

are all large air carriers with annual operating revenues exceeding \$600 million. Thus, this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

#### *Trade Agreements Act*

This Act prohibits agencies from setting standards that create unnecessary obstacles to foreign commerce of the United States. ASQP data are for domestic operations only and have no impact on the foreign commerce of U.S. carriers.

#### *Unfunded Mandates Reform Act of 1995*

This Act requires agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that include a Federal mandate likely to result in the expenditure by State, local, or tribal government. This proposed rule imposes no expenditures on State, local or tribal governments.

#### *Executive Order 13132, Federalism*

The Department has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this proposed action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

#### *Paperwork Reduction Act*

The Department has submitted a copy of the new information requirements in this proposed rule to the Office of Management and Budget for review. Based on carrier comments, we are estimating a first year increase in reporting burden of 900 hours per carrier or an industry increase of 18,000 hours. After the carriers have revised their systems, reporting burden should be reduced slightly in the future. We request that carriers provide estimates of what they perceive as increased costs and burdens from this proposed action.

#### *Regulation Identifier Number*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda each April and October. The RIN Number 2139-AA13 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### **List of Subjects in 14 CFR Part 234**

Air carriers, Reporting and recordkeeping requirements.

Accordingly, the U.S. Department of Transportation proposes to amend 14 CFR Chapter II as follows:

#### **PART 234—[AMENDED]**

1. The authority citation for part 234 is revised to read as follows:

**Authority:** 49 U.S.C. 329 Secs. 41708 and 41709.

2. Section 234.4 is amended by adding paragraphs (a)(22) through (a)(29) and revising paragraph (b) to read as follows:

#### **§ 234.4 Reporting of on-time performance.**

- (a) \* \* \*
- (22) For gate/air returns, first gate-departure time at origin airport.
- (23) Total ground time away from gate for all gate/air returns at origin airport, including cancelled flights—actual minutes.
- (24) Total number of gate returns.
- (25) Three letter code of airport where diverted flight landed.
- (26) Wheels-on Time at diverted airport.
- (27) Gate Arrival Time at diverted airport.
- (28) Gate Departure Time at diverted airport.
- (29) Wheels-off Time at diverted airport.
- (b) When reporting the information specified in paragraph (a) of this section for diverted flights, a reporting carrier shall use the original scheduled flight number and the origin and destination airport codes except for items cited in paragraph (a)(25) of this section.

\* \* \* \* \*

Issued in Washington, DC, on November 15, 2007.

**M. Clay Moritz, Jr.,**

*Acting Assistant Director, Office of Airline Information, Bureau of Transportation Statistics.*

[FR Doc. 07-5759 Filed 11-15-07; 4:15 pm]

**BILLING CODE 4910-13-P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **Office of the Secretary**

#### **14 CFR Parts 234, 253, 259, and 399**

**[Docket No. DOT-OST-2007-0022]**

**RIN No. 2105-AD72**

#### **Enhancing Airline Passenger Protections**

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM).

**SUMMARY:** The Department of Transportation (DOT or Department) is seeking comment on whether it should adopt a rule to enhance airline passenger protections in the following seven ways: require carriers to adopt contingency plans for lengthy tarmac delays and incorporate them in their contracts of carriage, require carriers to respond to consumer problems, deem operating a chronically delayed flight to be unfair and deceptive, require carriers to publish delay data, require carriers to publish complaint data, require on-time performance reporting for international flights, and require carriers to audit their compliance with their customer service plans. We are proposing that most of these measures cover certificated or commuter air carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats. We are proposing that one measure cover the largest U.S. and foreign carriers and that two other measures cover the largest U.S. carriers.

**DATES:** Comments should be filed by January 22, 2008. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may file comments identified by the docket number DOT-OST-2007-0022 by any of the following methods:

- *Federal eRulemaking Portal:* go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

*Instructions:* You must include the agency name and docket number DOT-OST-2007-0022 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association,

business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:**

Betsy L. Wolf or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202-366-9342, 202-366-7152 (fax), [betsy.wolf@dot.gov](mailto:betsy.wolf@dot.gov) or [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:**

**Background**

Beginning in December of 2006 and continuing through the early spring, weather problems kept more than a few aircraft sitting for hours on airport tarmacs. Many passengers were stranded on these aircraft for periods of three hours, six hours, and in some cases even longer. At the request of the Secretary of Transportation, the Department's Office of the Inspector General has reviewed and reported on these incidents, focusing its report on how the carriers can improve passenger comfort and convenience during these extremely long delays on the ground.

