and (c)(4) and by redesignating paragraph (c)(3) as paragraph (c)(2).

(Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 26th day of October 1984.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-28646 Filed 10-30-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-18-AD; Amdt. 39-4942]

Airworthiness Directives; Pilatus Britten-Norman Ltd. Model BN-2, BN-2A, BN-2A, BN-2B and BN-2T Islander Series and BN-2A Mark III Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman Model BN-2, BN-2A, BN-2B and BN-2T Islander Series and BN-2A Mark III Trislander Series airplanes which supersedes AD 83-07-18, Amendment 39-4620 (48 FR 15452, 15453). The superseded AD required inspections and repairs or part replacement to the upper engine mount-to-wing brackets on the BN-2, BN-2A and BN-2B Islander Series airplanes and BN-2A MK III Trislander Series airplanes. Subsequent to the issuance of AD 83-07-18, the FAA became aware that Pilatus Britten-Norman (the manufacturer) had published Issue 5 of Mandatory Service Bulletin BN-2/SB.61, dated December 9, 1981, which requires more frequent and detailed inspections and contains improved modification/corrective action. This superseding AD incorporates this service bulletin which will assure early detection of deteriorated upper engine mount-to-wing brackets prior to failure and repair/replacement using currently available improved parts and procedures.

DATES: Effective date: December 6, 1984.

Compliance: As prescribed in the body of the AD

ADDRESSES: Pilatus Britten-Norman Ltd., Service Bulletin (SB) No. BN-2/SB.61, Issue 5, dated December 9, 1981, applicable to this AD, may be obtained from Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. H. Chimerine, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. H. C. Belderok, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD applicable to Pilatus Britten-Norman Ltd. BN-2, BN-2A, BN-2B and BN-2T Island Series and BN-2A MK III Trislander Series airplanes was published in the Federal Register on August 10, 1984 (49 FR 32083-32085). It would require visual inspection of the engine mount-to-wing brackets every 500 hours time-in-service, and specifies modification/corrective action for minimum bolt hole-to-edge distance, elongation of bolt holes, distortion, delamination, cracks flaking and corrosion, correct bolt bearing length, loose and fretted bushings. The proposal resulted from the FAA becoming aware that Pilatus Britten-Norman (the manufacturer) had published Issue 5 of Mandatory Service Bulletin BN-2/SB.61, dated December 9, 1981, which requires a visual inspection of the engine mount-to-wing brackets every 500 hours time-in-service, and specifies modification/corrective action for minimum bolt hole-to-edge distance, elongation of bolt holes, distortion, delamination, cracks, flaking and corrosion, correct bolt bearing length, loose and fretted bushings on affected airplanes to assure early detection of deteriorated upper engine mount-to-wing brackets prior to failure and repair-replacement using currently available improved parts and procedures.

The United Kingdom Civil Aviation Authority (UKCAA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, classified this Bulletin (SB) No. BN-2/SB.61 Issue 5, dated December 9, 1981, and the actions recommended therein by the manufacturer, as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under UKCAA registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Pilatus Britten-Norman Service Bulletin No. BN-2/SB.61 Issue 5, dated December 9, 1981, and the mandatory classification of this service bulletin by the UKCAA. The Agency concluded that the condition addressed by the service bulletin is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, the proposed AD was issued.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. In addition, the justification for issuing the notice still exists. Accordingly, the proposal is being adopted without change.

There are approximately 145 airplanes affected by the AD. The cost of complying with the AD is estimated to be $10,150 to the private sector. No small entities impacted by this AD own sufficient airplanes to cause their cost of compliance to equal or exceed the significant thresholds of the Regulatory Flexibility Act. Therefore, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Pilatus Britten-Norman, Ltd: Applies to Model BN-2, BN-2A, BN-2B and BN-2T Islander Series, except those modified to

MOD NB/M/1147 (up to Serial No. 2034), and BN-2A MK III Trislander Series (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To prevent failure of the upper engine mounting brackets, accomplish the following:

(a) Within 100 hours time-in-service for airplanes with more than 400 hours time-in-service but not more than 1,000 hours time-in-service since complying with AD 83-07-18, or at the next scheduled or unscheduled engine removal, and every 500 hours time-in-service thereafter.

