandatory practice for all IATA member airlines and is applicable to interline arrangements. See: <http://www.iata.org/whatwedo/ops-infra/baggage/Pages/standards.aspx>. Under IATA resolution 780, the carrier that operates the last flight segments generally accepts a mishandled baggage claim as reported by the passenger. DOT defines a mishandled checked bag as a checked bag that is lost, delayed, damaged, or pilfered, as reported to a carrier by or on behalf of a passenger. 14 CFR 234.2.

⁵ If the last segment was operated by a non-reporting carrier, that carrier would not be required to submit a mishandled baggage report to the Department. However, if the last flight segment is marketed under only one U.S. carrier’s code and that U.S. carrier is a reporting carrier, then that reporting carrier must include the mishandled bag data in the separate code-share report that it submits to the Department. See 14 CFR 234.6 (b).

⁶ If a reporting carrier has an interline agreement with carriers 1 through 8 and only carriers 1 through 5 agree to use the method described in (2), the reporting carrier can use the method described in (2) to report mishandled baggage data for itineraries involving only carriers 1 through 5 and the method described in (1) for itineraries involving any of the carriers 6 through 8.

proceeding that it has decided to undertake. This rulemaking proceeding would enable the Department to have a better understanding of the implementation challenges raised by the airlines and how this could impact the accuracy of the data reported to the Department.

Pending conclusion of the rulemaking considering this issue, the Enforcement Office will consider a reporting carrier to be in compliance with the rule if:

- (1) the carrier accurately determines whether a bag (including a gate-checked bag or a valet bag) was mishandled on a domestic segment of an international itinerary, and reports to the Department if that is the case⁷; OR
- (2) the carrier accurately excludes, from the data submitted to the Department, the number of mishandled bags as reported by passengers traveling on international itineraries with domestic segments (other than mishandled valet bags on domestic segments) and the carrier also accurately excludes, from the data submitted to the Department, the number of bags enplaned into the aircraft cargo on domestic segments of international itineraries (other than valet bags transported on domestic segments).⁸ Valet bags belonging to passengers who are traveling on domestic segments of international itineraries must be included in the total number of bags enplaned and, if mishandled, in the total number of mishandled bags. Passengers drop off and pick up these bags at the end of the loading bridge or on the tarmac near the aircraft for a domestic flight, so it is clear if the bags were mishandled in the United States.

Section 441 of the FAA Reauthorization Act of 2018

Section 441 of the FAA Reauthorization Act of 2018 provides that the compliance date for the November 2, 2016 final rule shall be effective not later than 60 days after enactment of the Act, which is December 4, 2018. Accordingly, airlines determined by OAI as accounting for at least 1 percent of domestic scheduled-passenger revenues for calendar year 2018 must submit mishandled baggage data to the Department using the new mishandled baggage methodology and must separately report statistics for mishandled wheelchairs and scooters for domestic scheduled flights

⁷ It is not appropriate for carriers to report mishandled baggage data for domestic segments of international itineraries based on the carrier that operated the last flight segment. Unlike for an itinerary of only domestic segments, if a carrier uses this approach for domestic segments of international flights, the carrier would, at times, be reporting mishandled bags that occurred on non-reportable segments that are outside the scope of the rule.

⁸ An acceptable method for a carrier to exclude checked bags enplaned on domestic segments of international itineraries from the total number of bags enplaned is to take the carrier's monthly total number of bags enplaned and remove from it the monthly total number of bags associated with a passenger name record that includes a segment departing from or landing in a location outside the United States.

they operated beginning December 4, 2018 and through December 31, 2018. On October 26, 2018, the Enforcement Office provided guidance on how carriers should report data to the Department for flights operated between December 4, 2018 and December 31, 2018.⁹ The Enforcement Office will consider a 2018 reporting carrier to be in compliance with the November 2, 2016 rule if it reports the total number of mishandled bags and total number of bags enplaned for domestic scheduled passenger flights it operates between December 4 and December 31, 2018 using the reporting methods described above in this Notice for purely domestic itineraries with multiple operating carriers and domestic segments of international itineraries.

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

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⁹ As explained in the Enforcement Notification, 83 FR 53991 (October 26, 2018), 2018 reporting carriers for mishandled baggage must submit mishandled baggage data to the Department using the new mishandled baggage methodology (mishandled bags and bags enplaned) and must separately report statistics for mishandled wheelchairs and scooters for domestic scheduled flights they operate beginning December 4, 2018 and through December 31, 2018. The Enforcement Notification also explains that if a 2018 reporting carrier is unable to report accurate data on the total number of mishandled bags and enplaned bags for the entire reportable period beginning December 4, 2018, and ending December 31, 2018, the Enforcement Office will exercise enforcement discretion as appropriate. However, the Enforcement Office expects these airlines to accurately report the total number of mishandled wheelchairs and scooters and total number of wheelchairs and scooters enplaned during this period.