

LEXINGTON ALARM

The 60-Seat Restriction at Hanscom Field

Legal Authority, Current Operations, and
Enforcement Mechanisms

740 CMR 25.03

"No person, including an air carrier or a foreign air carrier, shall conduct at Hanscom an operation in commercial air passenger service in an aircraft with a seating capacity of greater than 60 seats."

Research Document

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*This document presents factual findings based on publicly available information.
It does not constitute legal advice.*

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PART I: SUMMARY

Executive Summary

Massport has clear legal authority to stop ICE charter flights at Hanscom Field. It has chosen not to use it.

The Facts

In 2025, ICE conducted **126 charter flights** from Hanscom Field, transporting an estimated **6,237 detainees** to detention centers and deportation hubs across the country. These flights used Boeing 737 and Airbus A320 aircraft with **150-200 seats**—two to three times the legal limit.

The Law

Massachusetts regulation 740 CMR 25.03 prohibits "commercial air passenger service" at Hanscom using aircraft with more than 60 seats. Penalty: **\$2,000 per flight**. This regulation has been in effect since 1980. Scheduled airlines have complied with it for **45 years**.

The Question

Does the 60-seat restriction apply to charter flights? The answer is yes.

The regulation prohibits "commercial air passenger service"—not "scheduled commercial service." ICE charter operators (GlobalX, Eastern Air Express, Avelo) are FAA-certificated commercial carriers, operating for compensation, transporting passengers by aircraft. They meet every element of the regulatory definition. No charter exemption appears in the text.

The Legal Protection

Because the 60-seat rule was adopted in 1980—a **full decade before** the Airport Noise and Capacity Act of 1990—it is "grandfathered" under federal law. This means:

- **No federal approval required** to enforce it
- **Federal preemption does not apply**
- **Stronger legal foundation** than any new restriction could achieve

No airport has ever obtained FAA approval for a new access restriction under Part 161. Hanscom's grandfather status is extraordinarily valuable—and Massport is squandering it.

What About Sports Teams?

The Celtics and Bruins combined conduct approximately **41 charter flights** per year from Hanscom, using aircraft with **68-72 seats**. ICE conducts **126+ flights** per year using aircraft with **150-200 seats**. The existing waiver authority (740 CMR 25.06) can easily distinguish between occasional seasonal sports travel and systematic year-round federal operations.

What Massport Should Do

1. **Enforce the regulation as written**
2. **Establish transparent waiver criteria** (annual caps, proximity to 60-seat threshold, frequency limits)
3. **Require FBO compliance** through lease conditions
4. **Document all waivers publicly**

This requires no new legislation. No amendment to existing rules. No discriminatory targeting.

It requires only that Massport do what the regulation has always required: restrict commercial air passenger service using aircraft over 60 seats.

Summary of Findings

This section summarizes the key factual and legal findings from this research. These findings establish that Massport has clear legal authority to enforce the 60-seat restriction, that current ICE charter operations appear to violate the regulation, and that enforcement mechanisms exist to address this situation without impacting occasional charter uses like sports team travel.

Overview

The research compiled in this document addresses a central question: Does Massport have the legal authority to enforce its 60-seat restriction against charter operations using large commercial aircraft? The findings below, organized by topic, demonstrate that the answer is yes.

Findings Regarding the Regulatory Framework

Finding 1: The 60-Seat Restriction Exists and Is Legally Valid

740 CMR 25.03 prohibits "commercial air passenger service" at Hanscom Field using aircraft with more than 60 seats. This regulation was adopted in 1980 under Massport's authority (St. 1956, c. 465), carries a penalty of \$2,000 per operation (740 CMR 25.99(2)), and has been consistently applied to scheduled commercial carriers who have used compliant aircraft for 45 years.

Finding 2: The Restriction Was Tested and Upheld in Federal Court

The 1987-1989 litigation challenging the regulation resulted in a favorable outcome for Massport. When BCAS/People Express attempted to challenge the restriction, the case was dismissed without invalidating the regulation. This precedent confirms Massport's proprietor authority to maintain differentiated rules for Hanscom.

Finding 3: The Restriction Is Grandfathered Under Federal Law

Because 740 CMR 25.03 was adopted in 1980—a full decade before the Airport Noise and Capacity Act of 1990 (ANCA)—it qualifies for grandfather protection under 49 U.S.C. § 47524(d). This means no FAA Part 161 approval is required for enforcement, federal preemption does not apply, and the restriction has a stronger legal foundation than any new restriction could achieve.

Finding 4: Airport Proprietor Authority Supports the Restriction

Under established case law (*Santa Monica Airport Ass'n v. City of Santa Monica*, *City of Burbank v. Lockheed Air Terminal*), airport proprietors may impose restrictions that are reasonable, non-discriminatory, and not unduly burdensome on commerce. The 60-seat restriction meets all three criteria.

Findings Regarding Current Operations

Finding 5: ICE Charter Flights Use Aircraft Far Exceeding the Limit

Documentation from 2025 shows ICE deportation flights from Hanscom using Airbus A320/A321 aircraft (150-220 seats) and Boeing 737 variants (137-189 seats). These aircraft exceed the 60-seat limit by factors of 2.3x to 3.7x. All 126 documented flights used aircraft exceeding the regulatory threshold.

Finding 6: ICE Flight Frequency Has Increased Substantially

126 ICE flights departed Hanscom in 2025, with peak activity in September (27 flights). This represents a substantial increase from prior years. Operations are systematic and recurring, occurring 2-3 times weekly on a year-round basis.

Finding 7: ICE Charter Operators Are FAA-Certificated Commercial Carriers

The operators conducting ICE flights (GlobalX, Eastern Air Express, Avelo Airlines) are Part 121 certificated air carriers, classified as "commercial operators" under federal law, and subject to the same safety standards as major scheduled airlines.

Findings Regarding Regulatory Interpretation

Finding 8: The Regulation's Plain Language Covers Charter Operations

740 CMR 25.03 prohibits "commercial air passenger service"—not "scheduled commercial service." Under federal aviation definitions, Part 121 supplemental (charter) carriers meet all elements of this phrase: they operate for compensation (commercial), by aircraft (air), transporting persons (passenger), as a service. No charter exemption appears in the regulatory text.

Finding 9: A Discrepancy Exists in How the Rule Has Been Described

The actual regulatory language ("commercial air passenger service") is broader than how the rule is sometimes described. The Massport website uses "air carrier services," while secondary sources often say "scheduled commercial operations." This mischaracterization may have contributed to confusion about the regulation's scope.

Finding 10: No Public Documentation of Massport's Interpretation Exists

Available public information does not include a formal Massport legal opinion interpreting the regulation, written policy explaining differential treatment of scheduled vs. charter operations, documentation of waivers granted under 740 CMR 25.06(1), or public explanation of the legal basis for current practices.

Findings Regarding Waiver Authority and Enforcement

Finding 11: The Waiver Criteria Are Narrowly Circumscribed

740 CMR 25.06(1) authorizes waivers only for needs that are unusual (not routine), non-recurrent (one-time), and cannot be accommodated elsewhere (no alternative airport). All three criteria must be satisfied. ICE charter operations—routine, recurring 2-3 times weekly, with Logan Airport 15 miles away—appear to fail all three criteria.

Finding 12: Objective Criteria Can Distinguish Sports from ICE Operations

As detailed in Section 9, sports team charters (41 combined annual operations, seasonal schedule, 68-72 seat aircraft) differ fundamentally from ICE operations (126+ annual flights, year-round weekly schedule, 150-200 seat aircraft). A transparent waiver process with objective criteria could accommodate genuine occasional uses while preventing de facto scheduled service.

Finding 13: Massport Has Established Precedent for Contractual Enforcement

The Massport Board has used resolutions to direct policy implementation through tenant agreements. The 2014/2019 minimum wage resolution required operators to meet wage standards as a condition of operating at Massport facilities. This same mechanism could require compliance with 740 CMR 25.03 through FBO lease conditions.

Conclusion

The Regulatory Framework: 740 CMR 25.03 is a valid, grandfathered restriction that Massport has clear legal authority to enforce.

The Current Situation: ICE charter flights routinely operate aircraft far exceeding the 60-seat limit, using the services of FAA-certificated commercial carriers. These operations are conducted at a frequency and scale that resembles scheduled commercial service.

The Interpretive Question: The regulation's plain language ("commercial air passenger service") appears to cover charter operations. Massport's formal interpretation, if any exists, is not publicly documented.

The Enforcement Path: Massport has mechanisms to enforce the regulation—through direct enforcement, FBO lease conditions, or Board policy direction. A lightweight, consistent approach using existing waiver authority can protect occasional sports team operations while ending routine weekly service by large commercial aircraft.

This requires no new legislation—only that Massport do what the regulation has always required.

This document presents research findings based on publicly available information and analysis of legal authorities. It does not constitute legal advice. Stakeholders considering action based on these findings should consult with qualified legal counsel. Questions for further inquiry and supporting documentation are provided in the Appendix.

Conclusions

The research compiled in this document leads to the following conclusions:

Massport has the legal authority to enforce the 60-seat restriction against ICE charter flights.

The regulation's plain language covers "commercial air passenger service" without a charter exemption. ICE's charter operators are FAA-certificated commercial carriers operating for compensation.

The restriction is protected from federal preemption.

As a grandfathered regulation predating ANCA by 10 years, no federal approval is required to enforce it. This is stronger legal protection than any new restriction could achieve.

Current ICE operations clearly violate the regulation.

All 126 flights in 2025 used aircraft with 150-200 seats—2.5 to 3.3 times the 60-seat limit. These operations are systematic and recurring, not occasional or unusual.

The waiver criteria do not support ICE operations.

Routine weekly flights using large aircraft, with Logan Airport 15 miles away, fail all three waiver requirements: unusual, non-recurrent, and no alternative.

Enforcement can protect occasional uses like sports team travel.

Objective waiver criteria based on frequency, seasonality, and proximity to the 60-seat threshold can readily distinguish 41 annual sports flights from 126+ annual ICE flights.

Massport has the enforcement mechanisms it needs.

Direct enforcement with \$2,000 penalties, FBO lease conditions, and Board resolutions provide multiple pathways. The 2019 minimum wage resolution demonstrates the contractual approach.

**The question is not whether Massport CAN enforce the 60-seat restriction.
The legal framework confirms that it can.**

The question is whether Massport will CHOOSE to enforce it.

Part II of this document provides the detailed legal analysis, historical context, and supporting documentation for these conclusions.

PART II: DETAILED DISCUSSION

The following sections provide the complete legal analysis, historical context, operational data, and supporting documentation underlying the findings and conclusions presented in Part I.

Section 1: Origin and Legal Basis of the 60-Seat Rule

Section 1 documents the adoption and structure of the 60-seat restriction, including the full regulatory text, related definitions, penalty provisions, and the authority under which Massport adopted these rules. Understanding the regulation's precise language is essential for evaluating its application to current operations.

1.1 Adoption of the Restriction

In 1980, the Massachusetts Port Authority (Massport) adopted regulations for Laurence G. Hanscom Field that included restrictions on commercial air passenger service. These regulations were codified as Part F of the General Rules and Regulations for Laurence G. Hanscom Field, now found at 740 CMR 25.00.

Massport has described the purpose of these restrictions:

"Hanscom is a general aviation reliever airport. Several regulations are in place to prevent it from becoming a commercial passenger airport like Logan."

1.2 The Regulation: Full Text of 740 CMR 25.03

The complete text of 740 CMR 25.03 states:

"No person, including an air carrier or a foreign air carrier, shall conduct at Hanscom an operation in commercial air passenger service in an aircraft with a seating capacity of greater than 60 seats."

Analytical breakdown:

Element	Language	Significance
Scope	"No person, including an air carrier or a foreign air carrier"	Applies to all operators, not just scheduled airlines
Carrier inclusion	"including an air carrier"	Explicitly covers certificated carriers
Covered activity	"commercial air passenger service"	Broader than "scheduled service"
Threshold	"seating capacity of greater than 60 seats"	Based on aircraft capacity, not passengers carried

1.3 Related Definitions from 740 CMR 25.01

740 CMR 25.01 provides definitions applicable to the 60-seat restriction:

- **Aircraft:** "Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, excluding publicly-owned aircraft operated in the service of any government."
- **Operation:** "A landing or takeoff at Hanscom by an aircraft."
- **Operator:** "The person who causes or authorizes the operation of an aircraft, with or without the right of legal control, in the capacity of owner, lessee, or otherwise."