(1) Visually inspect in accordance with paragraphs 1 through 6 of the "Inspection" section of the Pilatus Britten-Norman, Ltd. Service Bulletin No. BN-2/SB.61 Issue 5, dated December 9, 1981 (hereinafter referred to as the SB);

(i) The upper engine to wing mounting brackets for minimum lug bolt hole-to-edge distance (0.2625 inches), elongation of the bolt holes, distortion, delamination, cracks, flaking and corrosion.

(ii) The bolts for correct bearing length.

(iii) Loose and fretted bushings.

(2) Prior to further flight, correct defects in accordance with the following:

(i) If lug bolt hole-to-edge distance is less than the specified minimum, correct as prescribed in paragraph 3 of the "Rectification/Modification" section of the SB.

(ii) If the bolt holes are elongated, or if any bushings are loose or fretted:

(A) On Islander Series airplanes, modify and correct as described in paragraph 2 of the "Rectification/Modification" section of the SB.

(B) On Trislander Series airplanes, modify and correct as described in paragraph 4 of the "Rectification/Modification" section of the SB.

(iii) If any mounting bracket is cracked, modify both brackets on the same engine installation (left side engine or right side engine) concurrently (even if only one bracket is defective) as described in paragraph 1 of the "Rectification/Modification" section of the SB.

(iv) If any lug is distorted or delaminated, replace the deficient parts in accordance with paragraphs 1 and 2 of the "Rectification/Modification" section of the SB.

(v) If any inspected part is corroded or flaking, replace in accordance with paragraph 1 of the "Rectification/Modification" section of the SB.

(vi) If any of the bolts are of incorrect length or damaged, replace with new units of the correct length.

(b) The repetitive inspection interval for the Islander airplanes only, may be increased to 1,000 hours time-in-service when all four engine mounting brackets have been rectified to Pilatus Britten-Norman Modification NB/M/1147 in accordance with the "Rectification/Modification" section of the SB.

(c) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this Airworthiness Directive (AD) can be accomplished.

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This AD supersedes AD 83-07-18, Amendment 39-4620.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on December 6, 1984.

Issued in Kansas City, Missouri, on October 22, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-28602 Filed 10-30-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[Economic Regs. Amdmnt. No. 22 to Part 250; ER-1394; Docket No. 42246]

Oversales; Interpretative Amendment

AGENCY: Civil Aeronautics Board.

ACTION: Interpretative amendment.

SUMMARY: The CAB issues an interpretative amendent to its Oversales (denied boarding compensation) rule to make it clear that bumped passengers must be paid by cash or an immediately negotiable check at the time of bumping. The action was initiated by a petition by People Express, and is taken to clarify the responsibilities of airlines and clear up any ambiguities in the rule.

DATES: Adopted: October 25, 1984. Effective: November 30, 1984.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5444.

SUPPLEMENTARY INFORMATION: In 1981 People Express Airlines (PE) received from the Civil Aeronautics Board partial exemptions from the Board's denied boarding compensation (14 CFR Part 250) and baggage liability (now 14 CFR Part 254) rules. (Order 81-6-41, June 6, 1981; affirmed by Order 82-11-49, November 10, 1982). With respect to denied boarding compensation, the only rule at issue here, these exemptions allowed PE to give to bumped passengers, instead of the immediate compensation required by the rule, tickets valid for transportation on its domestic system.

It should be noted that PE's plan was not a substitution of a different passenger benefit for an existing one. By Order 80-5-200, May 29, 1980, later codified as § 250.5(b), the Board had already granted all carriers the right to offer bumped passengers the *option* of accepting free or reduced-rate transportation in lieu of a cash-equivalent payment, on condition that the passengers be informed of what their payment rights were, and that the transportation offered have a value equal to or greater than the payment specified in the rule. Thus, what PE received by the exemption was simply the right *not* to offer passengers the option of immediate payment, which was otherwise required by the rule of all carriers using large aircraft.

By Orders 83-6-111, June 24, 1983, and (on reconsideration) 83-8-91, August 22, 1983, the Board revoked these exemptions. It had decided to retain the rules, which previously had been under reevaluation, and considered that basic considerations of evenhanded regulation required that all carriers within the class covered be treated alike. It rejected as insubstantial PE's arguments that it was somehow different from other airlines, by way of its ticketing practices and low cost structure, and therefore deserved different treatment.

