21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 10, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–493 Filed 1–18–96; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Chapter II

[Docket No. OST–96–993; Notice 96–1]

RIN 2105–AC36

Ticketless Travel: Passenger Notices

AGENCY: Office of the Secretary, DOT.

ACTION: Request for Comments.

SUMMARY: The Department is seeking comment on passenger notice requirements as applied to ticketless air travel. This action is taken on the Department's initiative.

DATES: Comments on the issues discussed in this document should be received by March 19, 1996. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent to Docket Clerk, Docket No. OST–96–993, Room PL–401, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590. For the convenience of persons who will be reviewing the docket, it is requested that commenters provide an original and three copies of their comments. Comments can be inspected from 9:00 a.m. to 5:00 p.m. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The docket clerk will date-stamp the postcard and mail it to the commenter. Comments should be on 8½ by 11 inch white paper using dark ink and should be without tabs and unbound.

FOR FURTHER INFORMATION CONTACT: Tim Kelly, Aviation Consumer Protection Division, Office of Aviation Enforcement and Proceedings, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW, Room 10405, Washington, DC 20590, telephone (202) 366–5952.

SUPPLEMENTARY INFORMATION:

Background

Various DOT regulations require U.S. and foreign air carriers to provide consumer notices on or with passenger tickets. These notices provide information about protections afforded by federal regulations, limitations on carrier liability, and contract terms that passengers may not otherwise be aware of. These ticket notice requirements are listed below.

Subject/Source (14 CFR)

Oversales—§ 250.11
Domestic baggage liability—§ 254.5
International baggage liability—§ 221.176
Domestic contract of carriage terms—§ 253.5
Terms of electronic tariff (international)—§ 221.177(b)
Refund penalties (domestic)—§ 253.7
Fare increases (international)—§ 221.174
Death/injury liability limits (international)—§ 221.175

Over the past few years, a number of airlines have begun selling air service with ''ticketless travel,'' also known as ''electronic ticketing.'' Under this concept a passenger or travel agent calls the airline, makes a reservation and purchases the transportation during the call, typically by credit card. No ''ticket,'' as that document has traditionally been configured, is issued. Instead, the passenger is orally given a confirmation number and/or is sent a written itinerary. Upon checking in at the airport the passenger simply provides his or her name, furnishes identification, and is given a boarding pass or other document that is used to gain access to the aircraft.

The Department of Transportation supports the development of ticketless travel. The process has the potential to reduce carrier and agent costs, and thereby costs to consumers, and to make air transportation easier to purchase. At the same time, the Department has been concerned that necessary information in the passenger notices described above be provided to all passengers in a ticketless environment at a time and in a manner that makes the information useful. A number of carriers that offer ticketless travel have approached the Department and asked what procedures we would find to be acceptable in this area. In response, we have pointed out the importance of providing the same general level and timeliness of notice that is presently required for traditionally-ticketed passengers, as indicated in the discussion that follows. As far as we are aware, virtually all carriers that offer ticketless travel are providing those notices in the manner and at the time that we have recommended.

We realize that this is a dynamic area of air transportation. We are publishing this Federal Register notice in order to seek comment on all aspects of the issue of consumer notices in a ticketless air travel environment so that unnecessary documentation burdens can be eliminated, consistent with providing needed information to consumers in a timely fashion.

Discussion

At the time that the various passenger notice requirements described above were issued, all passengers received tickets. It appears that the ticket was chosen as the means for conveying required consumer information simply because tickets were a universally-available medium for documenting the carrier/passenger contract of carriage and providing notice in writing to individual passengers. We have found no evidence that the use of the word ''ticket'' in these notice rules contemplated that only airline passengers who receive traditional tickets are able and entitled to benefit from the information in these notices.

Indeed, there is ample evidence that these notice requirements were enacted in order to provide important information to all airline passengers. In issuing a rule requiring a ticket notice disclosing baggage liability limits, the Civil Aeronautics Board noted:

> As we stated in EDR–182, inadequate knowledge by the traveling public of the limits on liability for loss of or damage to baggage has been a recurring source of consumer complaints and this continues to be the case. [T]he Board has determined that the traveling public is entitled to effective notice of both Warsaw Convention and other baggage liability limitations. [ER–691 issued August 24, 1971; 36 FR 17034.]

