Southern Airways Express

Citizens,

This document contains four parts and is intended to answer your questions and ease your concerns about Southern Airways Express.

- A modified presentation given to the Airport Advisory Board. The modifications were made to answer questions posed by the Board members and to provide explanations made during the presentation.
- The applicable table from the FAA Flight Standards District Office Information Management System, Doc 8100.1, for SCHEDULED operators.

 The Section of the U.S. Code, 49 USC § 41104, that applies when a Scheduled Charter operator has more than 9 passenger seats.
- A memorandum from Mr. Larry Foster, Communications Director for PDK Watch, that does a very good job of putting a complex subject into understandable terms.

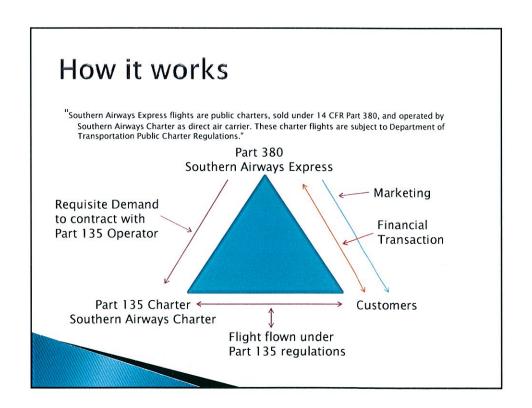
If you have additional questions please send them to PDKcomments@dekalbcountyga.gov and we will publish the answers as quickly as possible.

Sincerely, Mike Van Wie, A.A.E. Airport Director

Southern Airways **Express**

Definitions 14 CFR

- Part 121 Air Carrier Certification
 - The rules that cover Delta, Southwest, AirTran etc.
- Part 135 Operating Requirements for Commuter and On Demand Operations
 - The rules that cover scheduled and on demand Charter operations.
- Part 139 Airport Certification
 - The rules that determine which airports are eligible to serve Part 121 Air Carriers.
- Part 380 Public Charter
 - The rules that cover Southern Airways Express



Limitations – From FAA Flight Standards Information Management System – Doc 8100.1

- No jets, turboprops or piston only.
- No more than 4 Round Trips per week per destination
- No more than 9 seats
 - More than 9 seats must use Part 139 airport (49 USC § 41104)
- Maximum Payload of aircraft 7,500 lbs.

Aircraft - Cessna Caravan EX

- Max Weight 8,842 lbs.
- Passenger Seats as configured by Southern Airways Express – 9.
- Max Payload 3,567 lbs.
- Take-off roll 2,160 ft.



Why Not just say No?

- We can't legally deny a Part 135 operator access when we allow other Part 135 operators just be cause we don't like the way they operate their within regulation business.
- Other Part 135 operators at PDK
 - EPPS Charter
 - Netlets
 - Flight Options
 - Imagine Air
 - Lynx Air
 - Premier jets
- The FAA would find us in violation of the nondiscrimination clause of our grant assurances.

Most Common Question

- How do we know that this isn't the foot-in-thedoor for big scheduled airlines?
 - From slide two we know that a Part 121 operator is required to use Part 139 certified airports. For PDK to obtain a Part 139 certificate would require numerous physical changes including but not limited to:
 - 1000 foot safety areas at each end of our main runway. This would require rerouting Dresden Drive and Chamblee Tucker Roads.
 - Construct a common terminal building.
 - Conduct and extensive environmental study (with public participation) in accordance with NEPA regulations.

D. Exemption Authority. A company may also provide certain operations pursuant to exemption authority from the DOT. Generally, exemption authority is issued only to companies which already hold some type of section 41102 certificate authority from DOT and wish to provide operations outside of the authority granted by that certificate. Evidence of exemption authority may consist merely of a DOT confirmation of oral action taken, or it may take the form of a DOT order or written notice granting such authority.

NOTE: If an inspector is unsure of the type of operations authorized by the registration, certificate, or exemption evidence presented by an air carrier, he/she should contact DOT's Air Carrier Fitness Division at (202) 366-9721 to confirm the authority held.

- E. DOT Queries. DOT staff, in support of DOT fitness determinations, may occasionally query field inspectors concerning accident, incident and enforcement histories and qualifications of an applicant or an applicant's management personnel. Other than responding to these queries, a field inspector should not be involved in an applicant's efforts to obtain DOT economic authority. It is solely the responsibility of an applicant to obtain DOT economic authority. Field inspectors, however, shall not issue an FAA air carrier certificate unless an applicant can show proof that appropriate DOT economic authority has been obtained.
- F. Additional Information. For more information, go to the OST website: http://ostpxweb.ost.dot.gov/aviation/certific/Certificated%20packet2.pdf.