Critical Note on Military Exemption: The "Aircraft" definition excludes "publicly-owned aircraft operated in the service of any government." However, privately-owned aircraft operating under federal contracts (such as GlobalX or Omni Air conducting ICE flights) are NOT publicly-owned and therefore remain subject to the regulation.

1.4 Penalty Provisions

740 CMR 25.99 establishes penalties for violations:

Provision	Violation Type	Penalty
25.99(1)	General violations of 740 CMR 25.00	\$250 - \$350 per violation
25.99(2)	Violations of 25.03 (60-seat) or 25.04 (weight)	\$2,000 per violation

The significantly higher penalty for 60-seat violations (\$2,000 vs. \$250-350) indicates the importance attached to enforcing this particular restriction.

1.5 Regulatory Authority

740 CMR 25.00 was adopted under Massport's authority granted by St. 1956, c. 465 (the Massport Enabling Act), which provides broad authority to adopt rules and regulations for airports under its jurisdiction. This authority is supplemented by Massport's general proprietor authority as owner/operator of Hanscom.

1.6 Original Purpose of the Restriction

Based on available information, the 1980 restriction was adopted to:

1. Limit noise impacts on surrounding communities
2. Preserve Hanscom's character as a general aviation airport
3. Prevent development of Hanscom as a secondary commercial hub competing with Logan
4. Protect the historic Minute Man National Historical Park and residential areas

1.7 Regulatory Classification

The 60-seat restriction is classified as an "access restriction" under federal aviation law. As such, it falls within the scope of the Airport Noise and Capacity Act of 1990 (ANCA)—but because it was adopted in 1980, it qualifies for "grandfather" protection under 49 U.S.C. § 47524(d). This protection is discussed in detail in Section 4.

Section 2: Airport Proprietor Rights Under Federal Law

Aviation is heavily regulated at the federal level, yet airports are typically owned by local entities. This section explains the 'Airport Proprietor Exception'—the legal doctrine that allows Massport to impose reasonable, non-discriminatory restrictions at Hanscom Field despite federal aviation authority.

2.1 Overview: The Federal-Local Balance

The Federal Aviation Administration (FAA) has broad authority over airspace, aircraft certification, pilot licensing, and air traffic control. However, airports themselves are typically owned and operated by state or local entities—cities, counties, port authorities, or special districts.

This creates a fundamental tension: How much authority do local airport proprietors have to restrict operations at their facilities when aviation is a federal domain? The answer, developed through decades of case law, is that airport proprietors retain significant authority to impose reasonable, non-discriminatory restrictions—a doctrine known as the **Airport Proprietor Exception**.

2.2 The Foundation: City of Burbank v. Lockheed Air Terminal (1973)

The foundational case for understanding airport proprietor authority is *City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624 (1973).

Facts: The City of Burbank adopted an ordinance prohibiting jet aircraft takeoffs from Hollywood-Burbank Airport between 11:00 PM and 7:00 AM. The airport was privately owned by Lockheed.

Holding: The Supreme Court struck down the curfew, finding that federal law preempted local government regulation of aircraft noise through police power ordinances.

Critical Distinction: However, the Court explicitly left open the question of proprietor authority:

*"We are not here concerned with... what limits, if any, apply to a **municipality as a proprietor**."*

This dictum established that while a city cannot use its general police powers to regulate aviation, an airport **owner** acting as **proprietor** may have different authority.

Significance for Hanscom: Massport is not a municipality exercising police powers—it is the proprietor (owner and operator) of Hanscom Field. The Burbank decision therefore does not preclude Massport from adopting operational restrictions under its proprietor authority.

2.3 The Proprietor Exception Established: Santa Monica Airport (1981)

The leading case establishing the scope of airport proprietor authority is *Santa Monica Airport Association v. City of Santa Monica*, 659 F.2d 100 (9th Cir. 1981).

Facts: The City of Santa Monica, as proprietor of Santa Monica Airport, adopted various restrictions including a curfew (11:00 PM to 7:00 AM), noise limits, operational restrictions, and a ban on certain jet aircraft.

Holding: The Ninth Circuit upheld the city's authority to impose most restrictions, stating:

*"A municipal proprietor **may exercise control over airport noise** providing such control is exercised **reasonably, non-discriminatorily**, and without pointing a 'dagger at the heart of*

commerce."

What Was Upheld: Curfew on nighttime operations, noise limits, operational procedures for noise abatement.

What Was Struck Down: A categorical ban on all jet aircraft (found too broad/discriminatory).

2.4 Additional Precedents Supporting Proprietor Authority

National Aviation v. City of Hayward (N.D. Cal. 1976)

The court held that "Airport owners acting as proprietors **may deny aircraft access to the airport based on non-discriminatory noise considerations.**" This confirmed that outright denial of access (not just operational restrictions) can be valid if based on legitimate noise concerns.

British Airways Board v. Port Authority of New York (2d Cir. 1977)

The Second Circuit upheld proprietor-imposed restrictions at JFK Airport, recognizing that port authorities have legitimate interests in managing airport operations and community impacts. This case is particularly relevant because it involves a port authority (like Massport) rather than a municipality.

2.5 The Three-Part Test for Valid Proprietor Restrictions

Drawing from these precedents, courts evaluate airport proprietor restrictions under a three-part test:

Requirement	Description	Application to 740 CMR 25.03
Reasonable	Rationally related to legitimate airport management purpose	Limiting large aircraft at a GA reliever airport serves legitimate noise and planning purposes
Non-discriminatory	Applied equally to all similarly situated operators	The 60-seat limit applies to all commercial air passenger service regardless of operator
Not unduly burdensome	Cannot effectively close the airport or destroy its utility	Hanscom remains fully operational; operators can use smaller aircraft or Logan

2.6 Proprietor Authority vs. Police Power: The Critical Distinction

Characteristic	Police Power	Proprietor Authority
Source	General governmental authority	Ownership rights of the airport facility
Who exercises	Any level of government	Only the entity that owns/operates the airport
Federal preemption	Generally preempted in aviation	Generally NOT preempted
Burbank applicability	Subject to Burbank preemption	Exempt from Burbank preemption

Massport's Position: As the owner and operator of Hanscom Field, Massport exercises proprietor authority, not police power. Its restrictions therefore fall outside the Burbank preemption doctrine.

2.7 Limits on Proprietor Authority

Proprietor authority is not unlimited. Restrictions may be invalidated if they:

- **Violate FAA grant assurances** — Airports accepting AIP funds agree to provide reasonable access without unjust discrimination
- **Are pretextual** — Courts look beyond stated justifications if restrictions appear to target specific operators
- **Effectively close the airport** — Restrictions cannot eliminate the airport's utility
- **Violate constitutional protections** — Including equal protection and due process
- **Conflict with federal statutory requirements** — Including ANCA (discussed in Section 4)

2.8 FAA Grant Assurances

Airports accepting federal funds must comply with grant assurances under 49 U.S.C. § 47107. Grant Assurance 22 (Economic Nondiscrimination) requires airports be available for public use "on reasonable terms and without unjust discrimination."

Important: Grant assurances require "reasonable" and "non-discriminatory" access—they do not prohibit all restrictions. The FAA has confirmed that airport operators may prohibit or limit aeronautical activity "if such action is necessary for the safe and efficient operation of the airport and is applied objectively and without unjust discrimination."

2.9 Application to Hanscom Field

Hanscom Field's 60-seat restriction satisfies the requirements for valid proprietor authority:

Requirement	Analysis
Proprietor status	Massport owns and operates Hanscom Field under St. 1956, c. 465
Reasonable purpose	Limiting large commercial operations protects communities and preserves GA reliever role
Non-discriminatory	Applies to all commercial air passenger service regardless of operator
Not unduly burdensome	Hanscom remains operational; operators can use ≤60 seat aircraft or Logan
Pre-dates ANCA	Adopted 1980, grandfathered under 1990 ANCA (see Section 4)

2.10 Significance for Current Analysis

The airport proprietor doctrine establishes that Massport has inherent legal authority to restrict operations at Hanscom Field. The question is not whether Massport **can** impose such restrictions, but how it **has** chosen to interpret and enforce them.

Key findings:

1. Massport's 60-seat restriction is a valid exercise of proprietor authority
2. The restriction was properly adopted under Massport's enabling statute
3. Federal preemption doctrine (Burbank) does not apply to proprietor restrictions

4. The restriction must be applied reasonably and non-discriminatorily

Section 3: Litigation Antecedents Prior to ANCA

Prior to the Airport Noise and Capacity Act of 1990 (ANCA), Hanscom's restrictions faced legal challenge. The 1987-1989 litigation established important precedent regarding Massport's authority to maintain the 60-seat restriction.

3.1 The BCAS/People Express Challenge (1987-1989)

In 1987, Boston Commuter Air Service (BCAS), in partnership with People Express Airlines, sought to establish scheduled commercial service at Hanscom Field using aircraft exceeding the 60-seat limit. When Massport denied the application based on 740 CMR 25.03, the operators challenged the restriction in federal court.

Element	Detail
Case	Boston Commuter Air Service v. Massport
Court	U.S. District Court, District of Massachusetts
Year	1987-1989
Plaintiffs' claim	60-seat restriction violated federal aviation law
Massport's defense	Proprietor authority to manage airport operations
Outcome	Case dismissed; restriction upheld

3.2 Significance of the Outcome

The dismissal of the BCAS challenge established several important points:

1. Massport's proprietor authority to restrict operations at Hanscom was recognized
2. The 60-seat restriction was not invalidated by the court
3. The restriction remained in effect and enforceable
4. This pre-ANCA precedent strengthened Massport's position when ANCA was later enacted

3.3 Implications for Current Analysis

The 1987-1989 litigation is relevant to current enforcement questions because it demonstrates that the 60-seat restriction has been tested in court and survived challenge. When combined with the grandfather protection provided by ANCA (discussed in Section 4), this historical precedent further strengthens the legal foundation for enforcement.

The litigation also confirms that Massport has historically been willing to defend its restrictions against legal challenge—a posture that could inform its approach to current enforcement questions.

Section 4: ANCA and Grandfather Protections

The Airport Noise and Capacity Act of 1990 (ANCA) fundamentally changed the landscape for airport restrictions. After ANCA, new restrictions require FAA approval through a process no airport has ever successfully completed. But Hanscom's 60-seat rule, adopted in 1980, predates ANCA by a full decade—qualifying it for 'grandfather' protection that makes it immune from federal preemption challenges.

4.1 Overview: Why ANCA Matters

The Airport Noise and Capacity Act of 1990 (ANCA) fundamentally changed the landscape for airport noise and access restrictions. Understanding ANCA is essential because it determines whether airport restrictions face federal preemption—and critically, whether pre-existing restrictions like Hanscom's 60-seat rule are protected.

The key finding: Hanscom's 60-seat restriction was adopted in 1980, a full decade before ANCA's November 5, 1990 effective date. This timing provides the restriction with "grandfather" protection, making it immune from the federal approval requirements that would otherwise apply.

4.2 Historical Context: Why Congress Enacted ANCA

By the late 1980s, a patchwork of local airport restrictions had developed across the country. Different airports had different curfews, noise limits, and operational restrictions. Airlines faced an inconsistent regulatory environment that complicated route planning and fleet management. ANCA represented a compromise:

Airlines agreed to:

- Accelerated phase-out of older, noisier "Stage 2" aircraft
- Transition to quieter "Stage 3" aircraft fleet-wide

In exchange, airports agreed to:

- Severe limitations on adopting **new** noise and access restrictions
- A federal approval process (14 CFR Part 161) for any new mandatory restrictions

4.3 What ANCA Changed

ANCA, codified at 49 U.S.C. § 47524, established that:

- 1. New restrictions require federal approval** — After November 5, 1990, airports seeking to impose new mandatory noise or access restrictions must go through the FAA approval process under 14 CFR Part 161.
- 2. Part 161 approval is extremely difficult** — The airport must demonstrate that the proposed restriction meets six statutory conditions, including that it does not create an undue burden on interstate commerce and that the benefits outweigh the costs.
- 3. No airport has ever successfully obtained Part 161 approval** — The process is so stringent that no airport has successfully navigated it for a new mandatory restriction.

4.4 The Grandfather Provision: 49 U.S.C. § 47524(d)

ANCA did not invalidate existing restrictions. Section 47524(d) provides grandfather protection:

"An airport noise or access restriction in effect on November 5, 1990, shall not be required to be submitted for review under [Part 161]."

The November 5, 1990 date is the critical cutoff. Any restriction adopted before that date is "grandfathered" and protected from federal preemption challenges under ANCA.

