area; thence west to the intersection of the Louisiana/Texas State line and the Gulf of Mexico control area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on May 23, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-15341 Filed 6-2-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NE-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the wording in designated part-time control zone descriptions from "Airman's Information Manual" to Airport/Facility Directory." The designated part-time control zones' effective dates and times will be carried in the "Airport/Facility Directory" instead of the "Airman's Information Manual."

EFFECTIVE DATE: June 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

SUPPLEMENTARY INFORMATION:

HISTORY

Part-time control zone descriptions contained in Subpart F, § 71.171 (43 FR 355) of Federal Aviation Regulations Part 71 include the information that the effective date and time will thereafter be continuously published in the "Airman's Information Manual." On May 18, 1978, this information was transferred to the new "Airport/Facility Directory" and will no longer appear in the "Airman's Information Manual." This will necessitate deletion of the "Airman's Information Manual" and the substitution therefor of "Airport/Facility Directory" in the descriptions.

THE RULE

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the description of designated part-time control zones by deleting the words "Airman's Information Manual" from the text and substituting therefor the words "Airport/Facility Directory."

Since these amendments are editorial in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Richard Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., June 18, 1978.

§ 71.171 [Amended]

In Subpart F of § 71.171 (43 FR 355) the following control zone descriptions are altered by deleting the words "Airman's Information Manual" from the text and substituting therefor the words "Airport/Facility Directory."

Bedford, Mass.
Beverly, Mass.
Bridgeport, Conn.
Danbury, Conn.
Groton, Conn.
Hyannis, Mass.
Manchester, N.H.
Martha's Vineyard, Mass.
Nantucket, Mass.
New Bedford, Mass.
New Haven, Conn.
Norwood, Mass.
Portland, Maine.
Presque Isle, Maine.
South Weymouth, Mass.
Worcester, Mass.

(Secs. 307(a) Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on May 18, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

[FR Doc. 78-15346 Filed 6-2-78; 8:45 am]

[4910-13]

[Docket No. 17931; Amdt. No. 1112]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESS: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division,

Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * effective September 21, 1978:

Salt Lake City, UT—Salt Lake City Int'l, VOR Rwy 16L (TAC), Amdt. 7.
Salt Lake City, UT—Salt Lake City Int'l, VOR Rwy 16R (TAC), Amdt. 18.
Salt Lake City, UT—Salt Lake City Int'l, VOR/DME or TACAN Rwy 34L, Amdt. 4.

* * * effective July 27, 1978:

Prescott, AZ—Prescott Muni., VOR-A, Amdt. 3.
Hartford, CT—Hartford Brainard, VOR-A, Amdt. 4.
Wilmington, DE—Greater Wilmington, VOR Rwy 9, Amdt. 2.
Wilmington, DE—Greater Wilmington, VOR Rwy 32, Amdt. 2.
Macon, GA—Herbert Smart Downtown, VOR/DME-B, Orig.
Greenwood/Wonderlake, IL—Galt Field, VOR-A, Amdt. 4.
Lincoln, IL—Logan County, VOR Rwy 3, Amdt. 2.
Richmond, IN—Richmond Municipal, VOR Rwy 5, Amdt. 6.
Richmond, IN—Richmond Municipal, VOR Rwy 23, Amdt. 6.
Plymouth, MI—Mettetal, VOR-A, Amdt. 4.
Manville, NJ—Kupper, VOR-A, Amdt. 2.
Readington, NJ—Solberg-Hunterdon, VOR-A, Amdt. 5.
Utica, NY—Oneida County, VOR/DME Rwy 33, Amdt. 2.
Hickory, NC—Hickory Muni., VOR Rwy 24, Amdt. 20.
Fayetteville, TN—Fayetteville Muni., VOR/DME Rwy 1, Amdt. 2.

* * * effective July 13, 1978:

Gulkana, AK—Gulkana, VOR Rwy 14, Amdt. 5.
Gulkana, AK—Gulkana, VOR Rwy 32, Amdt. 5.
San Francisco, CA—San Francisco Int'l, VOR Rwy 19L, Amdt. 5.
Humboldt, NE—Humboldt Muni., VOR/DME-A, Amdt. 1.
Chambersburg, PA—Chambersburg Municipal, VOR-DME-A, Original.
Beeville, TX—Beeville Municipal, VOR/DME Rwy 12, Amdt. 2.
Jonestown, TX—Bar K Airpark, VOR/DME-A, Amdt. 1.
Junction, TX—Kimble County, VOR-A, Amdt. 9.
Kenedy, TX—Karnes County, VOR/DME-A, Amdt. 4.
Longview, TX—Gregg County, VOR Rwy 13 (TAC), Amdt. 14.
Longview, TX—Gregg County, VOR/DME or TACAN Rwy 31, Amdt. 1.
Longview, TX—Gregg County, VOR/DME or TACAN Rwy 35, Amdt. 1.
Mason, TX—Mason County, VOR/DME-A, Amdt. 1.
New Braunfels, TX—New Braunfels Municipal, VOR/DME-A, Amdt. 3.
Rocksprings, TX—Edwards County, VOR Rwy 14, Amdt. 1.
San Antonio, TX—San Antonio International, VOR-A, Amdt. 2.
San Antonio, TX—Stinson Municipal, VOR Rwy 32, Amdt. 10.
Waco, TX—James Connally, VOR-A, Amdt. 4.
Spanaway, WA—Spanaway, VOR/DME Rwy 34, Original.
Milwaukee, WI—Lawrence J. Timmerman, VOR Rwy 4L, Amdt. 3.
Milwaukee, WI—Lawrence J. Timmerman, VOR Rwy 15L, Amdt. 8.

The FAA published an amendment in Docket No. 17890, Amdt. No. 1110 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 87 Page 19214; dated May 4, 1978) under § 97.23 effective June 15, 1978, which is hereby amended as follows: McGregor, TX, McGregor Municipal VOR/DME Rwy 17 Amdt. 3 is cancelled. McGregor, TX, McGregor Municipal VOR Rwy 17 Amdt. 2 remains in effect.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * effective July 27, 1978:

Tucson, AZ—Tucson Int'l, LOC BC Rwy 29R, Amdt. 2.
East St. Louis, IL—Bi-State Parks, LOC Rwy 30, Amdt. 3.
Glasgow, KY—Glasgow Muni., SDF Rwy 7, Amdt. 1.
Saginaw, MI—Tri City, LOC BC Rwy 23, Amdt. 6.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * effective July 27, 1978:

Hartford, CT—Hartford-Brainard, NDB-B, Amdt. 4.
Davenport, IA—Davenport Muni., NDB Rwy 2, Amdt. 9.
Lincoln, IL—Logan County, NDB Rwy 21, Amdt. 1.
Glasgow, KY—Glasgow Muni., NDB Rwy 7, Amdt. 2.
Jackson, MN—Jackson Muni., NDB Rwy 13, Amdt. 4.
Clarksdale, MS—Fletcher Field, NDB Rwy 18, Amdt. 3.
Clarksdale, MS—Fletcher Field, NDB Rwy 36, Amdt. 3.
Nashua, NH—Boire Field, NDB-B, Amdt. 9.
Utica, NY—Oneida County, NDB Rwy 15, Amdt. 8.
Utica, NY—Oneida County, NDB Rwy 33, Amdt. 10.
Hickory, NC—Hickory Muni., NDB Rwy 24, Amdt. 1.
Forence, SC—Florence City-County, NDB Rwy 9, Amdt. 8.
Fayetteville, TN—Fayetteville Muni., NDB Rwy 1, Amdt. 3.

