

other things, the terms and conditions of when refunds will be paid and what rights the passenger has if there is a major change in the itinerary of the charter. A charter operator must also file a charter prospectus with the Department certifying that all of these safeguards are in place prior to being authorized to advertise the Public Charter flights.

In addition, section 212.7 of the Department's regulations, which governs the operation of charter flights by carriers holding certificates of public convenience and necessity, allows the operation of "direct sale" charters under Part 380 by those carriers, with certain modifications as set forth in section 212.7. This means that the air carrier can sell individual seats directly to the public on charter flights that it operates as long as it meets the financial security and consumer protection requirements of Part 380, as modified in section 212.7

Once the Public Charter requirements have been met, such flights may be advertised and sold to the public. Advertisements are required to disclose that this is a Public Charter flight, and are required to identify the name of the direct air carrier and indicate that passengers must sign a Charter Operator-Participant contract at the time of purchase of the seats. There are no advance purchase requirements, and seats may be sold on a one-way or round-trip basis, with or without a ground package. In addition, Part 380 places *no restrictions* on the number or frequency of charter flights that may be operated under that part in any city-pair market. As a result, some Public Charter flights are operated on a regular and frequent basis, in some instances resembling [robust](#) scheduled [airline](#) service more than on-demand-type charter service. While the public would perceive the same FAA operational rules and safety oversight would apply to all carriers offering scheduled service this is not the case. The DOT regulations and related FAA regulations actually promote a secondary level of safety as well as a very uneven competitive playing field.

Under Part 380, air taxi operators (those that hold authority under Part 298 of the Department's regulations to conduct on-demand and limited scheduled service) are authorized to conduct Public Charter flights as direct air carriers. Air taxi operators are not subject to the Department's "fitness" requirements as long as they do not operate scheduled flights with a frequency of five or more round trips per week in any one market. In those instances where an air taxi operator has served as the direct air carrier on Public Charter flights, and when the frequency of the Public Charter flights has exceeded four round trips a week in one market, the Department has required the carrier to file for a fitness determination. This is because, unlike certificated scheduled or charter carriers or commuter air carriers, air taxi operators have not undergone any fitness determination. Permitting air taxis to exceed four round trips per week in a given market pursuant to a published schedule, even if the schedule is that of the charter operator, would undermine the integrity of the Department's fitness program. More importantly, some charter operators have proposed linking several on demand or supplemental operators to fly a very large robust schedule without meeting the operational or safety requirements that the public assumes of scheduled air carriers.

Under Parts 135 and 121 of the Federal Aviation Regulations (FARs), scheduled operations are subject to different requirements than are charter/supplemental operations.

Section 119.3 of the FARs defines “scheduled operation” as “any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator for which the certificate holder or its representative offers in advance the departure location, departure time, and arrival location. ***It does not include any passenger-carrying operation that is conducted as a public charter operation under part 380 of this title.***” [emphasis added]

Since Public Charter flights **are** indistinguishable from a safety perspective from scheduled operations, should **not** the same safety rules apply?

It appears illogical **that** the DOT and the FAA call for a single level of safety, equal playing field and public trust on one hand, but endorse and permit what is to the general public a scheduled operation to be conducted under different DOT regulations and 4 different FAA operating regulations. These regulations allow the same scheduled service (as perceived by the public) to be conducted under a highly organized, highly regulated organization that is under constant FAA surveillance (Part 121 Domestic and Flag Air Carrier) as well as a small, much less structured, much less regulated entity that has very little FAA surveillance (on demand air operator) with Part 121 Supplemental Carriers and Part 135 Commuter Carriers somewhere in the middle.

It is the position of the Airline Dispatchers Federation that any air travel service that is, or appears to the public to be scheduled service, be conducted under the operational rules of Part 121 Flag or Domestic Regulations or Part 135 Commuter Regulations (based on number of seats) in order to provide a public trust in a true single level of safety.

(The ADF acknowledges and appreciates the explanations and discussion provided by DOT and other representatives to the FAA 125/135 ARC some of which is included above.)

Respectfully submitted,

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