4.5 Hanscom's 60-Seat Rule: Grandfathered Status

Factor	Hanscom's 60-Seat Rule
Date adopted	1980
ANCA cutoff date	November 5, 1990
Years before ANCA	10 years
Grandfather status	PROTECTED

Because 740 CMR 25.03 was adopted in 1980—a full decade before ANCA's effective date—it qualifies for grandfather protection. This means:

1. **No Part 161 approval required** — Massport does not need FAA approval to enforce the restriction
2. **Federal preemption does not apply** — The restriction cannot be challenged as preempted by federal law
3. **The restriction remains valid** — As long as it continues to be applied reasonably and non-discriminatorily

4.6 Amendments to Grandfathered Restrictions

ANCA addresses amendments to pre-existing restrictions at 49 U.S.C. § 47524(d)(4):

*"A subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, is **exempt from Part 161 requirements** if the amendment **does not reduce or limit aircraft operations** or affect aircraft safety."*

Interpretation: Airports can modify grandfathered restrictions without triggering Part 161, as long as the amendments don't further restrict operations. Relaxing or clarifying a restriction is permitted; tightening may trigger Part 161. For Hanscom, enforcing the existing 60-seat restriction as written does not require any new federal approval.

4.7 Precedents: Airports Successfully Defending Grandfathered Restrictions

John Wayne Airport (Orange County, California)

Restrictions (curfew, passenger caps, noise limits, flight limits) originally adopted in 1985, grandfathered under ANCA. The restrictions have been maintained and even extended through settlement agreements. In 2003 and 2014, the FAA confirmed that amendments maintaining the same framework remained ANCA-compliant. The current agreement extends through 2035. **Significance:** Demonstrates that grandfathered restrictions can be maintained long-term and even renewed without losing protected status.

Santa Monica Airport (California)

Restrictions (curfew, noise limits, weekend/holiday restrictions, runway length) predating ANCA, grandfathered. The City of Santa Monica successfully defended its restrictions against FAA challenges for decades. In 2017, the city reached an agreement with the FAA to shorten the runway and eventually close the airport in 2028—but on the city's terms, not because the restrictions were invalidated. **Significance:** Even in contentious disputes with the FAA, grandfathered restrictions provided a strong legal foundation.

4.8 The Part 161 Process: Why New Restrictions Are Nearly Impossible

For context on why grandfather status is so valuable, consider what airports face when trying to adopt **new** restrictions. 14 CFR Part 161 requires airports to demonstrate:

1. The restriction is reasonable, nonarbitrary, and nondiscriminatory
2. The restriction does not create an undue burden on interstate or foreign commerce
3. The restriction maintains safe and efficient use of navigable airspace
4. The restriction does not conflict with federal law
5. The applicant has provided adequate opportunity for public comment
6. The restriction does not create an undue burden on the national aviation system

The track record: As of 2026, **no airport has ever successfully obtained FAA approval** for a new mandatory noise or access restriction under Part 161. The process is designed to be extremely difficult, reflecting the airline industry's success in negotiating strong protections in the original ANCA compromise.

Implication for Hanscom: If Massport were trying to adopt a new 60-seat restriction today, it would face an essentially impossible approval process. The fact that the restriction predates ANCA by a decade makes it legally unassailable from a federal preemption standpoint.

4.9 Legal Significance for Current Enforcement

What Massport CAN Do:

- **Enforce the existing restriction as written** — No federal approval needed
- **Clarify the restriction's scope** — Interpretation of "commercial air passenger service" is within Massport's authority
- **Apply the restriction consistently** — To all operators meeting the criteria
- **Assess penalties for violations** — \$2,000 per operation under 740 CMR 25.99(2)

What Massport CANNOT Do Without Part 161:

- **Lower the seat threshold** — Changing from 60 seats to 50 seats would be a new restriction
- **Expand to new categories** — Adding restrictions on cargo or military operations would require Part 161
- **Impose new curfews or operational limits** — Beyond what's already grandfathered

What the Federal Government CANNOT Do:

- **Preempt the grandfathered restriction** — ANCA explicitly protects pre-1990 restrictions
- **Require Part 161 approval** — The restriction is exempt
- **Force Massport to accept operations violating the restriction** — Grandfather protection is a legal shield

4.10 Summary: The Strategic Importance of Grandfather Status

The grandfather provision transforms the legal landscape:

Without Grandfather Protection	With Grandfather Protection
New restrictions face Part 161	Existing restriction is protected
FAA approval required (never granted)	No federal approval needed
Federal preemption challenges viable	Federal preemption does not apply
Airlines can challenge in federal court	Restriction stands as valid state regulation

Bottom line: Hanscom's 60-seat restriction, adopted in 1980, is legally protected from federal preemption. Massport has full authority to enforce it. The question is not whether Massport **can** enforce the restriction—the grandfather provision confirms it can—but whether Massport has **chosen** to enforce it consistently across all covered operations.

Section 5: Historical Application of the 60-Seat Rule

Understanding how Massport has applied the 60-seat restriction historically is essential for evaluating current enforcement practices. The available evidence reveals a striking pattern: rigorous enforcement against scheduled commercial carriers, with limited or no enforcement against charter operators. This discrepancy raises fundamental questions about equal application of the regulation.

5.1 Overview

Understanding how Massport has applied the 60-seat restriction historically is essential for evaluating current enforcement practices. The available evidence suggests a pattern: rigorous enforcement against scheduled commercial carriers, with limited or no enforcement against charter operators.

5.2 Scheduled Commercial Service at Hanscom: A History of Compliance

Hanscom Field has hosted scheduled commercial airline service at various points in its history. Notably, **every scheduled carrier has operated aircraft within the 60-seat limit**, demonstrating that the restriction has been effectively communicated and enforced for scheduled service.

Carriers That Have Served Hanscom

Carrier	Aircraft Type	Seats	Period	Compliance
Shuttle America	Dash 8-300	50	2000s	✓ Within limit
Pan Am Clipper Connection	Saab 340	34	1990s	✓ Within limit
Streamline Air	Jetstream 31	19	1990s	✓ Within limit
Southern Airways Express	Cessna Caravan	9	2010s	✓ Within limit
Cape Air	Cessna 402	9	Various	✓ Within limit

Key observation: Every scheduled carrier that has operated at Hanscom used aircraft well under the 60-seat threshold. The most common aircraft types—Dash 8-300 (50 seats), Saab 340 (34 seats), Jetstream 31 (19 seats)—demonstrate that carriers understood and complied with the restriction.

Evidence of Effective Communication

The fact that scheduled carriers consistently used appropriately-sized aircraft indicates:

1. **Massport communicated the restriction** to airlines seeking to operate scheduled service
2. **Airlines understood the requirement** and selected compliant aircraft
3. **The restriction functioned as intended** for scheduled commercial service

Available information does not indicate that any scheduled carrier requested a waiver to operate larger aircraft, was denied permission to operate aircraft over 60 seats, or was penalized for violating the restriction. This suggests the restriction was accepted as a given operating condition for scheduled service.

5.3 Charter Operations: A Different Pattern

In contrast to scheduled service, charter operations at Hanscom have routinely involved aircraft well exceeding 60 seats.

Sports Team Charter Flights

Boston professional sports teams have used Hanscom for charter flights with aircraft significantly exceeding the 60-seat limit:

Team	Aircraft Types Documented	Typical Seats	Exceeds Limit
Boston Bruins	Boeing 737-400	68-150	Yes
Boston Celtics	Airbus A320	150-180	Yes
Boston Red Sox	Boeing 757, 777	180-400	Yes

Example: The Boston Bruins have been documented using 68-seat Boeing 737-400 aircraft operated by iAero Airways (formerly Swift Air) for team charter flights from Hanscom—8 seats over the regulatory limit.

5.4 The Enforcement Discrepancy

The historical record reveals an apparent discrepancy in how the 60-seat rule has been applied:

Operation Type	Compliance Record	Enforcement Evidence
Scheduled commercial service	100% compliance (all carriers used ≤60 seat aircraft)	Rule appears actively enforced
Charter operations	Frequent apparent violations (sports teams, others)	No evidence of enforcement

Possible Explanations

Several explanations could account for this discrepancy:

- **Interpretation of "commercial air passenger service"** — Massport may interpret this phrase to cover only scheduled service, not charter operations
- **Executive Director waivers** — The Executive Director may have granted waivers under 740 CMR 25.06(1) for charter operations, though no public documentation has been identified
- **De facto non-enforcement** — Massport may have simply chosen not to enforce the restriction against charter operators, without formal legal justification
- **Different regulatory pathway** — Charter operations may be handled through a framework Massport considers outside 740 CMR 25.03's scope

5.5 How Different Sources Describe the Rule

The discrepancy in enforcement may relate to how the rule has been described over time:

Source	Description of the Restriction
740 CMR 25.03 (actual text)	"commercial air passenger service"

Massport website	"air carrier services"
Wikipedia	"scheduled commercial operations"
News reports	Often say "scheduled flights" or "commercial flights"

The actual regulatory language—"commercial air passenger service"—is broader than "scheduled commercial operations." The question is whether Massport's interpretation aligns with the regulatory text.

5.6 Massport's Public Statements

In December 2025, responding to questions about ICE deportation flights, a Massport spokesperson stated:

"ICE flights' refers to 'charter flights operated by fixed based operators at Hanscom.' Massport does not receive prior knowledge of these flights, nor does the Authority have a role in their operation."

This statement suggests Massport views charter flights as outside its direct operational control. However, it does not address whether such flights comply with 740 CMR 25.03. The spokesperson also stated:

"Public use airports like Hanscom are required to accommodate all flights to the airport, including those by or on behalf of the federal government."

This claim about federal requirements does not directly address Massport's authority under its own grandfathered regulations. (See Sections 2-4 regarding proprietor authority and grandfather protections.)

5.7 Questions Arising from Historical Application

The historical record raises several questions warranting further inquiry:

1. **Has Massport formally interpreted 740 CMR 25.03** to exclude charter operations from the definition of "commercial air passenger service"?
2. **If waivers have been granted** for charter operations exceeding 60 seats, under what authority and based on what criteria?
3. **Has Massport ever communicated the 60-seat restriction** to charter operators, FBOs, or other entities facilitating charter flights?
4. **What is the documented basis** for treating scheduled and charter operations differently under the same regulation?
5. **Has any entity ever been assessed the \$2,000 penalty** for violating 740 CMR 25.03?

5.8 Implications

For scheduled carriers: The restriction has been effectively enforced, demonstrating that 740 CMR 25.03 is not merely a paper rule but an operational reality that carriers understand and follow.

For charter operators: The apparent non-enforcement creates questions about equal application of the regulation and the legal basis for differential treatment.

For current analysis: Understanding how Massport has historically interpreted and applied the rule is essential for evaluating whether current practices are consistent with the regulation's text and purpose.

Section 6: Recent Large Aircraft Charter Operations

Beginning in 2024 and accelerating significantly in 2025, Hanscom Field has experienced a substantial increase in charter flight operations using large commercial aircraft. This increase is primarily attributable to ICE deportation flights operated by contracted commercial carriers. Every documented flight has used aircraft substantially exceeding the 60-seat limit—ranging from 2.5x to over 7x the threshold.

6.1 Overview

Beginning in 2024 and accelerating significantly in 2025, Hanscom Field has experienced a substantial increase in charter flight operations using large commercial aircraft. This increase is primarily attributable to Immigration and Customs Enforcement (ICE) deportation flights operated by contracted commercial carriers.

6.2 ICE Deportation Flight Activity: 2025 Data

According to data compiled by Human Rights First, flight tracking organizations, and Hanscom Flight Watch:

Metric	Value
ICE flights from Hanscom (Sept-Dec 2025)	59 flights
Peak month (September 2025)	24 flights (~6/week)
Average frequency (Sept-Dec)	~3.4 flights per week
Year-over-year increase	143% increase from same period in 2024

Monthly Breakdown (September-December 2025)

Month	Flights	Primary Carriers
September	24	GlobalX, Eastern Air Express, Avelo
October	12	Eastern Air Express, GlobalX, Avelo
November	11	Eastern Air Express
December	12	Eastern Air Express
TOTAL	59	—

Flight activity has been documented throughout 2025, with flights occurring on a regular, recurring basis rather than as isolated incidents. September 2025 represented the peak, with nearly 6 flights per week.