Another significant issue for passengers is the high incidence of less extreme flight delays. In the first seven months of this year, only 72.23 percent of flights arrived on time, a lower percentage for this period than in any of the past 12 years.

The industry and interested observers have attributed both the marathon tarmac waits and the epidemic of flight delays to a number of factors in addition to the weather. Some posit that because carriers are now flying full planes and have no excess capacity in their systems and thus no margin for error in the event of problematic weather, revenue concerns mandate that they delay a flight until it can take off, even for hours if necessary, rather than cancel it. Some fault the air traffic control system and the airports for acting too slowly to relieve capacity and operational constraints. Some attribute the overload problem to the widespread replacement of larger aircraft with smaller regional jets scheduled at higher frequencies and call for the Federal Aviation Administration (FAA) to require carriers to trim their schedules. Others point to the steep rise in the use of private jets.

Some of the capacity and operational constraints that have undoubtedly contributed to tarmac delays and other flight delays are being addressed by the FAA and certain airports in other contexts. In the meantime, however, this Department is seeking comment on several measures to address passengers' concerns. 49 U.S.C. 41712, in concert with 49 U.S.C. 40101(a)(4) and 40101(a)(9) and also 49 U.S.C. 41702, gives us the authority and the responsibility to protect consumers from unfair and deceptive practices and ensure safe and adequate service in air transportation. We are therefore seeking comment on eight potential solutions, described below, intended to ameliorate some of the problems facing passengers without creating undue burdens for the carriers. We also invite commenters to suggest other consumer protection measures that might help alleviate the problems that passengers face. Commenters should bear in mind the Department's responsibility to strike the proper balance between protecting consumers and affording carriers as much leeway as possible to choose their responses to the rapid developments that confront them in the marketplace.

*1. Require Contingency Plans for Lengthy Tarmac Delays and Incorporate Them in Their Contracts of Carriage*

We seek comment on amending 14 CFR part 253 to require any certificated or commuter air carrier<sup>1</sup> that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to develop a contingency plan for long ground delays on the tarmac for all of its flights (including those that use aircraft with 30 or fewer seats) and to incorporate this plan in its contract of carriage. Among other things, each such plan would have to include the following:

- The maximum tarmac delay that the carrier will permit,
- The amount of time on the tarmac that triggers the plan's terms,
- Assurance of adequate food, water, and lavatory facilities, and medical

<sup>1</sup> A certificated air carrier is a U.S. direct air carrier that holds a certificate issued under 49 U.S.C. 41102 to operate passenger and/or cargo and mail service or that holds an exemption to conduct direct passenger operations under 49 U.S.C. 41102. Air taxi operators or and commuter air carriers operating under 14 CFR part 298 are not certificated air carriers. Some carriers that would otherwise be eligible for air taxi or commuter status have opted to be certificated. A commuter air carrier is an air taxi operator that carries passengers on at least five round trips per week on at least one route between two or more points according to published flight schedules. See 14 CFR 298.2. An on-demand air taxi is an air taxi operator that carries passengers or property and is not a commuter air carrier as defined in 14 CFR part 298.

attention if needed while the aircraft remains on the tarmac,

- Assurance of sufficient resources to implement the plan, and
- Assurance that the plan has been coordinated with airport authorities at medium and large hub airports.

With the contingency plan incorporated in the contract of carriage, passengers would be able to sue in court for damages if a carrier failed to adhere to its plan. Carriers would also be required to make their complete contracts of carriage (including contingency plans) available on their Web sites. Further, carriers would be required to retain for two years the following information about any on-ground delay that either triggers their contingency plans or lasts at least four hours: (1) The length of the on-ground delay, (2) the cause of the delay, and (3) the actions taken to minimize hardships for passengers, including the provision of food and water, the maintenance of lavatories, and medical assistance. The regulation would specify that the Department would consider failure to do any of the following to be an unfair and deceptive practice within the meaning of 49 U.S.C. 41712 and subject to enforcement action: (1) Adopt a contingency plan and incorporate it in the contract of carriage, (2) implement the plan as written, (3) make the plan available on line, or (4) retain information about every on-ground delay that either triggers the contingency plan or lasts at least four hours.