* * * effective July 13, 1978:

Milford, IA—Fuller, NDB Rwy 18, Original.
Kerrville, TX—Kerrville Municipal/Louis Schreiner Field, NDB-A, Amdt. 4.

Longview, TX—Gregg County, NDB Rwy 13, Amdt. 8.
Pleasanton, TX—Pleasanton Municipal, NDB-A, Amdt. 3.
San Antonio, TX—San Antonio International, NDB Rwy 3R, Amdt. 34.
San Antonio, TX—San Antonio International, NDB Rwy 12R, Amdt. 18.
San Antonio, TX—San Antonio International, NDB Rwy 30L, Amdt. 7.
Sonora, TX—Sonora Municipal, NDB Rwy 18, Amdt. 1.
Waco, TX—James Connally, NDB Rwy 17L, Amdt. 3.
Waco, TX—James Connally, NDB Rwy 35R, Amdt. 4.

* * * effective May 17, 1978:

Pensacola, FL—Pensacola Regional, NDB Rwy 16, Amdt. 20.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * effective September 21, 1978:

Salt Lake City, UT—Salt Lake City Int'l, ILS Rwy 16L, Amdt. 5.
Salt Lake City, UT-Salt Lake City Int'l, ILS Rwy 34L, Amdt. 35.

* * * effective July 27, 1978:

Oakland, CA—Metropolitan Oakland Int'l, ILS Rwy 29, Amdt. 18.
Calverton, NY—Peconic River Plant (Grumman) ILS Rwy 5, Amdt. 8.
Utica, NY—Oneida County, ILS Rwy 15, Amdt. 2.
Utica, NY—Oneida County, ILS Rwy 33, Amdt. 12.
Hickory, NC—Hickory Muni., ILS Rwy 24, Amdt. 2.
Florence, SC—Florence City-County, ILS Rwy 9, Amdt. 8.

* * * effective July 13, 1978:

San Francisco, CA—San Francisco Int'l, ILS Rwy 19L, Amdt. 13.
Shreveport, LA—Shreveport Regional, ILS Rwy 13, Amdt. 18.
Longview, TX—Gregg County, ILS Rwy 13, Amdt. 4.
San Antonio, TX—San Antonio International, ILS Rwy 3R, Amdt. 11.
San Antonio, TX—San Antonio International, ILS Rwy 12R, Amdt. 7.
San Antonio, TX—San Antonio International, ILS Rwy 30L, Amdt. 3.
Waco, TX—James Connally, ILS Rwy 17L, Amdt. 4.

* * * effective May 18, 1978:

Medford, OR—Medford-Jackson County, ILS Rwy 14, Amdt. 8.

* * * effective May 17, 1978:

Pensacola, FL—Pensacola Regional, ILS Rwy 16, Amdt. 7.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * effective September 21, 1978:

Salt Lake City, UT—Salt Lake City Int'l, RADAR-1, Amdt. 14.

* * * effective July 27, 1978:

Gulfport, MS—Gulfport Muni., RADAR-1, Amdt. 1.

* * * effective July 13, 1978:

San Antonio, TX—San Antonio International, RADAR-1, Amdt. 21.

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * effective July 27, 1978:

Prescott, AZ—Prescott Muni., RNAV Rwy 21, Original.
Wilmington, DE—Greater Wilmington, RNAV Rwy 9, Amdt. 2.

* * * effective July 13, 1978:

Humboldt, NE—Humboldt Muni., RNAV B. Original.
San Antonio, TX—San Antonio International, RNAV Rwy 30L, Amdt. 6.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); delegation: 25 FR 6489 and paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 26, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-15342 Filed 6-2-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket No. 29139; Regulation ER-1051, Amdt. 43]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in ER-1050, issued contemporaneously with this rule, the Board is deleting from 14 CFR Part 221 the requirements for public disclosure of airline overbooking practices. The requirements are instead being included in 14 CFR Part 250 so that the regulations relating to oversales can be consolidated.

DATES: Adopted: May 30, 1978. Effective: September 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5035.

SUPPLEMENTARY INFORMATION: Accordingly, the Civil Aeronautics Board hereby amends 14 CFR Part 221 as set forth below:

1. The table of contents is revised by deleting § 221.177, *Notice of deliberate overbooking.*

§ 221.4 [Amended]

2. Section 221.4, *Definitions,* is amended by deleting the definition of "Deliberate overbooking."

§ 221.177 [Deleted]

3. Subpart N is amended by deleting § 221.177.

(Secs. 204, 403, 404, and 411, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760, and 769 (49 U.S.C. 1324, 1373, 1374, and 1381).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15407 Filed 6-2-78; 8:45 am]

[6320-01]

[Docket No. 29139; Regulation ER-1050, Amdt. 9]

PART 250—OVERSALES

Comprehensive Amendment

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is adopting new rules designed to minimize the involuntary "bumping" of airline passengers who hold confirmed reservations on oversold flights. The rules require airline personnel not to deny boarding to any passenger against his will until volunteers are first sought to give up their reservations willingly in exchange for a compensatory payment. Passengers bumped involuntarily will be entitled to substantially greater compensation than in the past, and eligibility for that compensation is expanded. Carriers are also encouraged to experiment with other reservations and boarding practices that will reduce involuntary bumping. Finally, the rules require greater public disclosure of boarding procedures and passengers' rights in the event of an oversold flight.

DATES: Adopted: May 30, 1978. Effective: September 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5035.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is adopt-

ing a new policy to control what has become a persistent and serious problem for a growing number of airline travelers, the "bumping" of passengers—the failure of an air carrier to provide seats to confirmed reservation holders—because of overbooking of flight capacity. The new rules are designed to eliminate involuntary bumping, but without prohibiting deliberate overbooking or rigidly regulating other reservations practices of the airline industry. Carriers will, however, have to alter their current procedures to ensure that the passengers bumped are those who relinquish their reservations willingly, in return for compensation. In short, carriers are expected to reduce involuntary bumpings sharply below current levels, to the smallest practicable number.

The rules were proposed in September 1977 (Notice of Proposed Rulemaking EDR-334[1]), in the first comprehensive reexamination of the oversale regulations in more than ten years. EDR-334 proposed a number of changes in the existing regulatory scheme: Before bumping any passenger against his will, carrier personnel would be required to request volunteers who would agree to give up their reservation in return for a payment of compensation; denied boarding compensation for passengers bumped involuntarily would be increased substantially; eligibility for denied boarding compensation would be broadened by eliminating some of the current exceptions to the compensation rule; finally, carriers were urged to experiment with other, perhaps novel, reservations and boarding procedures that would also ameliorate existing oversales practices.[2] In a related action several months earlier,[3] the Board required air carriers and their agents to disclose to the public the possibility that confirmed reservations might not be honored due to deliberate overbooking of flights. Those notice rules, which required a display of counter signs and a distribution of disclosure notices with tickets, were adopted on an interim basis pending completion of this broader proceeding.

EDR-334 did not propose to declare the practice of deliberate overbooking to be "unfair or deceptive" under § 411 of the Federal Aviation Act, but alluded to that possibility in the future if involuntary bumpings were not sharply reduced under new rules. Concomitantly, the Board declined to propose mandatory no-show controls, such as ticket refund penalties and advance payment requirements, because of the drastic effects they would have on the flexibility and convenience of the airlines reservations system.

Comments on the proposed rules were filed by U.S. and foreign air carriers, consumer organizations, government bodies, and private individuals.[4] After considering these comments the Board has decided to make the proposed rules final, with some modifications discussed below.