6.3 Aircraft Types Used

ICE charter flights at Hanscom have utilized commercial aircraft substantially exceeding the 60-seat limit:

Aircraft Type	Typical Seat Capacity	Multiple of 60-Seat Limit
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Airbus A320	150-180 seats	2.5-3x over limit
Airbus A321	185-220 seats	3-3.7x over limit
Boeing 737-800	162-189 seats	2.7-3.2x over limit
Boeing 737-700	149 seats	2.5x over limit
Boeing 757	180-200 seats	3-3.3x over limit
Boeing 767	218-269 seats	3.6-4.5x over limit
Boeing 777	301-440 seats	5-7.3x over limit

Key finding: Every documented ICE charter flight has used aircraft that substantially exceeds the 60-seat threshold in 740 CMR 25.03. The smallest aircraft commonly used (Boeing 737-700 at 149 seats) is nearly 2.5 times the regulatory limit.

6.4 Operators of ICE Charter Flights

ICE contracts with private commercial carriers to operate deportation flights. The primary operators identified at Hanscom include:

GlobalX (Global Crossing Airlines)

Headquarters: Miami, Florida. FAA Certification: Part 121 domestic, flag, and supplemental carrier. Aircraft: Airbus A320, Airbus A321. ICE Contract: Approximately \$65 million annually (reported). Share of ICE flights: Estimated 70-80% of Hanscom ICE departures.

Sample tail numbers: N276GX, N277GX, N278GX, N281GX, N282GX, N289GX, N291GX

Omni Air International

Headquarters: Tulsa, Oklahoma. FAA Certification: Part 121 supplemental carrier. Aircraft: Boeing 767, Boeing 777. Primary customers: Military (CRAF), ICE. Significant share of Hanscom ICE flights, especially for larger operations.

Sample tail numbers: N207AX, N225AX, N342AX, N351AX, N378AX, N423AX

Eastern Airlines / iAero Airways

FAA Certification: Part 121 carrier. Aircraft: Boeing 737, Boeing 767, Boeing 777. Note: iAero (formerly Swift Air) rebranded; Eastern Airlines LLC operates under Part 121.

Sample tail numbers: N149XA, N624XA, N625SW, N629SW, N700KW, N703KW

Avelo Airlines

Headquarters: Houston, Texas. FAA Certification: Part 121 carrier. Aircraft: Boeing 737. Note: Newer entrant to ICE charter market.

6.5 FAA Certification Status of Operators

All primary ICE charter operators hold FAA Part 121 certification:

Operator	Part 121 Status	Certification Type
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GlobalX	✓ Certified	Domestic, Flag, Supplemental
Omni Air International	✓ Certified	Supplemental
Eastern Airlines	✓ Certified	Domestic, Supplemental
Avelo Airlines	✓ Certified	Domestic
iAero Airways	✓ Certified	Supplemental

Significance: These carriers hold the same category of FAA certification as major airlines like United, Delta, and American. They are federally recognized as commercial air carriers providing commercial air transportation services.

6.6 Comparison: ICE Flights vs. 60-Seat Limit

Aircraft	Seat Capacity	60-Seat Limit	Seats Over Limit	% Over
A320 (GlobalX typical)	174	60	+114 seats	190%
A321	195	60	+135 seats	225%
B737-800	175	60	+115 seats	192%
B767	240	60	+180 seats	300%
B777	350	60	+290 seats	483%

6.7 Frequency Analysis: ICE vs. Sports Charters

To provide context, ICE charter frequency can be compared to other large charter operations at Hanscom:

Operation Type	Estimated Annual Flights	Frequency Pattern
ICE deportation charters	130+ (projected 2025)	2-3 per week, year-round
Sports team charters (all teams)	30-50	Seasonal, clustered during sports seasons
Corporate/private large charters	Unknown	Sporadic

Key distinction: ICE charter operations are:

- **High frequency** (2-3 times per week)
- **Year-round** (not seasonal)
- **Systematic** (regular, recurring pattern)
- **Using aircraft 2.5-7x over the limit**

6.8 Routing Patterns

ICE flights from Hanscom typically follow patterns connecting to ICE detention and processing facilities:

Common destinations from Hanscom:

- Alexandria, Louisiana (KAEX) — Near ICE detention facilities
- El Paso, Texas (KELP) — Major ICE processing hub
- Harlingen, Texas (KHRL) — Near border facilities
- Miami, Florida (KMIA) — International deportation hub
- San Antonio, Texas (KSAT) — ICE processing center

6.9 Implications for 60-Seat Rule Analysis

The documented ICE charter operations raise significant questions regarding 740 CMR 25.03:

1. **Every documented ICE flight appears to violate the 60-seat limit** — Aircraft used range from 149 to 400+ seats
2. **Operations are conducted by Part 121 commercial carriers** — Not military aircraft exempt under 740 CMR 25.01
3. **Flights are high-frequency and recurring** — Not "unusual and non-recurrent" as required for waivers under 740 CMR 25.06(1)
4. **No public documentation of waivers** — If waivers have been granted, they have not been made public
5. **Alternative airports exist** — Logan International Airport (15 miles away) routinely handles the aircraft types used

Section 7: Federal Definitions of 'Commercial Air Passenger Service'

The applicability of 740 CMR 25.03 to charter operations hinges on the interpretation of one phrase: "commercial air passenger service." This section examines how federal aviation law defines relevant terms and demonstrates that under federal definitions, charter operations by Part 121 carriers clearly constitute commercial air passenger service. The regulation's plain language contains no scheduled/charter distinction.

7.1 The Central Interpretive Question

The applicability of 740 CMR 25.03 to charter operations hinges on the interpretation of one phrase:

"commercial air passenger service"

If this phrase encompasses charter operations, then ICE deportation flights using 150+ seat aircraft appear to violate the regulation. If it covers only scheduled service, charter operations may fall outside its scope. This section examines how federal aviation law defines relevant terms and what those definitions suggest about the regulation's coverage.

7.2 Federal Aviation Administration Regulatory Framework

The FAA regulates commercial aviation under Title 14 of the Code of Federal Regulations (14 CFR). The key provisions are:

14 CFR Part 119: Certification of Air Carriers

Part 119 establishes certification requirements for operators conducting commercial air transportation. It defines:

"Commercial operator" (14 CFR § 1.1): "A person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property."

"Air carrier" (49 U.S.C. § 40102): "A citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation."

"Air transportation" (49 U.S.C. § 40102): "Foreign air transportation, interstate air transportation, or the transportation of mail by aircraft."

14 CFR Part 121: Operating Requirements

Part 121 governs the operations of certificated air carriers. It distinguishes between three types of operations:

Operation Type	Definition	Examples
Domestic operations	Scheduled service within the contiguous U.S.	Delta domestic routes
Flag operations	Scheduled service between U.S. and foreign points	United international routes
Supplemental operations	Non-scheduled/charter operations	Charter airlines, sports teams, ICE deportation flights

7.3 Part 121 Supplemental Operations: The Charter Category

The term "supplemental operation" is defined at 14 CFR § 110.2:

"Supplemental operation" means any operation for compensation or hire conducted under Part 121 that is not a scheduled operation and where the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.

Key characteristics of supplemental operations:

1. Conducted for compensation or hire
2. Not on a published schedule
3. Terms negotiated with customer
4. Subject to Part 121 safety and operational requirements
5. Operated by FAA-certificated air carriers

Critical point: Supplemental (charter) operations are:

- ✓ **Commercial** (for compensation)
- ✓ **Air transportation** (carriage of persons by aircraft)
- ✓ **Operated by certificated air carriers**
- ✓ **Subject to the same safety standards as scheduled airlines**
- X NOT on a fixed, published schedule

7.4 How ICE Charter Operators Are Classified

The operators conducting ICE deportation flights from Hanscom hold Part 121 certificates:

Operator	FAA Certificate	Operation Types Authorized
GlobalX	Part 121	Domestic, Flag, Supplemental
Omni Air International	Part 121	Supplemental
Eastern Airlines	Part 121	Domestic, Supplemental
iAero Airways	Part 121	Supplemental
Avelo Airlines	Part 121	Domestic

These carriers are federally classified as:

- "Air carriers" under 49 U.S.C. § 40102
- "Commercial operators" under 14 CFR § 1.1
- Providers of "air transportation"
- Subject to Part 121 operating requirements

7.5 Are Charter Flights 'Commercial Air Passenger Service'?

Applying the federal definitions to the phrase in 740 CMR 25.03:

Element	Scheduled Service	Charter (Supplemental) Service
Commercial	✓ Yes	✓ Yes
Air	✓ Yes	✓ Yes
Passenger	✓ Yes	✓ Yes
Service	✓ Yes	✓ Yes

Analysis: Under federal definitions, charter operations conducted by Part 121 supplemental carriers are:

1. **Commercial** — Operated for compensation or hire
2. **Air** — Conducted by aircraft
3. **Passenger** — Transporting persons (not cargo)
4. **Service** — Provided to customers (ICE as charterer)

The phrase "commercial air passenger service" does not contain the word "scheduled." The distinction between scheduled and non-scheduled service is a separate classification within the broader category of commercial air transportation.

7.6 Massport's Own Definitions

Massport's General Rules and Regulations (740 CMR 2.00) include relevant definitions:

"Air Carrier" (740 CMR 2.02): "any person who holds a certificate issued under section 401 of the Federal Aviation Act of 1958, 49 USC 1371, or any successor provision, for air transportation services."

"Commercial Operator" (740 CMR 2.02): "any person operating an aircraft for the purpose of carriage of cargo, passengers, or both for compensation or hire."

Significance: Massport's own definitions do not distinguish between scheduled and charter operations. An "Air Carrier" is defined by holding federal certification, not by operating scheduled service. A "Commercial Operator" is defined by operating for compensation—which includes charter operations.

7.7 The 'Scheduled' vs. 'Commercial' Distinction

Some sources describe Hanscom's restriction as applying to "scheduled" commercial service. This may reflect:

1. **Historical context** — The 1980 regulation may have been primarily motivated by preventing scheduled airline service
2. **Practical effect** — For decades, charter operations using large aircraft were infrequent
3. **Informal interpretation** — Massport may have informally interpreted the rule as covering only scheduled service

However, the actual regulatory text says "commercial air passenger service"—not "scheduled commercial air passenger service."

What the regulation says	What some sources say
"commercial air passenger service"	"scheduled commercial operations"
"commercial air passenger service"	"air carrier services"
"commercial air passenger service"	"scheduled flights"

The plain language of 740 CMR 25.03 does not contain a scheduled/charter distinction.

7.8 Implications for Regulatory Interpretation

If "commercial air passenger service" is interpreted according to federal aviation definitions:

Charter operations by Part 121 carriers ARE covered because:

- They are conducted by federally-certificated air carriers
- They transport passengers for compensation
- They meet the definition of "commercial operator"
- The regulation explicitly covers "any person, including an air carrier"

Charter operations would NOT be covered only if:

- Massport has formally interpreted the phrase to exclude charter operations
- The phrase has a specialized meaning in airport regulation that differs from federal definitions
- Some other legal basis exists for the exclusion

7.9 The Absence of a Charter Exemption

740 CMR 25.03 contains no explicit exemption for charter operations. Compare with what the regulation could have said:

Actual Text	Hypothetical Narrower Text
"commercial air passenger service"	"scheduled commercial air passenger service"
(no exemption)	"excluding charter or supplemental operations"
(no exemption)	"as defined by FAA scheduled service requirements"

The drafters could have limited the restriction to scheduled service but did not include such limiting language.

7.10 Summary: The Plain Language Argument

Based on federal definitions and the regulation's text:

1. **"Commercial"** — ICE charter flights are operated for compensation ✓
2. **"Air"** — They are conducted by aircraft ✓
3. **"Passenger"** — They transport persons ✓
4. **"Service"** — They provide transportation service to a customer (ICE) ✓
5. **"Air carrier"** — The operators are FAA-certificated air carriers ✓

Under the plain language of 740 CMR 25.03, charter operations by Part 121 carriers appear to constitute "commercial air passenger service." The question is whether Massport has a documented legal basis for interpreting the phrase otherwise.

Section 8: The Executive Director Waiver Authority

740 CMR 25.06(1) provides the Executive Director with narrow authority to waive the 60-seat restriction under specific circumstances. Understanding this waiver authority—its scope, criteria, and limitations—is essential for evaluating whether routine charter operations can legally operate under waivers. The analysis shows that ICE charter flights fail to meet any of the three required criteria.

8.1 Overview

740 CMR 25.06(1) provides the Executive Director of Massport with authority to waive the restrictions in 740 CMR 25.00, including the 60-seat limit. Understanding this waiver authority—its scope, criteria, and limitations—is essential for evaluating how the regulation should be applied.

