

(c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on the ticket at no extra charge, except that a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund; or

(d) The carrier arranges comparable air transportation, or other transportation used by the passenger at no extra cost to the passenger, that at the time such arrangements are made is planned to arrive at the airport of the passenger's next stopover or, if none, at the airport of the final destination not later than 1 hour after the planned arrival time of the passenger's original flight or flights.

[ER-1337, 48 FR 29680, June 28, 1983, as amended at Docket No. DOT-OST-01-9325, 73 FR 21034, Apr. 18, 2008]

§ 250.7 [Reserved]

§ 250.8 Denied boarding compensation.

(a) Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, except as provided in paragraph (b), cash or an immediately negotiable check for the appropriate amount of compensation provided in § 250.5.

(b) Where a carrier arranges, for the passenger's convenience, alternate means of transportation that departs before the payment can be prepared and given to the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

[ER-1394, 49 FR 43625, Oct. 31, 1984]

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

(a) Every carrier shall furnish passengers who are denied boarding involuntarily from flights on which they hold confirmed reserved space immediately after the denied boarding occurs, a written statement explaining the terms, conditions, and limitations of denied boarding compensation, and describing the carriers' boarding priority rules and criteria. The carrier shall also furnish the statement to any person upon request at all airport tick-

et selling positions which are in the charge of a person employed exclusively by the carrier, or by it jointly with another person or persons, and at all boarding locations being used by the carrier.

(b) The statement shall read as follows:

COMPENSATION FOR DENIED BOARDING

If you have been denied a reserved seat on (name of air carrier), you are probably entitled to monetary compensation. This notice explains the airline's obligation and the passenger's rights in the case of an oversold flight, in accordance with regulations of the *U.S. Department of Transportation*.

VOLUNTEERS AND BOARDING PRIORITIES

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until airline personnel first ask for volunteers who will give up their reservation willingly, in exchange for a payment of the airline's choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily in accordance with the following boarding priority of (name of air carrier): (In this space the carrier inserts its boarding priority rules or a summary thereof, in a manner to be understandable to the average passenger.)

COMPENSATION FOR INVOLUNTARY DENIED BOARDING

If you are denied boarding involuntarily, you are entitled to a payment of "denied boarding compensation" from the airline unless: (1) you have not fully complied with the airline's ticketing, check-in and reconfirmation requirements, or you are not acceptable for transportation under the airline's usual rules and practices; or (2) you are denied boarding because the flight is canceled; or (3) you are denied boarding because a smaller capacity aircraft was substituted for safety or operational reasons; or (4) on a flight operated with an aircraft having 60 or fewer seats, you are denied boarding due to safety-related weight/balance restrictions that limit payload; or (5)

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you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or (6) the airline is able to place you on another flight or flights that are planned to reach your next stopover or final destination within one hour of the planned arrival time of your original flight.

AMOUNT OF DENIED BOARDING COMPENSATION

Passengers who are eligible for denied boarding compensation must be offered a payment equal to their one-way fare to their destination (including connecting flights) or first stopover of four hours or longer, with a \$400 maximum. However, if the airline cannot arrange "alternate transportation" (see below) for the passenger, the compensation is doubled (\$800 maximum). The fare upon which the compensation is based shall include any surcharge and air transportation tax.

"Alternate transportation" is air transportation (by any airline licensed by DOT) or other transportation used by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's next scheduled stopover of 4 hours or longer or, if none, the passenger's final destination, no later than 2 hours (for flights between U.S. points, including territories and possessions) or 4 hours (for international flights) after the passenger's originally scheduled arrival time.

METHOD OF PAYMENT

Except as provided below, the airline must give each passenger who qualified for involuntary denied boarding compensation a payment by cash or check for the amount specified above, on the day and at the place the involuntary denied boarding occurs. If the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment shall be sent to the passenger within 24 hours. The air carrier may offer free or discounted transportation in place of the cash payment. In that event, the carrier must disclose all material restrictions on the use of the free or discounted transportation

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before the passenger decides whether to accept the transportation in lieu of a cash or check payment. The passenger may insist on the cash/check payment or refuse all compensation and bring private legal action.

PASSENGER'S OPTIONS

Acceptance of the compensation may relieve (name of air carrier) from any further liability to the passenger caused by its failure to honor the confirmed reservation. However, the passenger may decline the payment and seek to recover damages in a court of law or in some other manner.

(Approved by the Office of Management and Budget under control number 3024-0003)

[ER-1306, 47 FR 52985, Nov. 24, 1982, as amended by ER-1337, 48 FR 29681, June 28, 1983; ER-1392, 49 FR 40401, Oct. 16, 1984; ER-1394, 49 FR 43625, Oct. 31, 1984; 68 FR 52836, Sept. 8, 2003; Docket No. DOT-OST-01-9325, 73 FR 21034, Apr. 18, 2008]

§ 250.10 Report of passengers denied confirmed space.

Every reporting carrier as defined in 14 CFR 234.2 and any carrier that voluntarily submits data pursuant to § 234.7 of that part shall file, on a quarterly basis, the information specified in BTS Form 251. The reporting basis shall be flights originating or terminating at, or servicing, a point within the United States. The reports are to be submitted within 30 days after the quarter covered by the report. The calendar quarters end March 31, June 30, September 30 and December 31. "Total Boardings" on line 7 of Form 251 shall include only passengers on flights for which confirmed reservations are offered. No reports need be filed for inbound international flights on which the protections of this part do not apply.

(Approved by the Office of Management and Budget under control number 2138-0018)

[Doc. No. 43872, 51 FR 30475, Aug. 27, 1986, as amended at 60 FR 66726, Dec. 26, 1995; Docket No. DOT-OST-01-9325, 73 FR 21035, Apr. 18, 2008]