In response to revocation of the exemption, but before its effective date, PE orally approached the Board's Acting General Counsel and other members of the Board staff for an opinion on a modification of its denied boarding procedure. PE proposed to give bumped passengers a voucher or a refundable ticket that could be either used for transportation on its domestic system or submitted for a refund. The Acting General Counsel expressed a tentative oral opinion that the system might satisfy the rule, but advised PE that it should submit a written request for an interpretation as to the validity of the scheme. PE did so by letter of September 19, 1983.

The PE letter relied mainly on the fact that the DBC rule used the word "draft" to describe the form of payment that a carrier must give immediately to a bumped passenger. It stated that the Board had not defined the word "draft," and asserted that "the clear intent of the rules is to require the tender of a document at the time and place of the denied boarding, but not to require that the document be subject to immediate

conversion to cash." It also referred to the fact that in one of the orders (83–8–91) revoking the exemption, the Board had used the words "checks or scrip—if not cash" to describe the form of payment required. PE asserted that its vouchers could be considered "scrip."

By letter of March 21, 1984, the Board's General Counsel issued a responsive letter of interpretation, in which he concluded that the PE denied boarding compensation scheme did *not* satisfy the requirements of the rule. The letter reviewed the purpose and intent of the rule, as providing immediate compensation to bumped passengers. It noted that the rule emphasized this immediacy requirement by a limited exception, § 250.8(b), where alternative transporation for the passenger has been arranged before the "draft" can be prepared, allowing the airline to make the payment within 24 hours after the denied boarding occurs. Under the PE scheme, the voucher would have to be mailed to PE headquarters, from which checks would be issued once a week. Since this scheme would normally require a substantial amount of time for the passenger to receive a check, it would not satisfy the rule.

The letter noted the one instance in a related Board order where the vague work "scrip" had been used—the only time that it had been used as a synonym for "draft." The opinion letter stated, "that one erroneous usage in an order discussion cannot be held, however, to have changed the longstanding policy and effect of the rule." The letter concluded that for these purposes the Board intends "draft" to mean "a negotiable instrument—normally a check—that is redeemable for cash through the normal processes of the banking system." Because of the previous ambiguity, however, the letter stated that the Board would not take any retrospective enforcement action based on its opinion. It also advised of PE's right to seek Board review.

PE responded with a letter of March 29, 1984, in which it set forth more detailed arguments in defense of its plan. (These arguments are essentially repeated in the petition that is the immediate occasion of this issuance, and are discussed below). The General Counsel responded with a letter affirming his previous position and reiterating PE's right to petition the Board for a final ruling.

Petition and Responses

On May 31, 1984, PE petitioned the Board for "Interpretation or Clarification of, Amendment to, or Industry-Wide Exemption from, the Board's Denied Boarding Compensation Rules." Answers in support were filed by Southwest and Continental, and answers in opposition by American, USAir, and Delta. PE submitted a reply to the answers upon request for leave to file an otherwise unauthorized document.

PE first reiterated the argument contained in its September 19, 1983, letter, described above, that its vouchers were "drafts" that satisfied the requirements of the rule. In addition to its previous citiations of Board language on the issue, it cited a 1975 interpretative amendment (ER–897, 40 FR 4409, January 30, 1975) that, in dealing with the question whether currency restrictions might make payment in other countries difficult, stated in the preamble that the DBC rule is "sufficiently flexible to allow a carrier to utilize foreign currency drafts or internal charge orders payable at one of its appropriate offices." It stated that its vouchers satisfied the description of "internal charge orders payable at one of its appropriate offices."

PE further argued that its system was well received by the public, in that only 14% of bumped passengers chose to redeem their vouchers for cash, and that the transportation offered instead of cash was often of "much greater value" than the cash. It argued that the purpose of the rule was not to provide immediate cash or cash-equivalent payment, but rather "compensation," and that the voucher system that it uses "in most instances, provides as prompt a means of monetary payment as the issuance of a check." It contested the position taken in the General Counsel's letter that a main purpose of the rule was to provide funds from which travelers could purchase transportation or ground accommodations, stating that a check given at an airport could not in most instances be used for that purpose. It stated that if the Board were "only concerned about passengers not having funds for alternate transportation," it would not have included in the rule exceptions for canceled flights or substituted aircraft. It also mentioned that in many cases the DBC payment would not be sufficient to purchase alternate transportation.