1. General Comments

The proposed rules were supported by consumer organizations, government agencies, and a number of private citizens. These persons and groups generally agreed that bumping was a serious comsumer problem for which EDR-334 offered a reasonable remedy.

On the other hand, nearly all carriers opposed the policy and procedures set forth in EDR-334 as unnecessary and unwise, and argued that they should be moderated or made inapplicable to certain classes of carriers or types of operations. Basically, the carriers contended that EDR-334 was an overreaction to a minor problem, since the vast majority of air travelers are accommodated on the flight of their choice without difficulty. It was also argued that the Board has an inadequate factual and legal basis for adopting more stringent rules for the payment of denied boarding compensation, and that an evidentiary hearing is required before issuance of these rules. Some carriers contended that bumping is not an industrywide problem but is only exaggerated by the substandard performance of a few carriers, and that the Board should take action against the ones with high bumping rates instead of imposing harsh rules uniformly on all of them. Others argued that Board action is unnecessary because natural competitive forces will induce carriers to devise the best methods for dealing with oversales.

We disagree with these arguments. The many comments filed in this proceeding of two years' duration, including hundreds of letters from individual citizens, along with oversales data and other information received by the Board, amply demonstrate that the carriers' existing overbooking and oversales practices too often result in inconvenience, distress, and even financial loss to unsuspecting passengers. Notwithstanding the Board's attempts to inform the public of the airline overbooking practices, it is understandable that many travelers are outraged when, through no fault of their own, and under circumstances entirely under the control of the carrier, their "confirmed reservations" are not honored. The number of passengers denied confirmed space has grown steadily in recent years and now is approximately 150,000 per year.[5] While the incidence of oversales is small in relation to total number of passengers carried, in absolute terms it is significant. The rate of oversales has shown no signs of substantial amelioration in the last several years, nor have carriers taken any sustained initiative to alleviate the arbitrary and deceptive aspects of current bumping procedures. Under these circumstances regulatory action is not only warranted, but imperative. After all, the most common causes of oversales—whether intentional, e.g., deliberate overbooking, or inadvertent, e.g., "errors" of reservation personnel—are within the exclusive control of the carriers and their agents. It is therefore not unreasonable to require them to administer their reservations and boarding prac-

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[1] 42 FR 48577, September 23, 1977. EDR-334 followed an analysis of public comments submitted pursuant to Advance Notice of Proposed Rulemaking EDR-296 (April 13, 1976, 41 FR 16478) in which the Board discussed the overbooking and no-show problems generally but proposed no specific rules.

[2] American Airlines has recently instituted an experimental procedure of soliciting volunteers from oversold flights by offering immediate cash payments (of $25 in most cases) to anyone willing to give up their reserved seat. The experiment, which is limited to flights leaving from four cities, is described in American's application for waiver of Part 250 filed January 9, 1978.

[3] Regulation ER-987, 42 FR 12420, March 4, 1977.

[4] In addition to many individual letters, formal comments on EDR-334 were filed by Aeromexico, Air BVI Limited, Air Jamaica, Air Midwest, Airline Passengers Association (APA), Allegheny Airlines, Aloha Airlines, American Airlines, American Society of Travel Agents (ASTA), Aviation Consumer Action Project (ACAP), Braniff Airways, Delta Air Lines, U.S. Department of Transportation, Eastern Air Lines, Frontier Airlines, Hawaiian Airlines, Hughes Airwest, International Air Transport Association (IATA), on behalf of 18 carriers (Aeromexico, Air France, Air New Zealand, Avianca, British Airways, British Caledonian Airways, El Al Israel Airlines Ltd., Iberia, Iran Air, Jugoslavenski Aerotransport, KLM Royal Dutch Airlines, Lufthansa, Olympic Airways, Qantas Airways, Scandinavian Airlines System, South African Airways, Swissair, and Trans World Airlines), Japan Air Lines Company Ltd., Stephan P. Kaufman, Richard M. Leonard, Lineas Aereas Costarricenses (LACSA), Compania Mexicana De Aviacion (Mexicana), National Airlines, North Central Airlines, Northwest Airlines, Congressman George O'Brien, Office of the Consumer Advocate of the Civil Aeronautics Board, Office of Consumer Affairs of the Department of Health, Education, and Welfare, Ozark Air Lines Pacific Western Airlines Ltd., Pan American World Airways, Piedmond Aviation, Harry Salis, Julian L. Simon, Southern Airways, Texas International Airlines, Trans World Airlines (TWA), Western Air Lines, Wien Air Alaska, and United Air Lines.

[5] In fiscal year 1977 the number of passengers denied confirmed space due to oversales on U.S. carriers was approximately 130,000 for domestic operations and 12,000 for international flights. In addition, oversales of foreign carriers are estimated to be at least 10,000 (see p. 13, infra). CAB Form 251.

tices in a manner which minimizes the hardship and inconvenience to their customers.

Nor do we find that an oral evidentiary hearing is required before these rules may be adopted. This action is clearly rulemaking with the meaning of § 553 of the Administrative Procedure Act. We are making basic policy choices in this proceeding, and the public, including air carriers, has been given an ample opportunity to be heard.

Several carriers argue that the Board should now expressly declare that the practice of deliberate overbooking is in the public interest. On the other hand, ACAP, ASTA, and several individuals urge us to outlaw that practice as unfair and deceptive. We believe it is unnecessary to do either. As we recognized in EDR-334, overbooking does provide important public benefits, by filling what would otherwise be empty seats and thereby reducing the pressure for fare increases, and by enabling more passengers to be accommodated on the flight of their choice. Yet overbooking is also a major contributor to oversales and the consequent inability of carriers to honor confirmed reservations. Under these circumstances, the Board has decided not to prohibit the practice of intentional overbooking, so long as the social harm it sometimes causes can be controlled by other means.

Carriers will therefore be free to use whatever reservations practices they find most effective, as long as involuntary denied boardings are eliminated or reduced to the smallest practicable number. In fact, carriers may find it in their interest to develop new methods of controlling oversales to augment or supplant the procedures contained in these rules. However, if involuntary bumping is not substantially reduced below current levels, we will reexamine our decision not to engage in detailed oversight of carriers' reservations practices, including deliberate overbooking.

2. Solicitation of Volunteers

Most carriers argued that the requirement to seek volunteers would confuse passengers, undermine consumer confidence in the airlines reservations system, delay flights, and invite abuse by passengers. It was also argued that the procedure would be especially unsuitable in some situations, such as international flights (confusion and flight delay very likely because of many non-English-speaking passengers), and late-evening or low-frequency flights (few if any volunteers would come forward). The Board was therefore urged to drop the requirement altogether, to exclude international flights from its ambit, or at least to specify that volunteers need not be sought from inside the aircraft or in other cases where flight delay might result.

Other carriers expressed some support for the volunteer proposal. Some stated that they have developed preliminary procedures to solicit volunteers (United's plan includes boarding the aircraft when there are too few volunteers among passengers waiting to board), and Eastern commented that its experience with Leisure Class (conditional) reservations indicates that the proposed volunteer system would benefit both carriers and consumers. It was pointed out, however, that if the compensation prescribed for volunteers is the same as for nonvolunteers the carrier will have no economic incentive to seek volunteers. The Board was thus urged to specify compensation levels only for those involuntarily bumped and let the carrier offer lesser amounts in its search for volunteers. American, for example, claimed that an offer of $25 will attract enough volunteers to eliminate the oversale problem almost entirely. Delta took an opposite position, arguing that compensation for volunteers should be higher than that for nonvolunteers, in order to encourage volunteering.