Table 2-4, Certification

TYPE OF CERTIFICATE	SEATING CAPACITY PAYLOAD CAPACITY	14 CFR OPERATING PART	KIND OF OPERATION
AIR CARRIER CERTIFICATE	Scheduled Operations (common carriage passenger operation; departure, location, and time and arrival location offered in advance by the operator)		
Common Carriage (holding out to transport persons or property for compensation or hire) • Interstate, or • Foreign, or • Overseas, or • Carriage of mail	 Turbojets, or Multi-engine airplanes with 10 or more passenger seats, OR more than 7,500 pounds payload capacity Within or between 48 contiguous states, entirely within a state, territory, or possession, or special authorizations 	121	Domestic
	Turbojets, or	121	Flag

	 Multi-engine airplanes with 10 or more passenger seats, OR more than 7,500 pounds payload capacity Entirely outside U.S., take-off or landing outside 48 contiguous states, or between Alaska, Hawaii, territories, and outside U.S. Airplanes with 9 or fewer 	135	Commuter	
	passenger seats AND 7,500 lbs. or less payload capacity, or any rotorcraft	155	Communica	
AIR CARRIER	• Airplanes, other than turbojets, with 9 or fewer passenger seats AND 7,500 pounds or less payload capacity, or any rotorcraft used in scheduled passenger-carrying operations with a frequency less than 5 round trips per week on at least one route between two or more points according to the published flight schedules	135	On-demand	
CERTIFICATE (continued)	Nonscheduled Operations (negotiated departure time, departure location, and arrival location; or all-cargo; or part 380 public charter)			
	• Passenger operations with multi-engine airplanes more than 30 passenger seats OR more than 7,500 pounds payload capacity NOTE: A multi-engine airplane with 10 to 30 seats or a turbojet listed in OpSpecs for part 121 domestic or flag operations must be operated under part 121 supplemental for on-demand operations	121	Supplemental	
	• Passenger operations with airplanes 30 or fewer passenger seats AND 7,500 pounds or less payload capacity, or any rotorcraft NOTE: A multi-engine airplane with 10 to 30 seats or a turbojet that is listed in OpSpecs for	135	On-demand	

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USC > Title 49 > Subtitle VII > Part A > Subpart ii > Chapter 411 > § 41104

49 USC § 41104 - Additional limitations and requirements of charter air carriers

US Code Notes Updates Authorities (CFR)

Current through Pub. L. 113-21. (See Public Laws for the current Congress.)

(a) Restrictions.— The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section <u>41102</u> of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) Scheduled Operations. -

(1) In general.— Except as provided in paragraphs (3) and (4), an air carrier, including an indirect air carrier, may not provide, in aircraft designed for more than 9 passenger seats, regularly scheduled charter air transportation, for which the public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flight, to or from an airport that—

(A)does not have an airport operating certificate issued under part 139 of title 14. Code of Federal Regulations (or any subsequent similar regulation), or

(B)has an airport operating certificate issued under part 139 of title $\underline{14}$, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

(i) is a reliever airport (as defined in section $\frac{47102}{}$) and is designated as such in the national plan of integrated airports maintained under section $\frac{47103}{}$; and

(ii)is located within 20 nauti cal miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.

- (2) Definition.— In this paragraph, the term "regularly scheduled charter air transportation" does not include operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.
- (3) Exception.— This subsection does not apply to any airport in the State of Alaska or to any airport outside the United States.
- (4) Waivers.— The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.
- (c) Alaska.— An air carrier holding a certificate issued under section <u>41102</u> of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section <u>41102</u> to a citizen of the United States who, before July 1, 1977—

(1)maintained a principal place of business in Alaska; and

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(2)conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(d) Suspensions.—

(1)The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2)The Secretary shall be gin Immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

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Southern Airways Express Begins Scheduled Service at PDK Airport

Many of you may have been concerned to learn that Southern Airways Express (SAE) plans to begin operating four regularly scheduled round-trip chartered flights per day connecting Memphis to PDK Airport and other Southern cities, beginning September 9.

This announcement came as a surprise not only to PDK Watch but also to PDK Airport administrators who found out about it when the operator informed them of it after the plans had already been made. SAE will operate out of one of the fixed-base operators already at PDK, Atlantic.

Southern Airways Express sells tickets as a public charter under Federal Aviation Administration (FAA) regulation, Part 380 (14 CFR 380). Its planes are operated by Southern Airways Charter (SAC), which is a certified commuter and on-demand charter flight provider licensed by the FAA to conduct scheduled flights under 14 CFR 135.

Scheduled Part 135 carriers are limited to flying "airplanes, other than turbojets," with 9 or fewer passenger seats, and 7,500 pounds or less payload capacity, or any rotocraft used in scheduled passenger-carrying operations with a frequency less than 5 round trips per week on at least one route between two or more points according to the published flight schedules." SAE intends to use Cessna Caravans configured with 9 passenger seats. More information on the aircraft can be found at http://www.cessna.com/caravan.

It is our understanding that a Part 135 carrier is not permitted to sell tickets, but a Part 380 public charter can do so. Southern Airways Express is claiming a combination of Part 380 ticket selling by Southern Airways Express (SAE) with Part 135 scheduled operations by Southern Airways Charter (SAC), and that is its business model.

Because the operations are not contrary to law as far as is currently known, SAE was not required to seek approval from the FAA, PDK Airport, or DeKalb County. It is our understanding that a community group, Open DeKalb, Inc., is preparing a request for information to be submitted to the FAA.

Please note that this FAA decision did not require or seek prior approval from PDK Airport or DeKalb County, and it is apparently beyond their authority to accept or reject it.

What are the implications of this particular arrangement with SAE for the possibility of other regularly scheduled flights using PDK Airport in the future?

PDK is not certified to handle jet passenger airlines. That regulation is Part 139. To become a Part 139 facility would require 1000-foot safety zones on BOTH ends of PDK's longest runway; 500-foot safety zones on either side; and a common terminal.

SAE's aircraft are not heavier than the Airport's current weight limit, but the concern is increased traffic and congestion--both car and air, in and around the Airport. If the FAA has sanctioned this type of activity at PDK, then there may be no means of stopping it, even if it is a threat to the quality of life in the community.

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