In 1977 the Board issued a rule requiring a ticket notice disclosing overbooking practices. The agency stated:

> * * * while we find nothing unlawful in a carrier's attempt to insulate itself against a common law action of fraudulent misrepresentation by filing a tariff rule, such carrier and its agents should be required to provide the passenger with actual notice of its overbooking practices. Although, as the carriers point out, a passenger may be legally presumed to have knowledge of a carrier's tariffs, it is clearly unrealistic to expect passengers to have actual knowledge of the contents of tariffs. [ER–987 issued February 28, 1977; 42 FR 12420.]

In 1982, as domestic tariffs were being phased out, the Board issued a rule permitting carriers to continue to incorporate terms by reference into contracts with passengers, as they had with tariffs, but requiring a ticket notice disclosing the existence of the incorporated terms. The rule also required specific notice of certain terms affecting the refundability of the fare. The Board stated that it wanted to:

> * * * make sure that the traveling public are able to find out the terms they are ''buying into'' whenever they purchase an airline ticket, so that they can make an informed choice of carrier, class and flight, and protect themselves (for example, by buying extra insurance) against undesired risks * * * This rule is intended to alert passengers, and prospective passengers, that important terms are incorporated in ticket contracts * * * [ER–1302 issued September 27, 1982; 47 FR 52134; 14 CFR Part 253.]

One of the primary concerns of airlines at the time that the rule permitting continued incorporation of contract terms (14 CFR Part 253) was adopted was the possibility of being subjected to widely divergent standards involving notice of contract terms by the courts of many different states which might have jurisdiction over their contracts. Part 253 preempts state courts from involvement in the issue of notice of contract terms, so long as carriers comply with its provisions. Presumably, carriers that offer ticketless travel want to incorporate contract terms by reference and take advantage of liability limitations to the same extent as carriers that issue tickets. However, it is open to question whether courts will view a carrier's contract of carriage to be enforceable by a carrier if a consumer does not receive timely written notice of its applicability to the air transportation being purchased. At this point, we continue to believe that Part 253 strikes a balance between the Department's responsibility to protect consumers and its desire to allow airlines the maximum flexibility possible for their business decisions. Accordingly, for the same reasons that were cited when the part 253 disclosure rules were enacted, both carriers and passengers could face increased risks if notice of the incorporated contract of carriage terms were not to be provided to ticketless passengers in a timely fashion. We seek comment on whether carriers selling ticketless travel expect that their respective contracts of carriage will apply to the purchased transportation. We also seek comment on the costs and the benefits of providing notice of any incorporated contract of carriage terms to ticketless passengers within a few days after the purchase transaction, and the methods by which this could be accomplished. In addition to comments on all of the above issues, we specifically ask for comment on the issue of preemption if carriers do not provide written notice to ticketless passengers similar to that required under part 253.

In addition to conveying consumer notices, an airline ticket serves as a record of the passenger's reservation. The definition of ''confirmed reserved space'' in the Department's denied boarding rule (14 CFR § 250.1) is:

> * * * space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier, as being reserved for the accommodation of the passenger.

Thus, if a passenger has a ticket reflecting confirmed reserved space (generally indicated by the notation ''OK'' in the Status field), that passenger has a reservation for purposes of our denied boarding rule even if the carrier cannot locate the reservation in the computer. Under that rule, that passenger is entitled to compensation if not boarded. Ticketless passengers could be at a disadvantage in this regard if there is no evidence in their possession of having a reservation on a particular flight. The confirmation number provided at the time of the purchase may help the carrier locate the reservation, but if the computer record cannot be found, the confirmation numbers now being used may not establish that the passenger has a reservation on the specific flight for which he or she is checking in. Therefore, failure to provide confirmed passengers with an adequate written record of the confirmation could lead to numerous disputes between airlines and passengers regarding entitlement to denied boarding compensation as required by part 250. Such a written record could be the confirmation number alone, if the carrier has a system that allows airport agents to use a confirmation number to determine the status of the reservation associated with that number without resort to its computer reservation system (e.g., by using a coded confirmation number). However, if a carrier does not have a procedure free of reliance on a single computer reservation system, in order to achieve the same end it may be advisable for a written record of the reservation to be sent to the passenger at the time of the purchase to identify the specific flights, dates and classes of service purchased by the passenger, consistent with section 250.1. We ask for comments on whether passengers in a ticketless environment should receive evidence of their confirmed reservation independent of a carrier's computer reservation system and, if so, by what means.