Finally, PE argued that the policy of the Airline Deregulation Act, to foster a variety of types of services, and to encourage low-priced services, justified its practices. It noted that its on-board ticketing was convenient for passengers, but also made it difficult for PE to comply with a rule requiring the writing of a check at the airport. It stated that to do so, its "entire accounting system and airport staffing structure will have to be revamped," at substantial cost.

American's answer stated that prompt compensation was certainly one of the main purposes of the rule, as illustrated by various Board statements and the rule itself. It stated that a "draft" had been defined [1] as "an open letter addressed by one person to a second, directing him, in effect, to pay absolutely and at all events, a certain sum of money therein named, to a third person or to any other to whom the third person may order to be paid; or it may be payable to bearer or to the drawer himself." American argued that the PE voucher was not such an instrument, since there was no place at which a passenger could immediately redeem the voucher for money, even at a PE facility. It stated that, contrary to PE's assertion, American would accept a check drawn on PE as payment for transportation, as long as it did not exceed the transportation cost by $25 and an American supervisor was available to supervise the transaction. American said that it had "no reason to believe that other carriers' acceptance policies differ substantially from American's."

American rejected PE's policy arguments, stating that "its real complaint is that it regards compliance with Part 250.8 as too costly." It questioned how costly it could be for PE to have an employee at an airport equipped with a checkbook. At any event, American argued, the Board had already considered the question of cost in terminating PE's exemption, and had determined that the cost to the airlines was outweighed by the benefit to the passengers of the rule. American also argued that PE's denied boarding practices were excessive.

Delta and USAir also argued that PE's practices did not satisfy the rule's requirement for prompt payment, and that no other airline had interpreted the rule to permit what PE was doing. They both emphasized the importance of clarifying the rule so that all carriers would be acting on the same interpretation.

Southwest and Continental's answers, supporting the PE petition, basically seconded PE's argument concerning the breadth of the term "draft," and cited the advantages to consumers of receiving transportation credits instead of cash.

In its reply, PE emphasized that it was not seeking special treatment but an interpretation of rule change applicable to all, and that it had sought advice of Board staff before proceeding. It disputed American's contention that its

[1] J. Brady, *Brady on Bank Checks*, section 1.1, n.3 (H. Bailey 5th ED. 1979.)

vouchers did not fit the meaning of "draft," that its practice did not satisfy that promptness requirement of the rule, and that its denied boarding practices were excessive relative to the rest of the industry.

Discussion

Some issues that were raised in the filings can be immediately disposed of. The Board agrees with PE that since revocation of its exemption, PE has not sought special treatment, but a reading of the denied boarding rule that would permit all airlines to use a voucher system as it does. Furthermore, with that being the case, the performance of PE or any other particular airline with respect to passenger bumping is irrelevant and will not be considered here. The Board finds no impropriety in PE's actions in seeking a favorable interpretation of Part 250.

The Board also finds irrelevant arguments put forth by PE concerning the value and the popularity of its free-transportation option. They are irrelevant because the option of offering bumped passengers free transportation, of equal or greater nominal value, is already permitted explicitly by the rule, 14 CFR 250.5(b), and is not affected at all by PE's requests or the Board's disposition of them. PE appeared to be arguing (Petition, pp. 8–9) that its system is an "enhancement" of passenger protection in that it allows the passenger to defer the decision to take cash or free transportation for up to a year. The premise of that argument is erroneous, however; there is nothing in § 250.5(b) that prohibits any carrier from keeping passengers' options open in that way. The question in a case such as this is not what carriers choose to do, or whether what they choose to do is laudable; it is what they are, as a minimum, required to do.

Thus, the only question actually raised by the PE petition is whether the rule allows, or should allow, PE to give to passengers at the time of bumping a voucher that must be mailed in to PE headquarters in order to receive by mail a check for the specified denied boarding compensation, rather than immediate cash or a check. The suggestion by PE that its system "in most instances, provides as prompt a means of monetary payment as the [immediate] issuance of a check" is plainly incorrect. Under PE's system, a check is received only after four discrete time periods have elapsed: the time for the passenger to arrange to mail the voucher; mail transit time to PE headquarters; handling time at PE headquarters; and mail transit time back to the passenger.