All consumer and government commenters supported the volunteer proposal, at least in part, as a constructive and workable procedure. ACAP, however, would make the requirement more stringent and permit carriers to deny boarding only to volunteers.

We are adopting a requirement to seek volunteers but we are now persuaded that it is both unnecessary and economically inefficient to prescribe the level of compensation for them. This modification of the proposal will enable carriers to adjust their offerings to prospective volunteers in accordance with experience, and avoid needless and wasteful overpayments. Carriers will also have a greater incentive to seek volunteers—by offering attractive, yet lower, compensation than is prescribed for non-volunteers—and the Board's goal of eliminating involuntary bumping will therefore have a better chance of success. The likelihood of flight delay and passenger confusion will also be reduced, since carriers may offer volunteers a flat sum of money rather than having to explain the Board's rather complicated denied boarding compensation formula. This determination in no way excludes the possibility of carriers offering volunteers greater compensation than we prescribe here for nonvolunteers, if they choose to do so. We conceive the possibility that a company may wish to, in order to avoid the necessity for bumping any passenger involuntarily, and we would obviously commend such a policy.

Our new rule does not specify the form, content, or method of broadcast for the message used to solicit volunteers, since those matters are suitably left to the discretion of carrier management. However, in order for a passenger to make an informed decision whether to volunteer, in some cases he should be told of his chances of being bumped involuntarily and the amount of denied boarding compensation. For example, a passenger who is likely to be selected for involuntary bumping but volunteers instead may feel deceived upon discovering that he would have been better compensated by not volunteering. In other cases, though, where volunteers are sought from passengers not likely to be denied boarding involuntarily, information on compensation for nonvolunteers is extraneous to the prospective volunteer's decision, and would serve only to complicate and delay the volunteering process. Therefore, we are requiring that any passenger who is asked to volunteer, without being informed that he is in danger of being denied boarding involuntarily and the compensation payable in that event, may not later be involuntarily bumped.[6] This condition requires carriers to "fully inform" in advance only those prospective volunteers who are in danger of being involuntarily bumped; others need not be given that information. Of course, nothing is to prevent a carrier from limiting its solicitation exclusively to a group of passengers not in danger of being bumped involuntarily, thereby obviating the need for any explanations about involuntary bumping procedures.[6a]

3. Compensation for Passengers Bumped Involuntarily

EDR-334 proposed several revisions in the current level of, and eligibility for, denied boarding compensation: (1) The basic DBC level would be increased to 200 percent of the bumped passenger's ticket value ($50 minimum, $400 maximum), connecting flight coupons would be included in the computation, and "value" would be redefined to include U.S. transportation taxes; (2) the existing exception for passengers given alternate transportation within 2 hours (4 hours internationally) would be eliminated, and those passengers would be entitled to one-half the DBC otherwise payable ($25 minimum, $200 maximum); and (3) the existing exception for bumpings caused by substitution of smaller aircraft would be narrowed to

[6] See § 250.2b(b).

[6a] American Airlines is apparently conducting its experiment (see note 2) in that manner, by seeking volunteers only from early arrivals, who would not be subject to involuntary bumping since American follows a "first come, first served" boarding priority. See American's petition for reconsideration dated March 6, 1978.

apply only when the substitution were caused by weather affecting the flight in question.

Nearly all carriers opposed these changes on the ground that existing compensation levels are fully compensatory, and that the proposed increase would result in windfall payments to bumped passengers. It was contended that acceptance of DBC is supposed to be optional, and that any passenger whose damages exceed the proferred compensation may seek redress in the courts, though some carriers conceded that the current eligibility for compensation should be broadened or that passengers should be compensated for out-of-pocket expenses. Several local service carriers opposed the inclusion of connecting flight coupons in DBC on the grounds that it would discriminate against short-haul feeder carriers by imposing disproportionately high compensation costs in comparison to average flight length and would invite passengers to reserve space on long connecting flights they don't intend to use, in order to profit from being bumped. Some carriers argued that passengers given substitute transportation within the 2- and 4-hour limits "have not suffered compensable delay," and therefore should not be eligible for DBC; alternatively, it was asserted that all bumped passengers, whether or not re-routed, should be compensated at the same rate (100 percent of flight coupons).

Most consumer and government commenters supported the proposed changes as a constructive response to involuntary oversales and reasonable relief for bumped passengers. Others urged the Board to increase compensation levels even further, e.g., by setting DBC at 300 percent of ticket value, or by removing the $400 maximum. It was also argued that the theoretical right to pursue common law remedies for bumping damages is illusory in practice, and that the vast majority of consumers will simply accept whatever compensation is offered.

We have decided to adopt the proposed revisions in the DBC computation, with one exception and a minor modification. We continue to believe, as we stated in EDR-334, that existing compensation levels are inadequate to redress the inconvenience and distress often resulting from involuntary bumping incidents. The increase will not only provide better compensation for passengers denied boarding against their will, but will give carriers greater incentive to refine their overbooking and boarding procedures so that involuntary oversales are minimized.[7] Because a bumping from one flight often causes the passenger to miss a connecting flight as well, all ticket coupons (up to the passenger's destination or a stopover of 4 or more hours) will be included in the computation. Since these new compensation levels will apply only to passengers bumped involuntarily, the impact upon the airline industry—including carriers with a high proportion of connecting traffic—need not be severe, since carriers can avoid the higher payments by seeking volunteers at lower levels of compensation, or by eliminating involuntary oversales in some other manner.

These rules will also, for the first time, require payment of compensation to passengers who are given alternate transportation to their destination or stopover within 2 hours domestically and 4 hours internationally. Many such passengers are substantially inconvenienced by such a delay and are therefore entitled to some compensation for the carrier's failure to deliver the service naturally expected by the consumer. Historically, about 50 percent of all passengers denied boarding have been ineligible for compensation because of the alternate-transportation exception. Compensation for re-routed passengers is set at one-half the level otherwise payable (minimum $37.50, maximum $200) so that carriers will still have an economic incentive to arrange substitute transportation for involuntarily bumped passengers.

However, we have decided not to adopt the proposed narrowing of the DBC exception for equipment substitutions. Carriers argued that the proposed limitation—that payment of DBC could be avoided only for substitutions caused by weather conditions affecting that flight—would virtually eliminate the exception altogether and would be injurious to consumers. They stated that the vast majority of equipment substitutions are due to mechanical malfunctions or other factors outside the carrier's control, and are rarely, if ever, caused directly by weather. Thus the proposal would assertedly require payment of compensation to all passengers denied boarding from substitute aircraft and, in some cases, would encourage carriers to cancel flights instead of arranging equipment substitutions, which do benefit the public. (Passengers are not entitled to compensation for cancelled flights.)

We are persuaded that adoption of the weather limitation would not be in the interest of the traveling public. The equipment-substitution exception is based on the belief that mechanical failures and safety problems are more nearly beyond the carriers' control than other causes of oversales, and that carriers should not be expected to insure against their occurrence by withholding large numbers of seats from sale.[8] Since this exception has apparently not been abused (less than 10 percent of all oversales are caused by equipment substitutions), and its elimination might well result in a lessening of the carrier's incentive to arrange for substitute aircraft, we are not now inclined to change the current rule.