Another issue raised by ticketless travel is that the passenger may have no record issued by the carrier or its agent of the fare that was quoted to and accepted by the passenger during the telephone call or other transaction when the transportation was purchased. The charge record from the passenger's credit card company may not arrive in the mail until after the flight, and should there be a disagreement at check-in over the correct fare, the passenger would have no evidence of the amount that he or she had agreed to pay. Although airline tickets contain fare information, no existing rule requires such a written record of the fare, and thus some carriers may not wish to create one for ticketless passengers. However, to the extent that written material is given to ticketless passengers in order to address other issues discussed here, providing a written record of the fare (perhaps generated from the record of the purchase transaction) would obviate many potential disputes over the amount of the fare. Comments are invited on how carriers deal with fare disputes with all passengers, but particularly with passengers who purchase tickets by phone, and on how often such disputes occur.

To the extent that carriers revise their systems as a result of any of the issues discussed in this Notice, it may be easier to incorporate fare information now than to have to add it later. It is likely that many business travelers will need a written statement of the fare for expense reports in any event. Providing fare documentation on a ticketless transaction may encourage more business travelers to use the system, which may in turn reduce carrier costs. We seek comment on the desirability and practicality of providing fare information in writing to ticketless passengers.

Article 3, section 2 of the Warsaw Convention (49 Stat. 3000, 49 U.S.C.A. 1502) requires that before a carrier can assert Warsaw liability limits for personal injury or death or for lost or damaged baggage with respect to a particular international passenger, the carrier must provide that passenger a ticket which states, *inter alia,* that the transportation is subject to the Convention's rules. This issue will need to be addressed.

Ticketless carriers that are providing consumer notices as we have recommended have been furnishing those notices in writing. We have advised those carriers that written notice could be provided through electronic text media such as ''e-mail'' and faxes. Oral notice during a telephone transaction alone would not meet the requirements of the current regulations that apply to ticket notices. The consumer notices that currently

appear on tickets are lengthier than the brief oral notice now required for code-sharing (14 CFR § 399.88) and the more detailed notices proposed for code-sharing and change-of-gauge service (59 FR 40836 and 60 FR 3778). In addition, the code-sharing and change-of-gauge disclosures are alerts about a single fact, while the ticket notices contain more-detailed information that passengers may want to refer to during check-in or even after the flight (e.g., in the event of a problem). Finally, a written notice avoids disputes over what was said. To the extent that information in the notices currently required on tickets is provided to ticketless passengers, we seek comment on whether we should specify the methods by which this information should be transmitted and the timing of such notice.

We have stated to carriers that have contacted us about ticketless travel that the intent of the current regulations for notices on tickets is to ensure that the notices to passengers are provided in conjunction with the purchase transaction. Consistent with this concept, we have advised these carriers that we believe that on a ticketless sale the notices should be sent to the purchaser (via mail, fax, ''e-mail,'' personal delivery, or other timely means) within a few days after the purchase transaction. The purposes of the consumer notices may not be served if they are handed to passengers as they check in at the airport, or put in a queue to be mailed just before each passenger's flight. It is at the time of the purchase transaction that a passenger puts his or her money at risk on a restricted fare, and also enters into a contract. Passengers may wish to take certain actions before the flight as a result of reading the consumer notices, such as purchasing additional insurance or packing differently (e.g., putting expensive items in a carry-on bag). At the same time, we have also advised carriers that we recognize that if a passenger makes a ticketless purchase only a few days before departure and it would be impossible or unreasonably costly to get the required written material to him or her before the day of the flight, it may be necessary to provide this written material upon check-in at the airport. Such a procedure is similar to that now followed when tickets purchased by telephone within a few days of departure cannot be mailed due to the lack of time. We seek comment on the question of when any notices, if required, should be provided.