8.2 The Waiver Provision: Full Text

740 CMR 25.06(1) states:

"The Executive Director may waive any prohibition or restriction contained in 740 CMR 25.00 on a showing that such waiver is necessary to meet an unusual and non-recurrent need which is affected with the public interest and cannot reasonably be accommodated at another airport."

8.3 The Three Cumulative Requirements

The waiver provision establishes three requirements that must **all** be satisfied:

Requirement	Text	Meaning
1. Unusual	"unusual... need"	Not routine or ordinary; exceptional circumstances
2. Non-recurrent	"non-recurrent need"	One-time or rare occurrence; not repeating
3. No alternative	"cannot reasonably be accommodated at another airport"	No other airport can serve the need

These requirements are cumulative — all three must be met for a valid waiver. A need that is unusual but recurrent, or non-recurrent but easily accommodated elsewhere, does not qualify.

8.4 Analysis of Each Requirement

Requirement 1: "Unusual"

Definition: A need that is out of the ordinary, exceptional, or not typical of regular airport operations.

Examples that might qualify:

- *Emergency medical evacuation requiring specific aircraft*
- *Diplomatic mission with unique security requirements*

- One-time event with extraordinary circumstances
- Natural disaster response

Examples that would NOT qualify:

- Regular charter service by commercial carriers
- Routine government contract operations
- Recurring business travel patterns
- Seasonal but predictable travel needs

Application to ICE flights: ICE deportation flights are part of systematic federal immigration enforcement operations, conducted 2-3 times per week on a regular basis, using standard commercial charter arrangements, and operationally indistinguishable from other routine charter flights. These flights do not appear to meet the "unusual" criterion.

Requirement 2: "Non-recurrent"

Definition: Occurring once or rarely; not part of a pattern of repeated operations.

Examples that might qualify:

- A single charter flight for a special event
- A one-time repositioning flight
- An emergency diversion
- A unique circumstance unlikely to repeat

Application to ICE flights: ICE charter flights from Hanscom occur 2-3 times per week, have been ongoing throughout 2024-2025, represent a 143% increase over prior year (indicating expansion, not reduction), and follow established routing patterns. These flights are definitionally recurrent—they recur regularly and systematically.

Requirement 3: "Cannot reasonably be accommodated at another airport"

Definition: No other airport in the region can reasonably serve the operational need.

Alternative Airport	Distance from Hanscom	Can Handle Aircraft?	Reasonable Alternative?
Logan International (BOS)	15 miles	✓ Yes (major hub)	✓ Yes
Providence (PVD)	55 miles	✓ Yes	✓ Yes
Manchester (MHT)	40 miles	✓ Yes	✓ Yes
Worcester (ORH)	35 miles	✓ Yes	✓ Yes

Logan International Airport—located 15 miles from Hanscom—routinely handles Boeing 737s, 767s, 777s, and Airbus A320/A321 aircraft. It is a major international hub with full capability to accommodate ICE charter operations. ICE flights can unquestionably be accommodated at Logan. The choice to use Hanscom appears to be one of **convenience or preference, not necessity**.

8.5 Do ICE Charter Flights Meet the Waiver Criteria?

Criterion	Requirement	ICE Flights	Met?
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Unusual	Not routine or ordinary	Routine, systematic operations	X No
Non-recurrent	One-time or rare	2-3 times per week, year-round	X No
No alternative	Cannot be accommodated elsewhere	Logan Airport 15 miles away	X No

Conclusion: ICE charter flights do not appear to satisfy any of the three waiver criteria. A waiver for these flights would not be consistent with the narrow scope of authority granted under 740 CMR 25.06(1).

8.6 Scope of Executive Director Authority

The waiver provision grants **discretionary** authority to the Executive Director, but it is **narrowly circumscribed**:

What the Executive Director CAN do:

- Grant waivers for genuinely unusual, one-time needs
- Evaluate individual requests against the statutory criteria
- Document the basis for waiver decisions
- Deny waivers that do not meet the criteria

What the Executive Director CANNOT do:

- Grant blanket waivers for categories of operations
- Waive the criteria themselves
- Create standing exemptions for recurring operations
- Delegate unlimited waiver authority

The regulation contemplates **case-by-case** evaluation of **individual requests** against **specific criteria**—not broad categorical exemptions.

8.7 Questions Regarding Waiver Practice

The following questions arise regarding Massport's waiver practices:

1. **Have waivers been granted for ICE charter flights?** If so, what documentation exists? How was each criterion evaluated?
2. **Have waivers been granted for sports team charters?** Boston Bruins, Celtics, Red Sox flights using 68-400+ seat aircraft. What was the basis?
3. **Is there a blanket waiver for charter operations?** Has the Executive Director issued a standing waiver for all charters? Would such a blanket waiver be within the scope of 740 CMR 25.06(1)?
4. **What is the waiver request process?** How do operators request waivers? What documentation is required?
5. **Are waivers documented and publicly available?** 740 CMR 25.06(1) does not require public disclosure. Has Massport voluntarily disclosed waiver grants?

8.8 Implications for Enforcement

If waivers cannot validly be granted for routine ICE charter operations, then:

1. **Operations exceeding 60 seats without valid waivers may violate 740 CMR 25.03**
2. **The \$2,000 per operation penalty under 740 CMR 25.99(2) would apply**
3. **Massport has authority—and arguably an obligation—to enforce the regulation**
4. **Non-enforcement would require a different legal basis** than the waiver provision

8.9 Comparison: Waivers vs. Regulatory Interpretation

There are two possible explanations for how large charter aircraft currently operate at Hanscom:

Explanation	Mechanism	Legal Basis
Waivers granted	Executive Director grants waivers under 25.06(1)	Valid only if criteria met (appears problematic for routine charters)
Regulatory interpretation	Massport interprets "commercial air passenger service" to exclude charters	Would need to be documented; raises questions about consistency with plain language

Understanding which explanation applies—and whether either has a sound legal basis—is essential for evaluating current enforcement practices.

Section 9: Historical Context, Sports Teams, and Appropriate Enforcement

A common concern is that enforcing the 60-seat rule would impact New England's professional sports teams. This section explains why the 1980 regulation's silence on charter operations reflects historical context rather than intentional exemption, and demonstrates that objective waiver criteria can readily distinguish between occasional sports team travel and systematic federal charter operations.

9.1 The 1980 Regulatory Intent

When Massachusetts adopted 740 CMR 25.03 in 1980, the regulation was designed to address a specific threat: scheduled commercial airlines seeking to establish regular passenger service at Hanscom Field in competition with Logan International Airport. The regulation's focus on "commercial air passenger service" using aircraft with more than 60 passenger seats directly targeted this concern, ensuring that Hanscom would remain a regional general aviation airport rather than becoming a secondary commercial hub.

The rule has worked as intended. For 45 years, scheduled carriers have complied with the restriction, operating service to Hanscom using appropriately sized aircraft when they have served the airport at all.

9.2 The 1980 Charter Landscape

The regulation's silence on charter operations does not reflect an intentional exemption—it reflects the reality of charter aviation in 1980. Ironically, the charter industry was actually larger then than it is today. Charter flights captured over 30% of the transatlantic market in the 1970s; by 2023, Department of Transportation data shows charters account for approximately half of one percent of U.S. airline revenue passenger miles.

But the nature of charter operations in 1980 was fundamentally different from what exists today. The charter industry of that era consisted primarily of vacation packages, affinity group travel, and inclusive tours—consumer-oriented services that were irregular by nature and already in decline following the Airline Deregulation Act of 1978. Charter operations at small regional airports like Hanscom were essentially nonexistent; such airports lacked the passenger volumes and facilities that charter operators required.

9.3 How Government Moved People in 1980

The absence of any consideration of federal government charter operations in the 1980 regulation is equally understandable when examined in historical context. In 1980, when the federal government needed to transport large numbers of personnel, it used the Military Airlift Command—the Air Force's dedicated airlift organization operating C-141 Starlifters, C-5 Galaxies, and C-130 Hercules aircraft from military air bases—not civilian general aviation airports.

Immigration enforcement operations relied primarily on ground transportation: buses and trains to the border, with the vast majority of deportations handled through "voluntary departure" procedures. The concept of privatized civilian deportation flights operating from civilian airports simply did not exist.

Key timeline: Immigration and Customs Enforcement was not created until 2003. The shift from military aircraft to civilian charter contractors for deportation operations did not begin until approximately 2009-2012.

9.4 The Emergence of Modern Charter Operations

The charter operations now raising concerns at Hanscom represent categories of activity that emerged decades after the 1980 regulation was adopted.

Professional sports team charters: In 1980, the Boston Celtics and Boston Bruins traveled to away games on commercial airline flights, just as virtually all NBA and NHL teams did at that time. The first NBA team to acquire dedicated team aircraft was the Detroit Pistons in 1987. League-wide charter arrangements did not emerge until the 2000s, with Delta's deal covering 27 NBA teams not finalized until 2015.

Federal government charter operations: The privatization of deportation flights—shifting from military aircraft to civilian Part 121 charter carriers—began in earnest only in the late 2000s and early 2010s. CSI Aviation, now the primary ICE Air contractor, has received \$1.6 billion in federal funding since 2005, with business "especially surging in recent years."

9.5 The Critical Distinction: Frequency and Scale

Both professional sports teams and federal immigration enforcement use Part 121 charter carriers to conduct operations at Hanscom. Both use aircraft that exceed the 60-seat limit. The relevant distinction is not the category of operator, but the operational pattern.

Factor	Sports Teams	ICE Operations
Annual departures from Hanscom	~41 combined (Celtics + Bruins)	126+ (2024)
Schedule pattern	Seasonal, tied to game schedules	Year-round, weekly
Frequency	Monthly during season	2-3 times per week
Aircraft seats	68-72 seats	150-270 seats
Seats over 60-seat limit	8-12 seats over	90-210 seats over

Operations conducted at ICE frequency, on a routine weekly schedule, using aircraft of that size have the regularity and scale of scheduled commercial air service—precisely what the 1980 regulation was designed to prevent.

9.6 Using Existing Waiver Authority

The existing waiver framework under 740 CMR 25.06(1) provides Massport with the authority to address the growth of heavy, weekly Part 121 charter operations while preserving occasional use by local sports teams using smaller aircraft closer to the 60-seat limit. The regulation already contemplates that waivers may be granted for operations that are "unusual," "non-recurrent," and cannot be "reasonably accommodated at another airport."

Massport could establish a transparent public process applying objective criteria to waiver requests. Such a framework might include:

- **A defined number of waivers annually** (50-60 per calendar year), sufficient to accommodate legitimate occasional uses while preventing de facto scheduled service
- **Priority for aircraft with seat counts closer to the 60-seat threshold**, favoring operations that minimally exceed the limit over those using aircraft two or three times the permitted size
- **Priority for less frequent operations**, favoring monthly or seasonal use over weekly operations
- **Advance waivers for predictable, low-impact operations** that meet both criteria, providing certainty for operators with established patterns of occasional use

9.7 Application of Objective Criteria

Sports team operations would likely qualify for waivers:

41 combined annual operations using 68-72 seat aircraft on a seasonal schedule represents exactly the kind of occasional, limited-impact use that waiver authority is designed to accommodate. These operations are genuinely seasonal (not year-round), tied to specific events (game schedules), and use aircraft relatively close to the 60-seat threshold.

Systematic federal charter operations would not qualify:

At 126 annual flights using aircraft with 150 or more seats on a routine weekly schedule, such operations exceed any plausible threshold for "unusual" or "non-recurrent" use. The volume alone would exhaust a 50-60 waiver annual allocation more than twice over.

Criterion	Sports Teams	ICE Operations	Waiver Appropriate?
Unusual?	Seasonal, event-tied	Routine, weekly	Sports: ✓ / ICE: ✗
Non-recurrent?	~41/year, seasonal	126+/year, year-round	Sports: ✓ / ICE: ✗
Close to threshold?	68-72 seats (8-12 over)	150-270 seats (90-210 over)	Sports: ✓ / ICE: ✗
Annual waiver capacity?	Would use ~41 of 50-60	Would require 126+ (2x capacity)	Sports: ✓ / ICE: ✗

9.8 Massport's Responsibility to Apply the Law Consistently

Massport has a legal obligation to apply its regulations consistently to all aircraft operations at Hanscom Field. The failure to enforce the 60-seat restriction against Part 121 charter operations—as these have grown over the past fifteen years to resemble commercial air service in frequency, regularity, and aircraft size—represents a failure to comply with the law.