4. Boarding Priorities

EDR-334 acknowledged that at times there will be an insufficient number of volunteers, and bumpings will be necessary on a basis other than the free will of the passenger. The Board proposed to allow carriers to select non-volunteers for denied boarding on the same basis as in the past, i.e., in accordance with non-discriminatory boarding priority rules. Currently, each carrier must file with the Bureau of Pricing and Domestic Aviation its boarding priority rules and relevant portions of the company manual instructing personnel in boarding procedures for oversold flights. There is some variety in the carriers' priority rules but the most common lowest boarding priorities are the last passenger to check in, the "least inconvenienced" passenger, or passengers using discount fares. ERD-334 tentatively proposed to continue to allow carriers flexibility in establishing their priorities, but comment was specifically solicited on the advisability of prescribing a uniform boarding priority for all carriers, such as chronological order of reservation or ticket purchase.

Carriers generally argued for continued flexibility in establishing and administering boarding priorities, contending that a Board-imposed system would be unduly rigid and an inadequate substitute for on-the-spot judgment of experienced boarding personnel. Other commenters contended that the Board should prescribe a uniform boarding priority based on chronological order of reservation, on the ground that consumers would regard such a system as more equitable than current procedures. ACAP and ASTA argued that whatever boarding priorities are established should be filed as tariffs, or at least be available for inspection upon request to the carrier. They contended that the existing informal filing system leads to both a lack of Board scrutiny and inadequate public notice of these rules, and allows carrier personnel to ignore them. APA would support allowing carriers to establish differing boarding priorities

[7] We are setting the minimum DBC payable at $75, rather than the $50 proposed. This increase will sharpen the important distinction between volunteers and non-volunteers, and will give carriers both greater incentive and more bargaining room for securing volunteers on low-priced flights.

[8] See Regulation ER-503, adopted August 3, 1967, 32 FR 11939.

only if each priority system were submitted for public comment before adoption.

We have decided to refrain from rigidly regulating this aspect of carrier boarding practices, and we will continue to allow the carriers to exercise some discretion in establishing boarding priorities. However, we are adopting more stringent requirements for clarity and public disclosure of the rules. Under current practice, the priority rules are insufficiently publicized and are sometimes so broadly drafted as to invite arbitrary action by boarding personnel. Passengers, who are understandably sensitive to the bumping selection process, are generally ignorant of the rules, and cannot take steps either to protect themselves from involuntary bumping or to verify that carriers have in fact acted in accordance with the stated priorities.

Therefore, we are requiring the carriers' boarding priority rules and practices to be filed as tariffs, in order to give the Board and the public a specific opportunity to pass upon them, and to make them more readily available to the public on a continuing basis. Relevant portions of company manuals instructing personnel on boarding priorities and bumping procedures shall be filed with the Tariffs Section of the Board and will be available for public inspection. In addition, the priority rules, or a summary thereof, must be included in the written statement that explains denied boarding compensation and the passenger's rights in the event of an oversold flight, and that statement (which we have revised in plain English) must be filed in the tariffs and made available to passengers at all airport ticket counters and boarding points being used by the carrier.[9]

A reference to boarding priority rules will also be included in the standard overbooking disclosure notice posted at ticket counters and distributed with tickets, to alert passengers to both the existence and availability of the rules. Finally, we are requiring that the priority rules be written in a sufficiently clear and specific manner to be meaningful to the average passenger, i.e., to enable the reader to ascertain the approximate likelihood of his being bumped, and to plan accordingly. Some of the carriers' current rules—e.g., those that would deny boarding to the "most logical passenger" or the "least inconvenienced passenger"—fall short of that standard, and invite arbitrary action by boarding personnel. While we do not intend to eliminate flexibility and judgment from the exercise of boarding procedures,[10] which must necessarily be administered quickly and with a minimum of inconvenience to the remaining passengers, we are simply requiring carriers to inform their patrons more fully and frankly of the chance that their confirmed reservations may not be honored.

5. APPLICABILITY OF THE NEW RULES.

Part 250 now applies to the scheduled operations of all certificated carriers and foreign carriers on flights "originating or terminating at, or serving" a U.S. point. EDR-334 proposed to retain this jurisdictional scope for new oversale rules.

Several foreign carriers, and some U.S. carriers operating internationally, argued that there is no basis for amending Part 250 with respect to foreign air transportation. They pointed out that the oversale rate for international operations has recently declined, and contended that the unique characteristics of international flights are not conducive to the rigid and harsh boarding regulations of any one nation. Not only would the volunteer requirement be unworkable on those flights, it was asserted, but the new U.S. rules would expose foreign carriers to conflicts of various nations' laws.

We adhere to our tentative conclusion that these new rules should be given the same extra-territorial application as our existing oversale regulations. Although oversales on international flights had declined slightly at the time EDR-334 was issued, the rate of oversales in international operations is in fact higher than that for domestic flights; in addition, more recent data show a significant increase in bumpings from international flights, in both absolute and relative terms.[11] Moreover, the arguments now raised in opposition to applying our oversale regulations to international operations are essentially the same as those raised and rejected when Part 250 was first given extraterritorial effect, in order to extend an umbrella of protection to U.S. travelers abroad.[12]

Three other requests were made regarding the applicability of Part 250. Air BVI, Ltd., requested that the regulations be extended to commuter carriers because "there is no reason to believe that the bumping rate of commuters is less than the rest of the industry," and commuter passengers are assertedly entitled to the protections of Part 250. (Air BVI operates scheduled flights on a head-to-head basis with several commuters in the Caribbean.) Texas International requested an exemption from Part 250 in intra-Texas markets in which TXI competes with Southwest Airlines, an intrastate carrier that is not subject to any regulation similar to Part 250. TXI argued that the lack of comparable oversale regulations for Southwest would prevent TXI from competing effectively in those markets, which assertedly comprise only 5 percent of TXI's total system markets. Wien Air Alaska asked to be excluded from any increase in DBC levels, on the ground that Wien's existing boarding procedures already minimize involuntary bumping, and the Board has no basis for imposing stricter oversale regulations on Alaskan air carriers.

We are denying these requests. Among other considerations, grant of the relief sought would raise serious questions of line-drawing and administrative fairness. We are not at this time aware of any significant bumping problems on commuter airlines that would warrant the extension of Part 250 to that class of carriers, nor is it within the scope of this proceeding to reexamine the competitive relationship between certificated and non-certificated carriers, as Air BVI and TXI would have us do. In regard to Wien's request, if it is in fact true that Wien already minimizes involuntary bumping, then these amendments will impose no significant new obligations or hardship on that carrier. In any event, Wien has advanced no compelling reason why passengers on Alaskan flights should not be given the same protection against involuntary bumping afforded to other air travelers.

6. ALTERNATE RESERVATIONS PROCEDURES

We must emphasize that the boarding procedures contained in this rule should not be considered the only permissible method for controlling oversales. EDR-334 encouraged the use of conditional reservations— whereby the purchaser accepts an increased risk of being bumped in return for an economic inducement, such as a free flight if the reservation is not honored—to supplement or replace deliberate overbooking. We also suggested other means of capacity control, such as bidding systems—Where the passengers bumped would be those who submit the lowest bids for compensation—or the establishment of no-show control measures, such as advance payment requirements and ticket refund penalties. With a few excep-

[9] See § 250.9.

[10] For example, priority rules could, as they often do now, include exceptions for persons traveling on emergency, unaccompanied minors, or elderly or infirm passengers.

[11] In fiscal year 1977 U.S. flag carriers denied boarding to 11,580 passengers from international flights, for a ratio of 7.8 bumpings per 10,000 enplanements. These data represent an increase over calendar 1976 figures of 9,958 bumpings and a ratio of 7.4 (for domestic flights the denied boarding rate was 6.6 per 10,000 enplanements in fiscal 1977).