Some carriers have introduced machines that accept a credit card or ''smart card.'' If the machine delivers a standard ticket, the required information must be on the ticket, pursuant to the Department's current regulations on ticket notices. If the machine processes a ticketless sale, a page containing the required information could be printed out with each transaction, or the machine could print the passenger-specific data (i.e., confirmation information and fare) on a receipt and a supply of the consumer notices could be kept in a container attached to the machine with a sign asking customers to take one. We seek comment on whether written notices, if required, should be provided during such transactions, and how they should be furnished. Should passengers who read and sign special ''disclosure forms,'' which provide all currently required notices, in order to obtain a ''smart card'' also receive notices with each air transportation purchase?

Several airlines and Computer Reservations System vendors allow subscribers of commercial online services to make reservations and purchase air transportation (both ticketed and ticketless) online. A number of airlines have established home pages on the World Wide Web, raising the prospect of electronic sales of air transportation via that medium. To the best of our knowledge, most current online sales of air transportation result in the mailing of a ticket, which should normally include the required notices. However, in the case of an online ticketless purchase (as opposed to simply a reservation), the question arises whether the consumer information that currently appears on or with tickets should be provided, and if so, how. One way to do this would be to offer a prominent, convenient and inexpensive (in terms of connect-time charges) option for the passenger to download or print the notices during the purchase transaction. Another would be to ''e-mail'' the notices to the passenger's ''e-mail'' address. Simply advising the customer that the consumer information is available to be read elsewhere online may not be adequate, just as it would not be satisfactory in a conventional ticketing transaction for the seller to tell the passenger where he or she could locate the required notices. Comments on these issues are invited.

The current regulations concerning ticket notices state that the notices must appear on tickets issued by travel agents. In two recent rulemakings the Department has proposed new written notices to be given to passengers who book code-sharing flights or change-of-gauge flights. Those proposed rules specifically take ticketless travel into account, and they would, if adopted, require that the written disclosure proposed in those rules be given to persons who book through travel agents. See 59 FR 40836, August 10, 1994, ''Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases,'' and 60 FR 3778, January 19, 1995, ''Disclosure of Change-of-Gauge Services.'' Those who comment on this notice on ticketless travel should be aware that the conclusions and analysis set forth here do not reflect any of the comments filed in the two dockets cited above. Any party that filed comments in those dockets on the issue of disclosure by travel agents is invited to file similar comments here.

We are currently of the view that providing timely written notice to ticketless passengers should not be unduly burdensome to carriers. The various procedures discussed in this Notice would represent no increase in required passenger notices; implementing the procedures (which we have previously recommended to carriers) would simply mean that the written information that has in the past been required to be provided to all passengers should continue to be provided to all passengers. We believe that virtually all carriers that offer ticketless travel have been following all of the procedures described in this Notice since last year, and doing so does not appear to have inhibited their ticketless programs. The high level of adherence to the ticketless travel notice procedures recommended by us and described in this Notice is, in part, attributable to the fact that it is in the best interests of the carriers and their customers to adopt such a system, as well as the apparent ease of following those procedures.

The notices in question would easily fit on the front and back of a single 8½ by 11 inch sheet of paper. If formatted differently or if the international notices are not provided to domestic passengers, the notices fit on the front of a single sheet. (The Department's Aviation Consumer Protection Division has created a sample sheet which is available by contacting the individual listed at the beginning of this notice under ''For Further Information.'' It is also available electronically through the World Wide Web at http://www.dot.gov/dotinfo/general/rules/aviation.html)

Some airlines that have implemented or studied ticketless travel have stated that most of the cost savings result from the elimination of ''back office'' processing of ticket coupons, physical security for ticket stock, and cumbersome procedures for refunding lost tickets, rather than from simply eliminating the printing of tickets

themselves. Those advantages would be unaffected by notice procedures such as those described in this document. We request specific comments on the monetary costs and the benefits of implementing the notice procedures discussed above.

