

§ 323.5

14 CFR Ch. II (1-1-06 Edition)

§ 323.5 Time for filing notices.

(a) Except as specified by paragraph (b) of this section, a notice required by § 323.3 shall be filed at least:

(1) 90 days before the intended termination, suspension, or reduction, if it is filed by a certificated carrier or by an uncertificated carrier receiving compensation under 49 U.S.C. 41731-41742 for service to the place;

(2) 30 days before the intended termination, suspension, or reduction, if it is filed by an uncertificated carrier not receiving compensation under section 419 of the Act for service to the place.

(b) The notice required by § 323.3(a)(3) shall be filed at least 30 days, and the notice required by § 323.3(a)(1) shall be filed at least 60 days, before the intended termination or suspension.

[Docket No. 82, 50 FR 2430, Jan. 16, 1985, as amended by Doc. No. OST-96-1269, 61 FR 19165, 19166, May 1, 1996]

§ 323.6 General requirements for notices.

(a) Each notice filed under this part shall, unless otherwise specified, conform to the procedural rules of general applicability in subpart A of part 302 of this chapter.

(b) Each notice filed under this part shall be titled to indicate the place(s) involved, and to indicate whether it is a 30-, 60-, or 90-day notice and whether it involves a termination, a suspension, or a reduction of air transportation.

[Docket No. 82, 50 FR 2430, Jan. 16, 1985, as amended by Doc. No. OST-96-1269, 61 FR 19166, May 1, 1996]

§ 323.7 Service of notices.

(a) A copy of each notice required by § 323.3 shall be served upon:

(1) The chief executive of the principal city or other unit of local government at the affected place. The principal city is the one named, or previously named, in the section 41102 certificate by virtue of which the place qualifies as an eligible place. For places in Alaska or Hawaii that are designated as eligible places without having been listed on a section 41102 certificate, the principal city is the most populous municipality at the place.

(2) [Reserved]

(3) The State agency with jurisdiction over transportation by air in the State containing any community required to be served under paragraph (a)(1) of this section. If there is no such State agency, the notice shall be sent to the governor of that State.

(4) The manager of, or other individual with direct supervision over and responsibility for, the airport at any community required to be served under paragraph (a)(1) of this section.

(5) The Postmaster General (marked for the attention of the Assistant General Counsel, Transportation), if the carrier filing the notice is authorized to transport United States mail to or from any community required to be served under paragraph (a)(1) of this section.

(6) Each air carrier providing scheduled service to a non-hub or FAA-designated small hub that is directly affected by the notice.

(7) The DOT Regional Office for the region in which the affected point is located.

(8) Any other person designated by DOT.

(b) [Reserved]

(c) Local communities, State agencies, and airport managers shall be served personally or by registered or certificated mail. All other persons may be served by ordinary mail.

[Docket No. 82, 50 FR 2430, Jan. 16, 1985, as amended by Doc. No. OST-96-1269, 61 FR 19166, May 1, 1996]

§ 323.8 Exemptions.

Carriers are exempted from paragraphs (a)(1), (a)(3), and (a)(5) of § 323.3 to the extent that those provisions require them to file a notice when terminating or suspending the domestic leg of an international flight (fill-up service).

[Doc. No. OST-96-1269, 61 FR 19166, May 1, 1996]

§ 323.9 Objections to notices.

(a) Any person may file an objection requesting DOT to prohibit any termination, suspension, or reduction of air transportation to an eligible place that is the subject of a notice filed under this part.

(b) Objections shall contain:

(1) Identification of the objector, including address and telephone number.

(2) A statement of DOT action requested.

(3) The schedules, routes, carriers, and aircraft types for all air transportation to the affected place other than that proposed to be terminated, suspended, or reduced.

(4) A suggested reasonable level of essential air service to the affected place.

(5) [Reserved]

(6) A justification of the suggested level of essential air service.

(7) Proof of service on the carrier filing the notice objected to, on all airport managers and State and local governments on whom the notice was filed, and any other person designated by DOT. The proof of service shall include the names of all carriers served and the names and addresses of all other persons served.

(c) Objectors are strongly urged to include in their objections facts to support the suggested level of essential air service (e.g., traffic and enplanement data, other market studies, facts descriptive of the place's isolation or dependence on air transportation).

(Approved by the Office of Management and Budget under control number 3024-0030)

[Docket No. 82, 50 FR 2430, Jan. 16, 1985, as amended by Doc. No. OST-96-1269, 61 FR 19165, 19166, May 1, 1996]

§ 323.10 Time for filing objections.

(a) Objections shall be filed not later than:

(1) 12 days from the date of filing of a 30-day notice;

(2) 15 days from the date of filing of a 60-day notice; or

(3) 20 days from the date of filing of a 90-day notice.

(b) The Department may accept late-filed objections, upon motion, for good cause shown.

(c) Whenever a notice has been filed earlier than required under § 323.5, the Department may extend the time for filing an objection to that notice.

§ 323.11 Answers to objections.

(a) Any person may file an answer to an objection filed under this part.

(b) An answer must be filed not later than 7 business days after the filing of the objection to which it responds.

Late-filed answers may be allowed, and extensions of filing time granted, by the Department for the same reasons as for objections.

(c) An answer may contain the same type of facts and discussion permitted for objections under this part, and must contain:

(1) Proof of service on the objector, on all persons on whom the objection was required to be served, and on any other person designated by the Department. The proof of service shall include the names and addresses of all persons served.

(2) Identification of the answering party, including address and telephone number.

(Approved by the Office of Management and Budget under control number 3024-0030)

§ 323.12 General requirements for objections and answers.

(a) Each objection and answer filed under this part shall, unless otherwise specified, conform to the procedural rules of general applicability in subpart A of part 302 of this chapter.

(b) Each objection shall be titled "Objection to Termination, Suspension, or Reduction of Air Service," and shall identify the notice to which it responds. Each answer shall be titled "Answer to Objection to Termination, Suspension, or Reduction of Air Service," and shall identify the objection to which it responds.

§ 323.13 DOT actions.

(a) If an objection has been filed under this part, DOT will dispose of the objection by order.

(b) If no objection has been filed within the time allowed by § 323.10(a), DOT may:

(1) By order prohibit a termination, suspension, or reduction that reasonably appears to deprive any eligible place of essential air transportation;

(2) Issue a notice or a final order that it will take no action on a notice filed under § 323.3; or

(3) Take no action.

[Docket No. 82, 50 FR 2430, Jan. 16, 1985, as amended by Doc. No. OST-96-1269, 61 FR 19166, May 1, 1996]