[12] See Regulation ER-800, adopted August 13, 1974, 39 FR 38087.

tions,[13] carriers' responses to these suggestions were negative. However, we continue to encourage experimentation with innovative reservations and boarding systems. Although carriers appear reluctant to deviate from current practices, they may find that new procedures are successful with the traveling public, at least in some markets.

As a technical matter, we have deleted the proposed § 250.11, "Alternate procedures for denied boarding," because it appears to be unnecessary. Any carrier that wishes to meet its obligation to minimize involuntary bumping by means other than those contained in Part 250 may do so upon the filing and approval of tariffs providing for the alternate procedures.

7. Other Changes

This rule makes a few other changes to existing regulations. First, we are modifying the interim requirements for disclosure of overbooking practices to reflect the new oversale policy. The requirements for posting and distributing the notices remain unchanged but the standard text has been expanded to include the following statements: "If a flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority." The additional language, along with minor editorial changes to the rest of the notice, is designed to alert passengers to their rights and carriers' obligations under the new rules.[14]

We are also updating and revising the reporting requirements of § 250.10 so that more useful data are collected. First, the requirement to report oversales by individual markets (on Form 250) is being suspended indefinitely. Those reports have not proved very useful to the Board in policy development or otherwise, and have not been published since 1975. Accordingly, we will not require the filing of Form 250 until further notice, and then only if there appears to be a regulatory need for that type of information. Second, the reporting of system-wide oversales (on Form 251) is being revised in a number of respects. Most importantly, the new Form 251 separately lists the number of volunteers and non-volunteers denied boarding, and the total compensation paid to each category. These data will enable the Board to monitor the compliance of the industry with its new policy, and to determine whether further regulatory action is necessary. Various editorial changes to Form 251 are being made as well, in order to simplify the reporting and publication of oversale statistics: (1) The reporting basis will be changed simply to include all flights to which Part 250 applies, i.e., all flights originating or terminating at, or serving, a U.S. point. In the past, carriers were given a choice of reporting Form 251 data on a systemwide basis, or limited to the carrier's top 15 stations or stations accounting for 67 percent of its total enplanements.[15] This modification will eliminate the need for Board staff to convert less-than-system-wide data and, along with other simplifications of the report, should allow more timely publication of oversale statistics. (2) The elimination of a separate listing, in each reported category of denied boardings, for passengers whose reserved space was confirmed in a manner other than by notation on the passenger's ticket; the reported number of such passengers has been negligible, and there no longer appears to be a useful purpose served by collecting that information.[16] (3) The addition of a listing for passengers who do not qualify for DBC because of failure to comply with the carrier's ticketing, check-in, or reconfirmation procedures or to be acceptable for transportation under the carrier's tariff. This information is being required so that the Board can evaluate the significance of this exception to the DBC rule, in light of the contention of some commenters that carriers should not be permitted to assert the "10-minute rule" to avoid the payment of denied boarding compensation to late-arriving passengers.

Finally, we are terminating the stay of the reporting requirements for foreign air carriers. When Part 250 was first made applicable to foreign carriers, an indefinite stay of the Form 251 reporting requirement was granted because of objections from some of those carriers to the disclosure of the total enplanement data for flights serving U.S. points.[17] However, because of the importance of monitoring the compliance of foreign carriers with our new rules, we have decided to terminate the stay. The unavailability of oversale statistics for foreign carriers has greatly limited the Board's and the public's knowledge of foreign carriers' performance in regard to oversales, and has prevented comparisons among those carriers and with their U.S. competitors. It may be conservatively estimated that oversales from foreign carriers exceed 10,000 passengers per year,[18] and the Board is concerned that these carriers, too, should substantially reduce their rate of involuntary bumping in the future. Release of the enplanement data from foreign carriers' Form 251 reports should not create any unfair competitive disadvantage, since comparable data for U.S. carriers operating internationally has routinely been published since 1971 without significant objection.

8. Effective Date

These new rules will require a number of changes in carriers' existing procedures, notices, and documents. Boarding priority rules, along with the explanatory statement given to bumped passengers, must be redrafted both for style and substance, and filed as tariffs; company boarding manuals must be rewritten and personnel instructed accordingly; and the overbooking disclosure notices must be revised, distributed to agents and posted. Moreover, both the Board and public will be reviewing the newly-filed boarding procedures, not only for compliance with the policy regarding involuntary bumping but also for nondiscrimination and clarity.

Because of the importance of ensuring that our new bumping policy is fully and faithfully implemented, we are allowing 90 days before effectiveness of the rules. This period should provide sufficient time for carriers to develop thoughtful boarding procedures (45 days), and for the public and the Board to review them (the normal 45-day statutory period for tariff filings). Therefore, the new tariffs must be filed by July 20, 1978, for effectiveness September 3, 1978. The new Form 251 must be filed for the month of

[13] Eastern stated that the conditional reservation is popular with many customers, and IATA commented that the conditional reservation might be an "attractive option" in certain circumstances, depending on each carrier's particular traffic and route characteristics.

[14] As a technical matter, we are deleting these notice rules from 14 CFR § 221.177 and incorporating them into Part 250 instead, in order to consolidate the regulations relating to oversales. Accordingly, the current reference in section (a) of the regulation (previously § 221.177(a)) to "Each carrier subject to Part 250 of this chapter" is no longer necessary, and has been replaced simply by "every carrier" in § 250.11(a). In other respects, except for revisions in the text discussed above, the notice regulation is unchanged.

[15] Currently, however, only five carriers are reporting Form 251 data on less than a systemwide basis.

[16] The separate listing for denied boardings based on reservations made by means other than ticket notation was first required by Regulation ER-804, adopted May 23, 1973, 38 FR 14822.

[17] Regulation ER-897, January 27, 1975, 40 FR 4409.

[18] We have variously estimated denied boardings of foreign carriers to range from 10,000 to 27,000 per year in the period 1971-73. This estimate is based upon comparisons to oversale data of U.S. flag carriers' international operations and to the incidence of bumping complaints involving foreign carriers. See Notice of Proposed Rulemaking EDR-348 (38 FR 15083, June 8, 1973), and Regulation ER-880, supra note 12.

September 1978 and each month thereafter.[19]

We should also point out, however, that the delayed effectiveness of the rules will not prevent any carrier from preliminarily implementing voluntary bumping procedures in the interim period or experimenting with alternate reservations and boarding practices that will reduce involuntary denied boardings.

Accordingly, the Civil Aeronautics Board hereby amends 14 CFR Part 250 as set forth below.

1. The table of contents is amended by revising the title of Part 250; Revising the headings of §§ 250.3, 250.4, 250.5, and 250.9; revoking and reserving § 250.7; and adding new §§ 250.2a, 250.2b, and 250.11 as follows:

Sec.
250.2a Policy regarding denied boarding.
250.2b Carriers to request volunteers for denied boarding.
250.3 Boarding priority rules.
250.4 Denied boarding compensation tariffs; liquidated damages.
250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.
250.6 * * *
250.7 [Reserved]
250.8 * * *
250.9 Written explanation of denied boarding compensation and boarding priorities.
250.10 * * *
250.11 Public disclosure of deliberate overbooking and boarding procedures.

2. Section 250.1 is amended by adding the definition of "Deliberate overbooking," and by revoking the definition of "Value of the first remaining flight coupon" and substituting in its place a new definition as follows:

§ 250.1 Definitions.

For the purposes of this part:

* * * * *

"Confirmed reserved space" * * *

"Deliberate overbooking" means the practice of knowingly confirming reserved space for a greater number of passengers that can be carried in the specific call of service on the flight and date for which confirmation is given.