Scheduled commercial carriers have respected the 60-seat restriction for 45 years. Charter operators conducting functionally equivalent service should not receive preferential treatment simply because their flights are not published in a public schedule.

9.9 The Path Forward

Massport has a lightweight, consistent, easily applied, and fully legal mechanism to address the problem of high-frequency large-aircraft operations:

- **Enforce the existing regulation as written**
- **Utilize the existing waiver authority as intended**
- **Apply objective criteria transparently to all operators**

This approach requires no new legislation, no amendment to existing rules, and no discriminatory targeting of particular operators. It simply requires Massport to do what the regulation has always required: restrict commercial air passenger service using aircraft over 60 seats, while providing reasonable accommodation for genuinely occasional operations that minimally exceed the threshold.

This enforcement approach preserves Hanscom Field's traditional character, maintains space for occasional charter use by local sports teams, and ends the practice of routine weekly service by large commercial aircraft that transforms Hanscom into something the 1980 regulation was specifically designed to prevent.

Section 10: Massport's Authority Over Contractors and Lessees

Beyond direct regulatory enforcement, Massport has significant authority to implement policies through its contractual relationships with tenants, lessees, and service providers. The 2014/2019 minimum wage resolution provides a direct precedent for using Board action to require tenant compliance with specific standards—a mechanism that could be applied to enforce the 60-seat restriction.

10.1 Overview

Beyond direct regulatory enforcement, Massport has significant authority to implement policies through its contractual relationships with tenants, lessees, and service providers at its airports. This section examines how Massport can—and has—used lease conditions and operating agreements to enforce policy requirements.

10.2 Massport's Contractual Relationships at Hanscom

Hanscom Field operations involve multiple contractual relationships:

Fixed Base Operators (FBOs)

FBOs provide ground services including aircraft fueling, ground handling, passenger services, hangar space, and maintenance facilities. **Primary FBO at Hanscom:** Signature Flight Support operates under lease agreements with Massport.

Tenants and Lessees

Various entities lease space and operating rights at Hanscom: aviation service companies, aircraft maintenance providers, flight schools, and corporate aviation departments.

Operating Agreements

Operators conducting commercial activities at Hanscom facilities typically have operating permits, service agreements, and license agreements.

10.3 The Lease Condition Mechanism

Massport can include compliance requirements as conditions of leases and operating agreements. This mechanism:

- **Creates contractual obligations** — Tenants agree to comply as a condition of operating
- **Provides enforcement leverage** — Violations can result in lease consequences
- **Does not require new regulations** — Uses existing contractual authority
- **Applies to parties within Massport's control** — FBOs, tenants, service providers

How It Works:

MASSPORT
↓ (Lease with compliance conditions)
FBO (e.g., Signature Flight Support)
↓ (Must comply with lease conditions)
Services provided to operators

↓ (FBO ensures operators meet requirements)
Charter operators, airlines, etc.

By requiring FBOs to ensure compliance with Massport regulations as a lease condition, Massport can effectively extend enforcement to operators using FBO services.

10.4 Precedent: Massport Minimum Wage Resolution

Massport has used this exact mechanism to enforce policy requirements beyond minimum legal standards.

The 2014/2019 Minimum Wage Resolutions

Background: Massport's Board adopted resolutions requiring Commercial Service Operators (CSOs) and Aviation Service Operators (ASOs) at Logan Airport to pay employees wages above the state minimum wage.

Mechanism: The wage requirements were implemented as conditions of operating agreements. Companies wishing to operate at Logan had to agree to the wage standards.

Key Features of the Precedent:

Feature	Minimum Wage Resolution	Application to 60-Seat Rule
Policy above legal minimum	Wages above state minimum	Enforcement of existing regulation
Implementation mechanism	Operating agreement conditions	Lease/permit conditions
Affected parties	CSOs and ASOs	FBOs and aviation service operators
Authority source	Board resolution	Board resolution
Enforcement	Through contract terms	Through contract terms

Why This Precedent Is Significant:

The minimum wage resolution demonstrates that Massport:

1. **Can impose requirements through operating agreements** — Contractual authority exists
2. **Has used Board resolutions to direct policy** — The mechanism is established
3. **Can enforce requirements beyond minimum legal standards** — The 60-seat rule is an existing regulation, making enforcement even more straightforward
4. **Applies requirements to tenants and operators** — Not just to Massport employees

10.5 Applying the Mechanism to the 60-Seat Rule

A Board resolution could direct that compliance with 740 CMR 25.03 be made an explicit condition of all leases and operating agreements at Hanscom Field.

Potential Resolution Elements:

1. **Reaffirm regulatory scope:** "The Board reaffirms that 740 CMR 25.03 applies to all commercial air passenger service at Hanscom Field, including charter operations."
2. **Require compliance as lease condition:** "Compliance with 740 CMR 25.03 shall be an explicit condition of all tenant leases, operating agreements, and permits at Hanscom Field."

3. **Require FBO verification:** "Fixed Base Operators shall verify that charter operators using their services are operating aircraft within the 60-seat limit or have received a valid waiver under 740 CMR 25.06(1)."

4. **Establish transparency:** "Any waiver granted under 740 CMR 25.06(1) shall be documented in writing and made publicly available."

5. **Require reporting:** "The Executive Director shall report to the Board [quarterly/annually] on enforcement of 740 CMR 25.03, including any waivers granted and the basis for each."

10.6 The FBO's Role in Charter Operations

FBOs are not mere bystanders in charter operations—they provide essential services:

Service	FBO Role
Fuel	FBO provides aircraft fueling
Ground handling	FBO provides ramp services, ground power
Passenger services	FBO provides terminal access, ground transportation coordination
Flight planning	FBO may assist with flight planning services
Customs/immigration	FBO coordinates with federal agencies

Without FBO services, charter operations at Hanscom would be difficult or impossible. This gives Massport significant leverage through its FBO relationships.

10.7 Distinction from the Minimum Wage Precedent

Factor	Minimum Wage	60-Seat Rule
Creating new requirement?	Yes (above legal minimum)	No (enforcing existing regulation)
Legal basis	Board authority	740 CMR 25.03 (adopted 1980)
ANCA implications	N/A	Grandfathered restriction
Discrimination concerns	Applied to all CSOs/ASOs	Applied to all commercial air passenger service

The 60-seat rule enforcement is arguably easier to defend because it enforces an existing, grandfathered regulation rather than creating a new requirement.

10.8 Potential Challenges and Responses

"We Can't Discriminate" Argument

Claim: Massport cannot selectively deny services to certain operators.

Response: Requiring compliance with Massport's own regulations is not discrimination—it's enforcement. The restriction applies equally to all operators conducting commercial air passenger service over 60 seats.

"Federal Operations" Argument

Claim: FBOs cannot refuse service to federal government operations.

Response: The aircraft and operators are privately owned and operated. ICE contracts with commercial charter companies; it does not own or operate the aircraft. The federal government is a customer, not the operator.

"Contractual Obligation" Argument

Claim: FBO agreements don't currently require compliance verification.

Response: Massport can modify agreements or interpret existing compliance clauses. The Board has authority to direct policy implementation.

10.9 Summary

Massport has demonstrated authority to implement policy requirements through lease conditions and operating agreements. The minimum wage resolution provides a direct precedent for using Board action to direct tenant/operator compliance with specific requirements.

Applying this mechanism to 740 CMR 25.03 enforcement would:

- Use an established contractual framework
- Enforce an existing regulation (not create new policy)
- Apply equally to all covered operations
- Leverage FBO relationships for implementation

Appendix A: Questions for Further Inquiry

This appendix identifies questions that could be answered through public records requests, legislative history research, and other investigative methods. These questions address gaps in publicly available information regarding Massport's interpretation and enforcement of 740 CMR 25.03.

A.1 Questions Regarding Regulatory Interpretation

- **Has Massport formally interpreted 740 CMR 25.03 to exclude charter operations from the definition of "commercial air passenger service"?**

A formal legal opinion or policy document would clarify whether the current practice has an articulated legal basis.

- **If such an interpretation exists, when was it adopted and what was its stated rationale?**

Understanding the timing and reasoning would help evaluate whether the interpretation is consistent with the regulation's text and purpose.

- **Has Massport's legal counsel ever provided a written opinion on whether charter operations are covered by 740 CMR 25.03?**

Internal legal analysis would reveal how Massport has evaluated this question.

- **Does Massport maintain any written policy distinguishing scheduled from charter operations for purposes of the 60-seat restriction?**

Written policy would indicate whether differential treatment is formalized or informal.

A.2 Questions Regarding Waiver Authority

- **Have any waivers been granted under 740 CMR 25.06(1) for charter operations exceeding 60 seats?**

Would indicate whether Massport treats such operations as covered by the regulation.

- **If waivers have been granted, what documentation exists for each waiver decision?**

Would reveal whether the statutory criteria (unusual, non-recurrent, no alternative) were evaluated.

- **Has a blanket waiver or standing exemption been issued for charter operations generally?**

Would indicate whether Massport has circumvented the case-by-case analysis the regulation contemplates.

- **What is the process for requesting a waiver under 740 CMR 25.06(1)?**

Would reveal whether a formal process exists and whether operators are aware of it.

- **Have any waiver requests been denied? If so, on what basis?**

Denials would indicate that Massport treats the waiver criteria as meaningful limitations.

A.3 Questions Regarding Enforcement History

- **Has Massport ever assessed the \$2,000 penalty under 740 CMR 25.99(2) for a violation of the 60-seat restriction?**

Would indicate whether the regulation has ever been actively enforced.

- **Has Massport ever issued a warning or notice of violation to any operator for exceeding 60 seats?**

Even informal enforcement would indicate the regulation is treated as operative.

- **Has Massport ever communicated the 60-seat restriction to charter operators, FBOs, or brokers?**

Would reveal whether operators have been put on notice of the requirement.

- **What records does Massport maintain regarding aircraft operations at Hanscom, including passenger counts and seat configurations?**

Would indicate whether Massport has the data necessary to monitor compliance.

A.4 Questions Regarding Legislative History

- **What documentation exists from Massport's 1980 adoption of 740 CMR 25.03?**

Board minutes, staff memos, or public comments would reveal the regulation's original purpose.

- **Did Massport consider and reject language limiting the restriction to "scheduled" service?**

Would indicate whether the broader language was intentional.

- **Has the regulation's text been amended since 1980?**

Would confirm whether the current language is the original language.

- **What was the regulatory context in 1980 that prompted adoption of the 60-seat restriction?**

Historical context would inform interpretation of the regulation's scope.

A.5 Questions Regarding Contractual Relationships

- **Do Massport's lease agreements with FBOs at Hanscom include compliance requirements related to 740 CMR 25.03?**

Would reveal existing enforcement mechanisms.

- **What are the terms of Massport's current lease with Signature Flight Support?**

Would identify provisions that could be used for enforcement.

- **Have FBOs ever been directed to verify compliance with airport regulations by operators using their services?**

Would indicate whether the FBO-based enforcement mechanism has precedent.

A.6 Recommended Methods for Obtaining Information

Public Records Requests: File requests under the Massachusetts Public Records Law (M.G.L. c. 66, § 10) to Massport's Public Records Access Officer for interpretation documents, waiver records, enforcement history, and relevant lease provisions.

Legislative History Research: Review Massachusetts State Library archives, Massport board meeting minutes from 1980, and Massachusetts Register filings to understand the original regulatory context.

HFAC Inquiry: Request that the Hanscom Field Advisory Commission formally ask Massport to provide information on its interpretation and enforcement of 740 CMR 25.03.

Appendix B: Text of 740 CMR 25.00

This appendix reproduces the full text of 740 CMR 25.00 (General Rules and Regulations for Laurence G. Hanscom Field, Part F: Restrictions on Air Carrier Services), including related definitions and penalty provisions. This is the regulatory text as it appears in the Code of Massachusetts Regulations.

740 CMR 25.00: RESTRICTIONS ON AIR CARRIER SERVICES

Part F of the General Rules and Regulations for Laurence G. Hanscom Field

740 CMR 25.01: Definitions

For the purposes of 740 CMR 25.00 and unless the context requires otherwise, the definitions set forth in 740 CMR 2.00: General Provisions, shall apply. In addition, the following words and phrases shall have the following meanings:

Aircraft. Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, excluding publicly-owned aircraft operated in the service of any government.

Operation. A landing or takeoff at Hanscom by an aircraft.

Operator. The person who causes or authorizes the operation of an aircraft, with or without the right of legal control, in the capacity of owner, lessee, or otherwise.