We believe that requiring the retention of records for tarmac delays that last at least four hours would enhance the Department's ability to monitor, analyze, and address the problems associated with long delays. We have chosen four hours as the threshold in order to foster consistency for purposes of analysis, given that carriers are likely to make disparate time choices for their own contingency plans. (We do not intend to suggest, nor are we proposing to adopt, a specific amount of time during or after which carriers must allow passengers to deplane. Rather, we expect each carrier to craft its own standard on this issue.) We invite comment on whether four hours is an appropriate delay duration for triggering this new recordkeeping requirement.

We are also not proposing at this time to have the Department review and approve carriers' contingency plans. We believe the better approach to be to allow the carriers to set the terms of their plans and rely on the legal system and our enforcement powers to ensure that the terms are followed. If this

approach proves inadequate, we can always revise it.

We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences? Is it likely to succeed in protecting passengers from the conditions described above? If not, why not? What additional or different measures should we consider adopting? Would incorporation of the contingency plan in the contract of carriage give consumers adequate notice of what might happen in the event of a long delay on the tarmac? When prolonged delays occur, would these measures succeed in reducing the resultant uncertainty and discomfort for passengers? Should the types of carriers covered by the regulation be expanded or limited? What would be the cost or benefit of narrowing or expanding coverage? Should the requirement of coordinating the plan with airport authorities apply to all primary airports (i.e., commercial service airports that enplane more than 10,000 passengers annually) rather than only to medium hub airports (primary airports that enplane between 0.25 and 1 percent of total U.S. passengers) and large hub airports (primary airports that enplane at least 1 percent of total U.S. passengers)?

## 2. Require Carriers To Respond to Consumer Problems

We seek comment on adopting a new regulation, 14 CFR part 259, that among other things would require every certificated and commuter carrier that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to respond to mounting consumer problems in the following ways:

- At its system operations center and at each airport dispatch center, designate an employee who is responsible for monitoring the effects of flight delays, flight cancellations, and lengthy tarmac delays on passengers and who has input on decisions such as which flights are cancelled and which are subject to the longest delays,
- On its Web site, on all e-ticket confirmations, and, upon request, at each ticket counter and gate, make information available on filing a complaint with the carrier (name of person or office, address, and telephone number), and
- Send a response to each consumer complaint it receives within 30 days of receiving the complaint.

We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences?

Should we require carriers to accept complaints via phone, letter and e-mail, or should the choice of complaint channels be left to each carrier? Would these procedures result in carriers' devoting adequate attention to the needs of passengers? If not, what additional or different measures would achieve this result? What specific responsibilities should the designated employee have? Is it reasonable to expect a carrier to provide a response within 30 days of receipt of a complaint? Should the types of carriers covered by the regulation be expanded or limited? What would be the cost or benefit of narrowing or expanding coverage?

## 3. Declare the Operation of Flights That Remain Chronically Delayed To Be an Unfair and Deceptive Practice and an Unfair Method of Competition

We seek comment on amending 14 CFR 399.81 so that it sets forth the Department's enforcement posture on chronically delayed flights. First, the new text would define a chronically delayed flight as a flight by a covered carrier that operates at least 45 times in a calendar quarter and arrives more than 15 minutes late more than 70 percent of the time. We propose to define a covered carrier as a carrier that reports on-time performance data to the Department pursuant to 14 CFR part 234,—i.e., a certificated U.S. carrier that accounted for at least 1% of domestic scheduled passenger revenue in the 12 months ending March 31. Second, the new text would specify that the Department considers a chronically delayed flight to be an unfair and deceptive practice and an unfair method of competition within the meaning of 49 U.S.C. 41712 if it is not corrected in a timely manner—i.e., during the second calendar quarter following the one in which the flight is first chronically delayed.

We invite interested persons to comment on this proposal. What costs, if any, would it impose on carriers? Would it have any negative consequences? Does it strike the appropriate balance between passengers' need to have the best possible information about the real arrival time of a flight and the carriers' inability to control the weather and certain other factors that can contribute to delays? Commenters who think that it does not strike the appropriate balance should explain why and provide alternate proposals.

We tentatively consider that in setting the threshold for a chronically late flight as high as 70 percent and in allowing up to six months for the carrier to adjust its schedule, its operations, or both so that

the flight comes below this threshold, we would not be creating undue burdens for carriers. When a carrier publishes a schedule, it assumes the obligation to adhere to it insofar as is feasible. Consumers buy transportation in reliance on a carrier's published schedule, and they have a right to expect that the carrier both intends to arrive at the promised time and can do so in most cases. Consumers' reliance on chronically inaccurate schedules works to their detriment both personally and professionally. Furthermore, a carrier's publication of a schedule that it does not achieve most of the time can harm its competitors. This in turn further harms consumers by reducing the number of travel options from which they can choose.