The procedures discussed in this Notice are not new ones. As indicated above, over the past year we have communicated our views on this issue to several carriers that offer ticketless travel, and we have shared them with the Air Transport Association of America. In the two recent rulemakings mentioned above in which the Department has proposed new written notices to be given to passengers on code-sharing flights or change-of-gauge flights, the proposed provisions have been phrased to require the notices ''at the time of sale'' rather than on or with a ''ticket.'' The code-sharing proposal states in the Supplementary Information section that ''[T]he separate written notice requirement would apply whether or not the consumer is given an actual ticket to evidence the transportation * * * ''

It has been suggested that requiring ticketless passengers to be given written information is inconsistent with the fact that many airline passengers make reservations in advance but pick up their tickets at the airport. We seek comment on this point, because we see no direct inconsistency. The existing rules on ticket notices state that the notices are to be provided on or with the ticket. If the ticket is not furnished until the passenger arrives at the airport, that is when the passenger completes the contract with the carrier and should receive the notices, even if he or she had made a telephone reservation two weeks earlier. A passenger who makes a reservation by phone but purchases the ticket at the airport is not putting his or her money at risk at the time of the telephone reservation, nor is he or she entering into a contract at that point.

On the other hand, we recognize that it may not be uncommon for a passenger to purchase a ticket by credit card over the telephone a few days before departure, leaving insufficient time for the ticket to be mailed and requiring that it be picked up at the airport, at which time the required notices would first be provided. We ask for comments on the number of travelers who may purchase air travel in this manner and whether there have been any specific problems associated with such travelers not receiving required notices until they receive their ticket upon arrival at the airport. We ask that commenters address specific reasons for any problems or lack of problems experienced by travelers in this area (e.g., Are short-notice purchases likely to be most common among business persons or other frequent travelers who may already be familiar with contract terms provided in required notices?).

It has also been suggested that there is no justification for requiring such written notices on ticketless transactions in the airline industry when reservations for hotel rooms and rental cars are routinely made by telephone, with merely a confirmation number being given to the customer. However, these services are seldom paid for in full at the time of the reservation, and there is generally more flexibility to change reservations than is the case on a discount airline ticket. Also, few hotel or car rental transactions are subject to the terms of a 50-page contract of carriage as is common in air travel. Finally, state and local governments are not preempted from regulating hotel stays and car rentals, but those levels of government are preempted by federal law from regulating air carrier rates, routes or services. Nonetheless, comments on this issue are welcome.

The Department wishes to arrive at the most efficient and flexible means of delivering necessary consumer information without hindering the development of ticketless travel. To that end, we seek comment on all aspects of the agency views expressed in this Notice, especially with respect to any increased costs that may be imposed by adherence to the notice procedures which we have recommended and which are discussed above.

An electronic version of this document is available at http://www.dot.gov/dotinfo/general/rules/aviation.html

Issued this 5th day of January, 1996 at Washington, DC.

Mark L. Gerchick,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–546 Filed 1–18–96; 8:45 am]

BILLING CODE 4910–62–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 270

[Release Nos. 33–7253; IC–21663; S7–32–95]

RIN 3235–AG63

Calculation of Yield by Certain Unit Investment Trusts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms; extension of comment period.

SUMMARY: The Commission is extending from January 29, 1996 to March 29, 1996 the comment period for Investment Company Act Release No. 21538. This release proposed for public comment rule and form amendments that would require certain unit investment trusts (''UITs'') to use a uniform formula to calculate yields quoted in their prospectuses, advertisements, and sales literature.

DATES: Comments on the proposed amendments should be received on or before March 29, 1996.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comment letters should refer to File No. S7–32–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Anthony R. Bosch, Senior Attorney, Office of Disclosure and Adviser Regulation, (202) 942–0721, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On November 22, 1995 the Commission published Investment Company Act Release No. 21538 which proposed for comment rule and form amendments that would standardize the calculation of yield quoted in the prospectuses, advertisements, and sales literature of certain UITs.[1] The Commission requested that comments on the proposal be received by January 29, 1996.

In a letter dated December 14, 1995 the Investment Company Institute (''ICI'') requested a 60-day extension for the period for commenting on the proposal.[2] The ICI requested the extension to allow additional time for further research, data generation, analysis, and discussion.

To permit additional time for research, data generation, analysis, and discussion and in light of the importance of comments on this subject, the Commission believes that a 60-day extension is appropriate. The comment

[1] Investment Company Act Rel. No. 21538 (Nov. 22, 1995) [60 FR 61454 (Nov. 29, 1995)].

[2] Letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, to Barry P. Barbash, Director, Division of Investment Management (Dec. 14, 1995).