"Stopover" * * *

"Sum of the values of the remaining flight coupons" means the sum of the applicable one-way fares, including any surcharges and air transportation taxes, less any applicable discounts.

3. A new section 250.2a is added as follows:

§ 250.2a Policy regarding denied boarding.

In the event of an oversold flight, every carrier shall ensure that the smallest practicable number of persons holding confirmed reserved space on that flight are denied boarding involuntarily.

4. A new § 250.2b is added as follows:

§ 250.2b Carriers to request volunteers for denied boarding.

(a) In the event of an oversold flight, every carrier shall request volunteers for denied boarding before using any other boarding priority. A "volunteer" is a person who responds to the carrier's request for volunteers and who willingly accepts the carrier's offer of compensation, in any amount, in exchange for relinquishing his confirmed reserved space. Any other passenger denied boarding is considered for purposes of this part to have been denied boarding involuntarily, even if he accepts denied boarding compensation.

(b) If an insufficient number of volunteers come forward, the carrier may deny boarding to other passengers in accordance with its boarding priority rules. However, the carrier may not deny boarding to any passenger involuntarily who was earlier asked to volunteer without having been informed that he was in danger of being denied boarding involuntarily and the amount of compensation to which he would have been entitled in that event.

5. Section 250.3 is revised to read as follows:

§ 250.3 Boarding priority rules.

(a) Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight in the event that an insufficient number of volunteers come forward. Such rules and criteria shall reflect the obligations of the carrier set forth in §§ 250.2a and 250.2b to minimize involuntary denied boarding and to request volunteers, and shall be written in such manner as to be understandable and meaningful to the average passenger. Such rules and criteria shall not make, give, or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(b) Every carrier shall file in its tariff its boarding priority rules and criteria, including a copy of its written statement explaining denied boarding compensation and boarding procedures, as described in § 250.9.

(c) Every carrier shall file with the Chief, Tariffs Section, Bureau of Pricing and Domestic Aviation, that portion of its currently effective company manual instructing employees on boarding procedures and priorities in the event of an oversold flight. Any revision of that portion of the manual must be filed within 15 days of its adoption by the carrier.

6. Section 250.4 is revised to read as follows:

§ 250.4 Denied boarding compensation tariffs; liquidated damages.

(a) Every carrier shall file tariffs providing compensation for passengers holding confirmed reserved space who are denied boarding involuntarily from an oversold flight that departs without those passengers. The tariffs shall incorporate the amount of compensation described in § 250.5 and the exceptions to eligibility for compensation described in § 250.6.

(b) The tariffs shall specify that the carrier will tender, on the day and place the involuntary denied boarding occurs, the appropriate compensation, which, if accepted by the passenger, shall constitute liquidated damages for all damages incurred by the passenger as a result of the carrier's failure failure to provide the passenger with confirmed reserve space.

7. Section 250.5 is revised to read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

Subject to the exceptions provided in § 250.6, the tariffs required by § 250.4(b) shall provide for compensation to be paid a passenger denied boarding involuntarily from an oversold flight at the rate of 200 percent of the sum of the values of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to his destination, with a $75 minimum and a $400 maximum. However, the compensation shall be one-half the amount described above, with a $37.50 minimum and a $200 maximum. If the carrier arranges for comparable air transportation or other transportation accepted (i.e., used) by the passenger, which, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover, or if none, at the airport of the passenger's destination not later than 2 hours after the time the direct or connecting flight on which the confirmed space is held is planned to arrive, in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation.

8. Section 250.6 is revised to read as follows:

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

[19]The 90-day period for effectiveness also allows adequate time for the Comptroller General's review of the revised oversale reporting requirements.

(a) The passenger does not present himself for carriage at the appropriate time and place, having complied fully with the carrier's requirements as to ticketing, check-in, and reconfirmation procedures and being acceptable for transportation under the carrier's tariff; or

(b) The flight for which the passenger holds confirmed reserved space is unable to accommodate him because of: (1) Government requisition of space; or (2) substitution of equipment of lesser capacity when required by operational or safety reasons; or

(c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on his 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.

9. Section 250.7 is revoked and reserved as follows:

§ 250.7 [Reserved]

10. Section 250.9 is revised to read as follows:

§ 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 carrier's boarding priority rules and criteria. The carrier shall also furnish the statement to any person upon request at all airport ticket 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) Prior to furnishing such statement to any person, each carrier shall file a copy of the statement or any revision thereof in its tariff, as provided in § 250.3. The language of the statement or revision must have the prior approval of the Board unless its text is as prescribed below. (Applications for alternative wording of the statement shall be filed with the Director, Bureau of Pricing and Domestic Aviation.)

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 obligations and the passenger's rights in the case of an oversold flight, in accordance with regulations of the U.S. Civil Aeronautics Board.

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 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 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 tariff filed with the CAB; or (2) you are denied boarding because the flight is canceled; or (3) you are denied boarding because of Government requisition of space or because a smaller capacity aircraft was substituted for safety or operational reasons; or (4) you are offered accommodations in a section of the aircraft other than that 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.)

AMOUNT OF DENIED BOARDING COMPENSATION

Passengers who are eligible for denied boarding compensation must be offered a payment equal to the sum of the face values of their ticket coupons, with a $37.50 minimum and $200 maximum. However, if the airline cannot arrange 'alternate transportation' (see below) for the passenger, the compensation is doubled ($75 minimum, $400 maximum). The 'value' of a ticket coupon is the one-way fare for the flight shown on the coupon, including any surcharge and air transportation tax, minus any applicable discount. All flight coupons, including connecting flights, to the passenger's destination or first 4-hour stopover are used to compute the compensation.

'Alternate transportation' is air transportation (by an airline licensed by the C.A.B.) 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 destination no later than 2 hours (for flights within U.S. points, including territories and possessions) or 4 hours (for international flights) after the passenger's originally scheduled arrival time.

METHOD OF PAYMENT

The airline must give each passenger who qualified for denied boarding compensation, a payment by check or draft for the amount specified above, on the day and place the involuntary denied boarding occurs. However, if the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment will be sent to the passenger within 24 hours.

PASSENGER'S OPTIONS

Acceptance of the compensation (by endorsing the check or draft within 30 days) relieves [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.

11. Section 250.10 is revised to read as follows:

§ 250.10 Reports of unaccommodated passengers.

(a) Every carrier, except foreign air carriers, shall file reports, on Form 250 (Appendix A of this part), on the number of unaccommodated passengers. The markets for which such reports shall be filed are those for which ontime reporting is filed in accordance with part 234 of the Board's economic regulations and, in addition, New York-San Juan. Local service carriers shall file, in addition to reports which may be required by this section because required by part 234, such data for the five top-traffic markets of each. The reports shall cover the third month in each calendar quarter and shall be filed within 45 days after the month covered by the report.

(b) Every carrier shall file, on a monthly basis, the information specified in Form 251 (Appendix B of this part). The reporting basis shall be all flights originating or terminating at, or serving, a point within the United States or its territories or possessions. The reports are to be submitted within 30 days after the month covered by the report. Carriers with both domestic and international operations shall file separate reports for each.

12. A new § 250.11 is added as follows:

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

(a) Every carrier shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by such air carrier or

foreign air carrier, to sell tickets to passengers a sign, located so as to be clearly visible and clearly readable to the traveling public, which shall have printed thereon the following statement in bold-face type at least one-fourth of in inch high:

NOTICE—OVERBOOKING OF FLIGHTS

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations.