Note: The definition of "Aircraft" excludes publicly-owned government aircraft. However, privately-owned aircraft operating under federal contract (such as ICE charter operators) are not excluded—they remain "aircraft" subject to this regulation.

740 CMR 25.02: Applicability

740 CMR 25.00 shall apply to all aircraft operating at Hanscom.

740 CMR 25.03: Restrictions on Commercial Air Passenger Service

No person, including an air carrier or a foreign air carrier, shall conduct at Hanscom an operation in commercial air passenger service in an aircraft with a seating capacity of greater than 60 seats.

KEY PROVISION: *This is the central restriction. Note: (1) it applies to "any person, including an air carrier"—not just scheduled airlines; (2) the term is "commercial air passenger service"—not "scheduled commercial service"; (3) the 60-seat threshold applies to seating capacity, not passengers actually carried.*

740 CMR 25.04: Commuter Aircraft Restrictions

No person shall conduct at Hanscom an operation in aircraft with a maximum gross takeoff weight in excess of 12,500 pounds unless such operation is conducted by the United States Government, Commonwealth of Massachusetts, a political subdivision of either of them, or a scheduled airline flying for

hire.

740 CMR 25.05: Prohibited Types

(1) No person shall conduct an operation at Hanscom, which operation involves the takeoff or landing of an aircraft of the following type:

- (a) Ultra-light vehicles;
- (b) Unpowered hang-gliders;
- (c) Manned free balloons.

(2) No person shall conduct an operation at Hanscom, which operation involves the takeoff or landing of a helicopter from or to any location on Hanscom other than a paved surface designated by the Authority.

740 CMR 25.06: Waivers

(1) The Executive Director may waive any prohibition or restriction contained in 740 CMR 25.00 on a showing that such waiver is necessary to meet an unusual and non-recurrent need which is affected with the public interest and cannot reasonably be accommodated at another airport.

(2) Any waiver granted under 740 CMR 25.06 shall be in writing and shall set forth its conditions. Any waiver may be revoked by the Executive Director at any time for cause, including but not limited to, the violation of any condition therein.

WAIVER CRITERIA: Note the three cumulative requirements: (1) unusual, (2) non-recurrent, (3) cannot reasonably be accommodated at another airport. All three must be satisfied. Regular, recurring charter operations would not meet these criteria.

740 CMR 25.99: Penalties

(1) Unless otherwise specifically provided herein, any person who violates any of the provisions of 740 CMR 25.00 shall be subject to a penalty of not less than \$250 nor more than \$350 for each violation.

(2) Notwithstanding 740 CMR 25.99(1), any person who violates 740 CMR 25.03 or 25.04 shall be subject to a penalty of \$2,000 for each violation.

ENHANCED PENALTY: Violations of the 60-seat restriction (25.03) carry a penalty of \$2,000 per operation—significantly higher than other violations (\$250-350). This enhanced penalty indicates the importance attached to enforcing this specific restriction.

Related Definitions from 740 CMR 2.02

The following definitions from the General Provisions are relevant to interpreting 740 CMR 25.03:

Air Carrier. Any person who holds a certificate issued under section 401 of the Federal Aviation Act of 1958, 49 USC 1371, or any successor provision, for air transportation services.

Commercial Operator. Any person operating an aircraft for the purpose of carriage of cargo, passengers, or both for compensation or hire.

Note: Both definitions apply to charter operators. Part 121 supplemental carriers hold certificates under successor provisions to the Federal Aviation Act. Charter operators carrying passengers for compensation meet the "commercial operator" definition.

Regulatory Authority

740 CMR 25.00 was adopted pursuant to Massport's authority under St. 1956, c. 465 (the Massport Enabling Act), which grants Massport broad authority to adopt rules and regulations for the airports under its jurisdiction. This authority is supplemented by Massport's general proprietor authority as the owner and operator of Hanscom Field.

Appendix C

2025 ICE Air Operations at Hanscom Field

126 ICE charter flights

~6,237 estimated detainees transported

3 charter carriers: GlobalX, Eastern Air Express, Avelo

4 aircraft types: Boeing 737-700, 737-800, Airbus A320,
A321

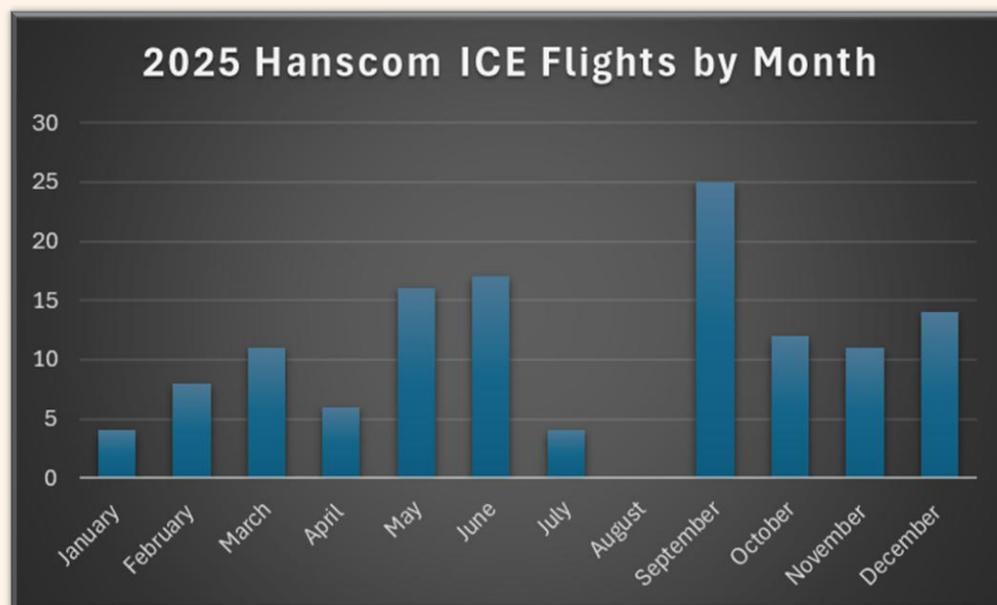
January 2026

Summary of 2025 I.C.E. Air Operations at Hanscom Field

Summary and Characterization of Flights

Total

I.C.E. conducted 126 detainee carrying charter flights out of Hanscom Field in 2025.¹ From 7/14 to 8/4 I.C.E. ceased using Hanscom and instead utilized Pease Airport in Portsmouth, NH for its air operations. The agency conducted 27 flights out of Pease before flights at Hanscom resumed on 8/5.

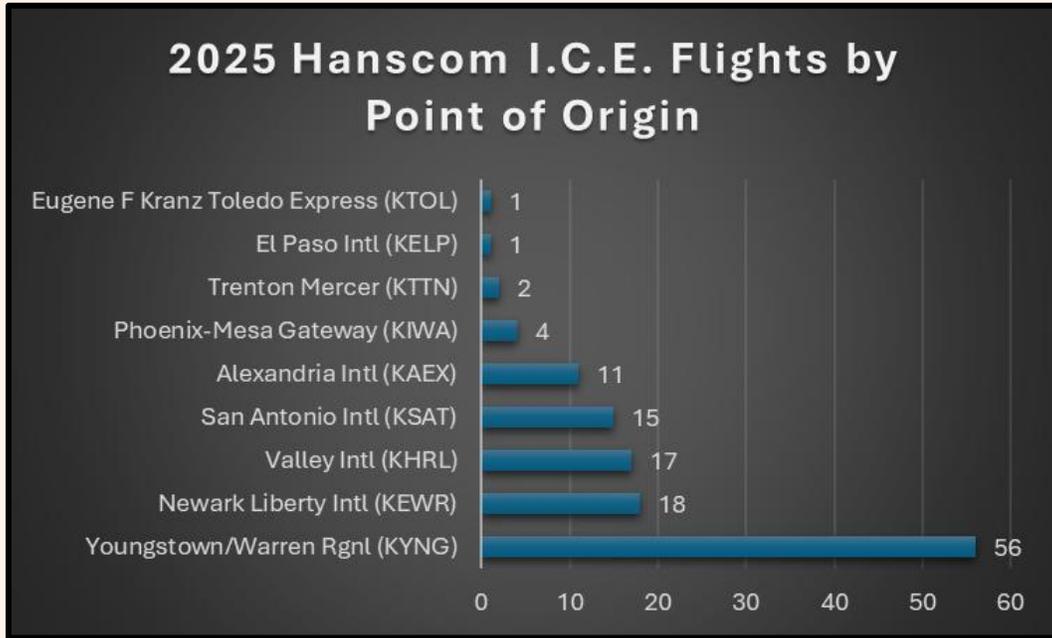


Origins

The most common origin for I.C.E. affiliated aircraft landing at Hanscom was Youngstown/Warren Regional Airport in Ohio. The agency bases two Eastern Air Express charter aircraft there which are frequently used for Hanscom Flights. Other common

¹ This figure is based on information from on the ground observers at Hanscom as well as research work produced by Human Rights First.

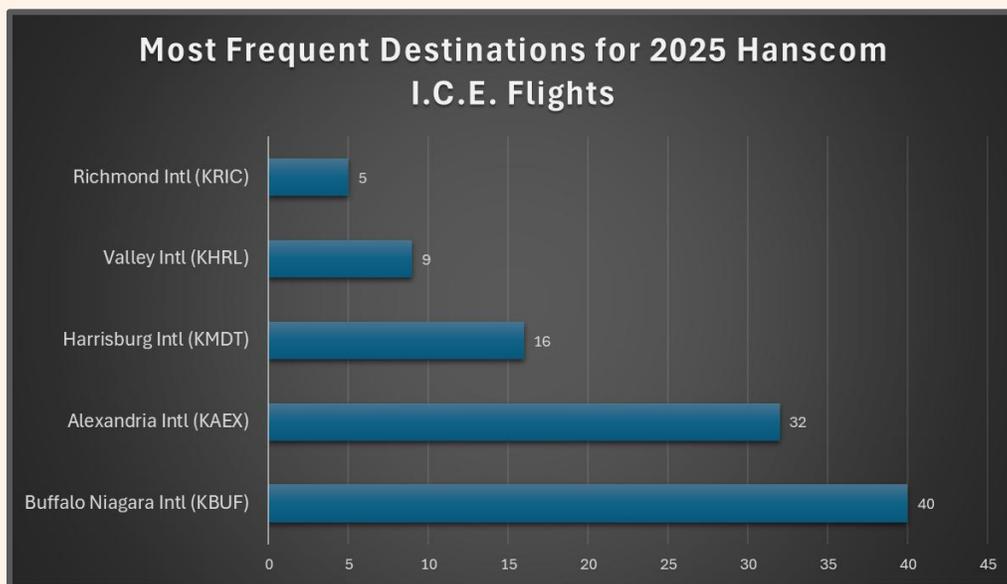
starting points for Hanscom I.C.E. flights were Newark, NJ, Harlingen, TX, Alexandria, LA and San Antonio, TX.



An I.C.E. chartered Eastern Air Express 737-700 on the tarmac at Youngstown in August, 2025.

Destinations

I.C.E. did not conduct any deportation flights from Hanscom Field in 2025. Rather, it used the airfield to move detainees from New England to detention centers in other parts of the United States. I.C.E. flights leaving Hanscom Field in 2025 travelled to a total of 16 different domestic destinations. Of these, Buffalo, NY was the most common destination, receiving 32% of the aircraft departing from Hanscom. Buffalo is the location of I.C.E.’s 800 bed Batavia Processing Center which may explain this figure. Alexandria, LA was the next most common destination, receiving 26% of these flights. Alexandria is adjacent to a large number of I.C.E. detention facilities and is also the departure point for many actual “removal” flights.²

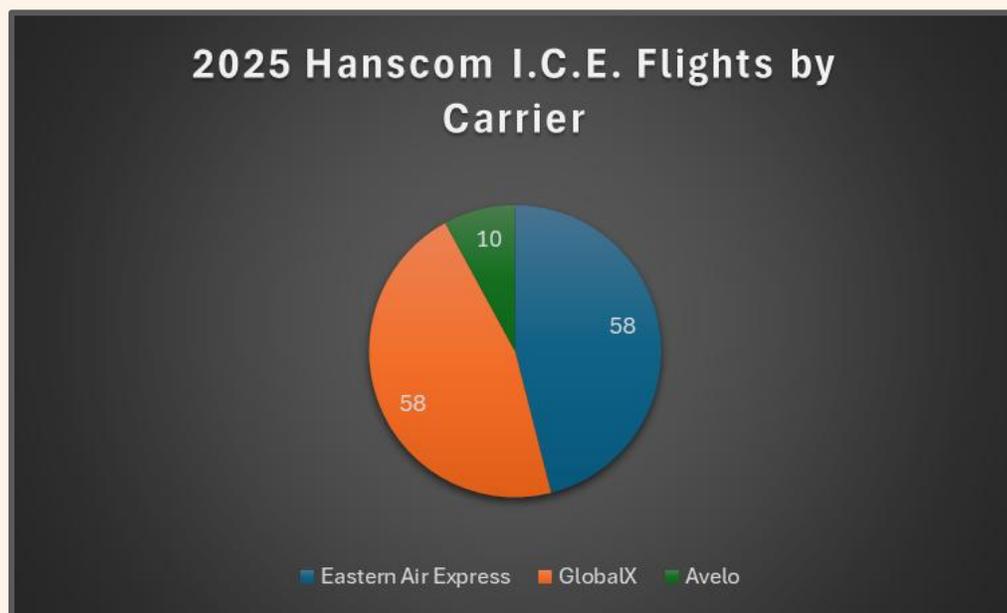


Carriers

The majority of I.C.E. flights departing Hanscom Field in 2025 were conducted by two charter airlines – Global Crossing Airlines (GlobalX) and Eastern Air Express. However,

² See *How Louisiana Built Trump’s Busiest Deportation Hub*; New York Times July 31, 2025.