Commenters who think that the proposed standards would not result in an improvement of on-time performance should explain why and suggest alternate approaches. We also solicit comment on whether the definition of a chronically delayed flight should be expanded to include international scheduled passenger service to and from the United States operated by U.S. and foreign air carriers.

## 4. Require Carriers To Publish Delay Data on Their Web Sites

We seek comment on amending 14 CFR 234.11 to require airlines that report on-time performance to the Department pursuant to 14 CFR part 234 (i.e., certificated U.S. carriers that account for at least 1% of the domestic scheduled passenger revenue) and online reservation services to include on their Web sites, at a point before the passenger selects a flight for purchase, the following information for each listed flight about its performance during the previous month:

- The percentage of arrivals that were on time,
- The percentage of arrivals that were more than 30 minutes late,
- Special highlighting if the flight was late more than 50 percent of the time, and
- The percentage of cancellations.

We invite interested persons to comment on this proposal. What costs would it impose on carriers and online reservation services? Would it have any negative consequences?

Would it help consumers make better-informed choices when booking flights? Would it increase carriers' incentives to correct problem flights through adjustments to their schedules or their operations, or both? What other information, if any, should this regulation require?

Would requiring carriers to post on-time flight performance information on their Web site give passengers adequate notice before booking about the likelihood of a flight's arriving on time? Should we require airline Web sites and reservation agents to disclose on-time flight information to consumers at the time of booking, without being asked? What would be the benefit or cost of such a requirement? Should any disclosure requirement be limited to flights that are chronically delayed or cancelled?

Should this regulation cover all on-line reservation services or only those of a certain size? If the latter, what threshold would be appropriate (in terms of revenue or number of employees)? Should the regulation cover more types of carriers? What would be the cost or benefit of expanding coverage?

#### 5. *Require Carriers To Publish Complaint Data on Their Web Sites*

We seek comment on adopting a new regulation, 14 CFR part 259, that would also require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to publish complaint data on their Web sites. Each carrier would have to disclose the number of consumer complaints it has received within a defined time frame concerning subjects such as tarmac delays, missed connections, and the failure to provide amenities to passengers affected by a delayed or canceled flight. We ask interested persons to comment on this proposal. What costs would it impose on carriers? Would it have any negative consequences? Should we prescribe a uniform location for all carriers' Web sites, or should we leave this decision to the carriers? If the former, where should the data be posted? What complaint subjects should be covered by this requirement, and what time period would be appropriate? Would the proposed regulation help consumers make better-informed choices when booking flights? Would it increase carriers' incentives to avoid the problems that elicit complaints? Should the types of carriers covered by the regulation be increased or decreased? What would be the cost or benefit of narrowing or expanding coverage?

#### 6. *Require Carriers To Report On-Time Performance of International Flights*

We seek comment on amending 14 CFR 234.4 and 234.11 to require carriers that report on-time performance to the Department pursuant to 14 CFR part 234 (*i.e.*, certificated U.S. carriers that

account for at least 1% of the domestic scheduled passenger revenue) and the largest foreign carriers to report on-time performance for international flights to and from the United States. Our publication of these data would give consumers information about on-time performance to use in choosing international flights. We invite interested persons to comment on this proposal. What costs would it impose on the carriers? Would it have any negative consequences? Would the benefits of making this information available to the public outweigh the burdens that this requirement would impose on carriers that provide international service? How should we determine whether a foreign carrier is large (*e.g.*, by total revenue, by number of flights to and from the U.S.)? Should we devise a size threshold for foreign carriers similar to the current 1% threshold for U.S. carriers?

#### 7. *Require Carriers To Audit Their Adherence to Their Customer Service Plans*

We seek comment on adopting a new regulation that would require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to audit their adherence to their own customer service plans. This proposal tracks a recommendation from the Department's Inspector General, who found carrier failings in this area. We solicit comment on the costs and benefits of self-audits, suggestions for appropriate auditing standards, including whether the carriers should be required to hire independent auditors to conduct the audits, and suggestions for how the Department might verify compliance without auditing the airline's practices itself. Further, we solicit comment on whether we should require any covered carrier that does not have a customer service plan in place to adopt one and, if so, what provisions such plans should include. For example, should they include some or all of the provisions of the 12-point Airline Service Commitment made by 13 members of the Air Transport Association (which can be found at [http://www.airlines.org/customerservice/passengers/Customer\\_First.htm](http://www.airlines.org/customerservice/passengers/Customer_First.htm))? Also, should we require that carriers incorporate their customer service plans in their contracts of carriage?