(b) Every carrier shall include with each ticket sold in the United States the notice set forth in paragraph (a) of this section, printed in at least 12-point type in ink contrasting with the stock. The notice may be printed on a separate piece of paper, on the ticket stock, or on the ticket envelope.

(c) It shall be the responsibility of each carrier to ensure that travel agents authorized to sell air transportation for that carrier comply with the notice provisions of paragraphs (a) and (b) of this section.

(d) Any carrier that wishes to use a disclosure notice of its own wording, but containing the substance of the language prescribed in paragraph (a) of this section, may substitute a notice of its own wording upon approval by the Board. Applications for such approval shall be filed with the Director, Bureau of Pricing and Domestic Aviation.

13. The facing page of Appendix B (Form 251) is revised to read as follows:

APPENDIX B

CAB Form 251 — CIVIL AERONAUTICS BOARD, Washington, D. C. 20428

REPORT OF PASSENGERS DENIED CONFIRMED SPACE

(To be filed with the Bureau of Accounts and Statistics within 30 days after the end of each month)

(See instructions on back)

Name of Air Carrier

OAG Carrier Code

Month of _____, 19__

Operations (Check one)
- ☐ Domestic
- ☐ International

1.	Number of passengers denied boarding involuntarily who qualified for denied boarding compensation and:	
	(a) were given alternate transportation within the meaning of §250.5.	
	(b) were not given such alternate transportation.	
2.	Number of passengers denied boarding involuntarily who did not qualify for denied boarding compensation due to:	
	(a) government requisition of space.	
	(b) substitution of smaller capacity equipment.	
	(c) failure of passenger to comply with ticketing, check-in, and reconfirmation procedures or to be acceptable for transportation under carrier's tariff.	
3.	TOTAL NUMBER DENIED BOARDING INVOLUNTARILY	
4.	Number of passengers denied boarding involuntarily who actually received compensation.*	
5.	Number of passengers who volunteered to give up reserved space in exchange for a payment of the carrier's choosing.	
6.	Number of passengers accommodated in another section of the aircraft:	
	(a) Upgrades	
	(b) Downgrades	
7.	Number of passengers enplaned.	
8.	Amount of compensation paid to passengers who:	
	(a) were denied boarding involuntarily and received alternate transportation within meaning of §250.5.(See item 1(a) above).	
	(b) were denied boarding involuntarily and did not receive alternate transportation. (See item 1(b) above).	
	(c) volunteered for denied boarding. (See item 3 above).	

I, the undersigned, (Title) _____ of the above-named carrier certify that the above report has been examined by me and to the best of my knowledge and belief is a true, correct and complete report for the period stated.

_____ (Date)

_____ (Signature)

14. The back page of Appendix B (Form 251) is revised to read as follows:

INSTRUCTIONS

(a) Reports shall be filed by all air carriers holding certificates under section 401(d) (1) and (2) of the Federal Aviation Act of 1958, and all foreign route air carriers holding section 402 permits, authorizing the transportation of persons. Reports shall be filed for all flights originating or terminating at, or serving, a point within the United States or its territories or possessions. See Part 250 of CAB Regulations (14 CFR Part 250) for further information.

(b) Separate reports shall be filed for domestic and international operations. Check the box opposite the appropriate heading. "Domestic includes flight stages with both terminals within territory under U.S. jurisdiction (the 50 States, the District of Columbia, and U.S. territories and possessions). "International" includes flight stages with one or both terminals outside of territory under U.S. jurisdiction.

(c) With respect to item 1, "alternate transportation" for passengers denied boarding involuntarily means comparable air transportation accepted by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's destination or first stopover (of 4 or more hours) no later than 2 hours for domestic flights or 4 hours for international flights. See § 250.5 of CAB regulations for further information.

(d) "Total number denied boarding involuntarily" should equal the sum of Items 1 and 2. If this is not so, attach notes explaining any discrepancy.

(e) With respect to Item 5, a passenger who "volunteers" is a person who responds to the carrier's request for volunteers pursuant to § 250.2b of CAB regulations and willingly consents to exchange his confirmed reserved space for a payment of the carrier's choosing. Any passenger selected by the carrier for denied boarding in accordance with any boarding priority other than a request for volunteers is considered to have been denied boarding "involuntarily," whether or not the passenger accepts denied boarding compensation.

(f) With respect to Item 8, "compensation paid" includes all payments made to passengers, i.e. payments actually accepted by passengers, plus payments offered or mailed that are not rejected.

(g) Note on the report any abnormal conditions, such as strikes, having a bearing on the results.

(Secs. 204, 403, 404 and 411, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760 and 769 (49 U.S.C. 1324, 1373, 1374 and 1381).)

NOTE.—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15415 Filed 6-2-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5934, 34-14808, 35-20562, IC-10259, AS-247]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Auditor Changes

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting amendments to its rules regarding the reporting of changes in a registrant's independent accountants to require disclosure of whether the decision to change independent accountants was recommended or approved by the audit or similar committee of the Board of Directors. This increased disclosure should aid investors in better understanding and evaluating the registrant's relationship with its independent accountants.

DATE: Effective for all Forms 8-K and proxy materials filed with the Commission after July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Gretta Powers, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8018.

SUPPLEMENTARY INFORMATION: The Commission published Securities Act Release No. 5868 (42 FR 53633) on September 26, 1977 in which it proposed amendments to its Form 8-K (17 CFR 249.308) and Schedule 14A (17 CFR 240.14a-101) promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), regarding the reporting of changes in a registrant's independent accountants to require disclosure of (1) the reasons for such changes; and (2) whether the decision to change independent accountants was approved by the registrant's Board of Directors or its audit committee. The second of these proposals is substantially adopted in this release; the first is not. This release discusses the background for the proposed amendments, the comments received and the final rules as adopted.

BACKGROUND

Since 1971, the Commission has required specific disclosure in a timely Form 8-K filing of any change in the principal independent accountants of the registrant, including disclosure of any disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. In 1974, in Accounting Series Release No. 165 (40 FR 1010), the Commission added a section to Schedule 14A to require additional disclosure of disagreements between registrants and independent accountants.

As stated in Accounting Series Release No. 165:

> One of the underpinnings of the Commission's administration of the disclosure requirements of the federal securities laws is its reliance on the reports of independent public accountants on the financial statements of registrants. These reports provide the assurance of an outside expert's examination and opinion, thereby substantially increasing the reliability of financial statements.

Since that time, the role of the independent accountant as an outside expert has expanded. Auditors now perform limited reviews of interim financial information and, on occasion, report the results of such reviews in Form 10-Q. In addition, generally accepted auditing standards require auditors to report to their clients material weaknesses in internal accounting controls that come to their attention during an examination of financial statements in accordance with such standards.[1]

The increased participation by the independent accountant in the financial reporting process makes it even more important that this relationship be fully understood and appreciated by investors and other users of financial information. To sustain confidence in financial statements by their users, the Commission and the accounting profession require that auditors remain independent, both in fact and appearance, of the companies they audit.

REASONS FOR CHANGE IN INDEPENDENT ACCOUNTANTS

The Commission has determined not to require at this time disclosure of the reasons for all changes in independent accountants. The Commission, however, encourages disclosure of these reasons on a voluntary basis.

Respondents to the request for comments were generally opposed to this proposed disclosure requirement. While those in favor stated it would be useful information for investors, few provided elaboration beyond an initial expression of support, and none dis-

[1] Statement of Auditing Standards No. 20, "Required Communication of Material Weaknesses in Internal Accounting Control," AICPA, August 1977.