Avelo Airlines conducted 10 flights out of Hanscom, with most of these occurring during the September surge in Boston area immigration enforcement. Other charter airlines known to work with I.C.E. such as Key Lime Air, Omni Air International and Gryphon Airlines did not operate agency affiliated flights out of Hanscom in 2025. Omni and Gryphon have traditionally been used for “removal” flights to overseas destinations. Given that Hanscom has been used as a transit point for domestic movement of I.C.E. detainees this is not surprising. Similarly, Key Lime Air only began operating flights for I.C.E. this past October and operates primarily smaller regional jets based in the Western United States.³ For this reason, it is unlikely to be a major player in I.C.E.’s use of Hanscom.



Aircraft Utilization

The aircraft used at Hanscom by I.C.E. contracted charter airlines have been Boeing 737 variants or equivalent Airbus aircraft. The frequency with which these aircraft are utilized is largely dependent on the frequency with which each charter carrier conducts operations.

³ See *Colorado airline operates flights for ICE, records show* in Colorado Newswire, October 23, 2025.

Eastern Air Express and Avelo utilize exclusively Boeing 737 variants while GlobalX's fleet is comprised entirely of Airbus variants. All of these aircraft types typically have sufficient seats for 150-200 passengers when in commercial service.



Passengers

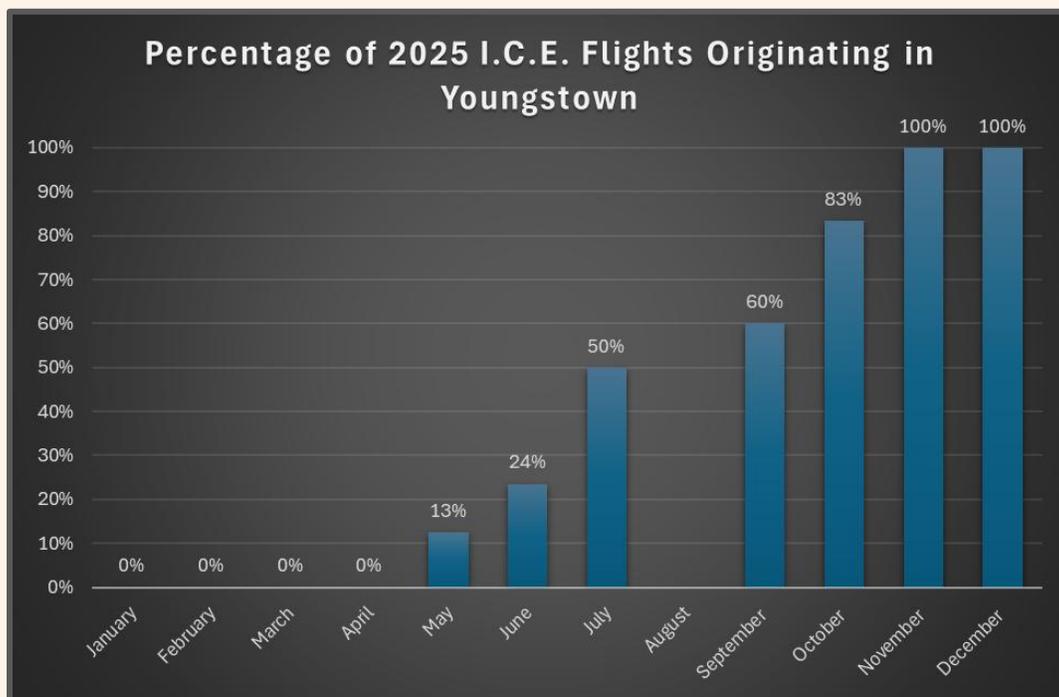
Public records requests obtained from MassPort for charter flights out of Hanscom have provided passenger numbers for 63 of the I.C.E. flights which departed the airfield in 2025. Given that security guards and flight crew are already aboard these aircraft when they arrive at Hanscom, passenger numbers provide a reasonable approximation for the number of detainees on each departing aircraft. These 63 flights embarked a median 49.5 passengers (IQR 26-66) with the largest number of passengers embarked bring 127 on May 8th. Extrapolating the median 49.5 passengers per flight across all 126 I.C.E. flights indicates that an estimated 6,237 detainees were flown out of Hanscom in 2025.

Trends

The Trump Administration's emphasis on strict immigration enforcement has led to a dramatic increase in I.C.E.'s use of aviation resources nationwide. For instance, during the period from January 20th to November 30th of 2025 I.C.E. conducted 7,362 domestic detainee transfer flights.⁴ This is in comparison to the 3,439 flights observed during the same time period in 2024. With this increase in flights there have been accompanying changes in I.C.E.'s pattern of use of Hanscom Field during 2025.

Origins

Over the course of 2025 I.C.E. flights landing at Hanscom originated in Youngstown, OH with increasing frequency. During November and December of this year all I.C.E. flights departing Hanscom Field were flown by aircraft based in Youngstown, OH.

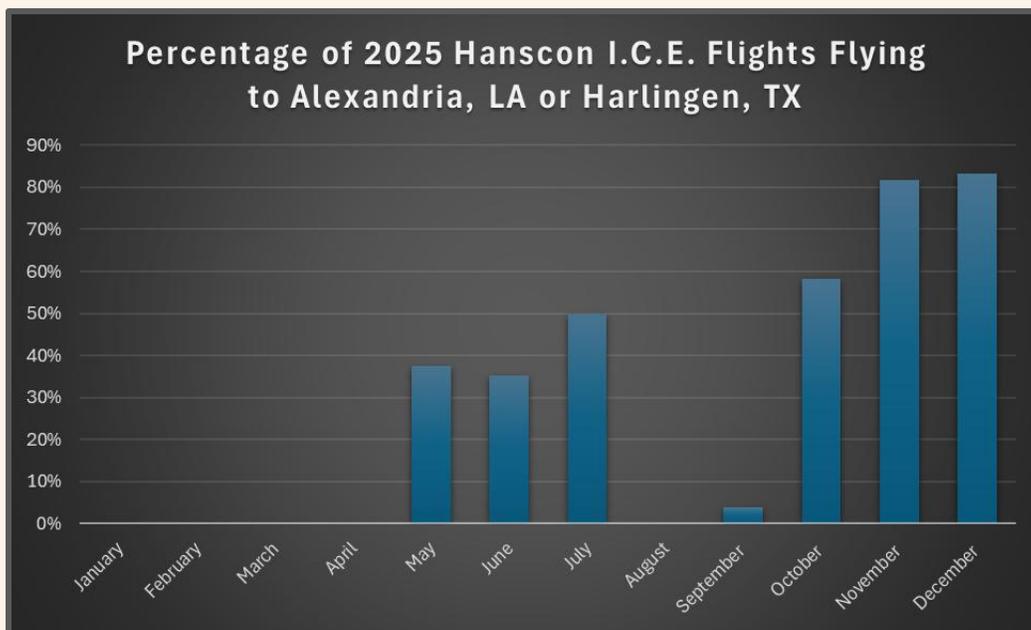


⁴ See Human Rights First's ICE Flight Monitor November 2025 Monthly Report

Destinations

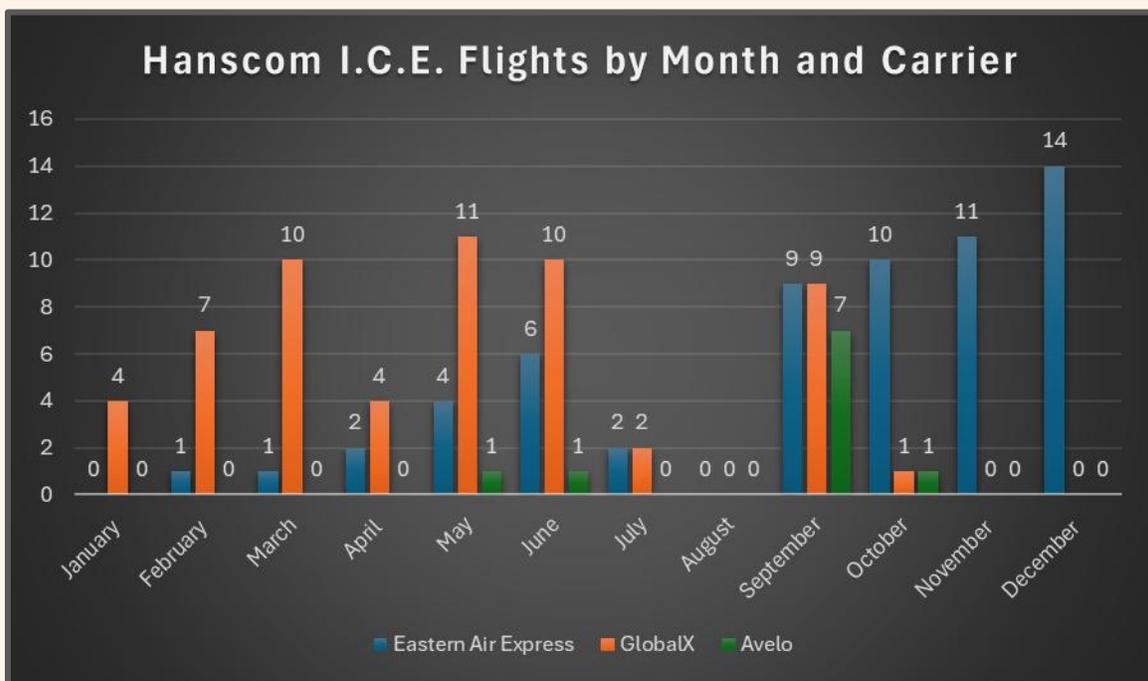
There have also been shifts in destination for I.C.E. affiliated aircraft departing Hanscom Field. More specifically, I.C.E. flights have increasingly travelled to destinations known to be staging areas for “removal” flights such as Alexandria, LA, Harlingen, TX. For example, in November and December of this year, 19 of 25 flights departing Hanscom flew directly to one of these two airports. Two of the remaining 6 flights made intermediate stops before heading to Alexandria, LA on the same day. The most common itinerary for I.C.E. aircraft utilizing Hanscom now originates in Youngstown and stopping in Hanscom to board detainees before flying to Alexandria.

This marks a substantial change in patterns previously seen at Hanscom. For instance, none of the total 23 I.C.E. flights departing Hanscom in January, February and March of this year flew to Harlingen or Alexandria. This may represent a desire within I.C.E. to more rapidly deport its detainees than had previously been the case, causing them to bypass domestic detention centers where these individuals had previously been held.



Carriers

Prior to September of this year Eastern Air Express conducted only a small percentage of I.C.E. flights stopping at Hanscom Field. However, since the end of the September surge Eastern has been used almost exclusively for this purpose. This is likely tied to I.C.E.'s increasing use of Youngstown as a base for its aviation operations in the northeastern U.S. As previously mentioned, Eastern Air Express has stationed two aircraft out of that airport and these have been primarily responsible for Hanscom I.C.E. flights since October of this year.



Images



I.C.E. Detainees being loaded onto an Eastern Air Express Aircraft on 10/12/25.



I.C.E. Detainees being loaded onto a GlobalX Aircraft on 9/13/25



I.C.E. Detainees being loaded onto a GlobalX Aircraft on 9/14/25