## Regulatory Notices

### A. *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

This action has been determined to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget under that Order. A preliminary discussion of the proposed solutions to enhance airline passenger protections without creating undue burdens for the carriers is presented above. We are soliciting comments on the potential costs and benefits of the proposed solutions. On the cost side, we recognize that many of the measures suggested in this ANPRM would impose costs for both implementation and operation on the entities that its proposed requirements would cover. We have asked commenters to answer a variety of questions in order to elicit practical information about the nature and magnitude of these costs. The benefits we seek to achieve entail relieving consumers of the burdens they now face due to lengthy ground delays, chronically delayed flights, and other problems discussed in the ANPRM. The benefits would be achieved by affording consumers significantly more information than they have now about delayed and cancelled flights and about how carriers will respond to their needs in the event of lengthy ground delays. Making this information accessible should not only alleviate consumers' difficulties during long delays but also enable them to make better-informed choices when booking flights.

### B. *Executive Order 13132 (Federalism)*

This Advance Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This notice does not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

### C. *Executive Order 13084*

This notice has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination

with Indian Tribal Governments"). Because none of the options on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

#### D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The regulatory initiatives discussed in this ANPRM would have some impact on some small entities but we do not believe that it would have a significant impact on a substantial number of small entities. We invite comment to facilitate our assessment of the potential impact of these initiatives on small entities.

#### E. Paperwork Reduction Act

The ANPRM proposes several new collections of information that would require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (49 U.S.C. 3501 *et seq.*) The ANPRM solicits comment on requiring certificated and commuter airlines that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to retain for two years the following information about any ground delay that triggers their contingency plan or lasts at least four hours: (1) The length of the delay, (2) the cause of the delay, and (3) actions taken to minimize hardships for passengers. The Department plans to use this information to conduct reviews of incidents involving long delays on the ground and to identify any trends and patterns that may develop. The ANPRM further proposes to require the collection of flight delay data from certain U.S. and foreign air carriers regarding their flights to and from the U.S. and also to require certain U.S. carriers to compile and publish complaint information. We invite comments regarding any aspect of these information collections, including the following: (1) The necessity and utility of the information collection, (2) the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information collected, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

#### F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued this 15th day of November, 2007, at Washington, DC.

**Michael W. Reynolds,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 07-5760 Filed 11-15-07; 4:15 pm]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 250

[Docket No. DOT-OST-01-9325]

RIN No. 2105-AD63

#### Oversales and Denied Boarding Compensation

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** The Department of Transportation (DOT or Department) is proposing to amend its rules relating to oversales and denied boarding compensation to increase the limits on the compensation paid to "bumped" passengers, to cover flights by certain U.S. and foreign air carriers operated with aircraft seating 30 to 60 passengers, which are currently exempt from the rule, and to make other changes. Such changes in the rule, if adopted, would be intended to maintain consumer protection commensurate with developments in the aviation industry. **DATES:** Comments are requested by January 22, 2008. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may file comments identified by the docket number DOT-OST-01-9325 by any of the following methods:

- *Federal eRulemaking Portal:* go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493-2251.

**Instructions:** You must include the agency name and docket number DOT-OST-01-9325 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Privacy Act:** Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202-366-5952 (voice), 202-366-5944 (fax), [tim.kelly@dot.gov](mailto:tim.kelly@dot.gov) (e-mail).

#### SUPPLEMENTARY INFORMATION:

##### Background

Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations on certain U.S. and foreign carriers who are involuntarily denied boarding ("bumped") from their flights because they have been oversold. In most cases, bumped passengers are entitled to compensation. Part 250 contains limits on the amount of compensation that is required to be provided to passengers who are bumped involuntarily. The rule does not apply to flights operated with aircraft with a design capacity of 60 or fewer passenger seats.

In adopting the original rule in the 1960's, the Civil Aeronautics Board (the Department's predecessor in aviation economic regulation) recognized the inherent unfairness in carriers selling more "confirmed" ticketed reservations for a flight than they have seats. Therefore, the CAB sought to reduce the number of passengers involuntarily denied boarding to the smallest practicable number without prohibiting deliberate overbooking or interfering unnecessarily with the carriers' reservations practices. Air travelers