There was considerable discussion in the filings of the overall purpose of the denied boarding compensation rule. PE characterized as "erroneous" the General Counsel's "assumption that prompt *monetary* payment is the principal objective of the rule." (Emphasis in original). It cited a 1974 issuance (ER–880, 39 FR 38088, October 29, 1974) that mentioned three goals, "inter alia"; preventing unlawful discrimination in determining bumping priorities, providing "prompt, effective and adequate compensation" to bumped passengers, and encouraging improved carrier oversales performance.

The first goal mentioned, fairness in bumping priorities, is irrelevant here, since that goal was and is met by requirements that are separate from the question of payment to bumped passengers. While the third goal, deterring oversales, was considered important in 1974, its significance has faded since then. When the denied boarding rule was first being discussed and issued in the late sixties, overbooking was seen as a major problem in itself, and various "solutions" were considered, including requiring early notification of passengers, or requiring carriers to penalize "no-show" passengers who sought refunds without having canceled their reservations. At that time, with a tightly regulated system, dependability was considered a primary aim of government regulation. Since deregulation, the variety of price and service offerings has become more important. Most importantly, the denied boarding rule itself has become widely known and accepted by the public as a fair way to minimize hardship of bumped passengers.

Thus, compensation to bumped passengers has indeed become the main purpose of the rule. As the Board said succinctly in a 1982 amendment of the rule (ER–1306, 47 FR 52980, 52985, November 24, 1982): "The basic rationale is compensation of the passenger, not punishment of the airline."

The core issue remaining, then, is whether the rule itself, taken together with statements in the many issuances that have been made concerning it, can be said to permit the PE voucher system, and in either case whether it should be changed.

There is no doubt that in the dozens of pages of issuances the Board has made concerning this rule, a few ambiguous or inconsistent phrases have appeared. The one most favorable to PE's petition, on its face, is the Board statement in a 1975 amendment (ER–897, 40 FR 4409, January 30, 1975) that the rule was "sufficiently flexible to allow a carrier to utilize foreign currency drafts or internal charge orders payable at one of its appropriate offices." The context of that statement, however, was the specific problem that was cited of paying DBC in foreign countries that had restrictions on "foreign currency transactions." That problem has since been totally removed by limiting the application of the rule to bumping that takes place within United States territory. Furthermore, the statement in question does not address the main objection to the PE system, which is the long delay between bumping and receipt of a cash-convertible payment. There is no reason to assume, when the Board said "payable at one of its appropriate offices," that it meant anything other than *immediately* payable.

With respect to PE's argument concerning the single use in an order of the word "scrip," the General Counsel's letter discussed above correctly noted that it was an error—a usage not justified by the words of the rule.

PE's principal argument was that its vouchers satisfy the meaning of the word "draft," which the rule uses to describe the payment in the main requirement section, § 250.8. American disputed this contention, as noted above. "Draft" is a broad term that includes various types of instruments such as checks and bills of exchange. For the reasons set forth below in its resolution of the issues, the Board does not find it necessary to settle this rather obscure point of commercial law.

Resolution of Issues

It is self-evident that rules often do not specifically deal with every factual situations or issues that arise under them. Rule must be interpreted, and sometimes amended, to achieve the intended results. In this case the Board is of the opinion that the intended results of the DBC rule are clear, as evidenced by the fact that the airline industry has through the years given it the same universal meaning: that the passenger must be given a cash or cash-equivalent payment at the time of bumping (with the limited exception of the 24-hour relief in § 250.8(b)).

The main point in dispute is timing of the receipt of payment, as the term is commonly understood. PE's arguments concerning the ambiguity of the rule could have been raised just as well by the issuance of checks post-dated to one week after the time of bumping. The rule, in saying "draft" and "check or draft," does not expressly prohibit post-dating; but a post-dated check is not

generally considered to be immediate payment. The Board considers the rule, taken as a whole, to be quite clear on the immediacy requirement. The statement required to be given to passengers by § 250.9 is perhaps the clearest statement of this intent:

> The airline must give each passenger who qualifies 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. The air carrier may offer free tickets in place of the cash payment. The passenger may, however, insist on the cash payment, or refuse all compensation and bring legal action.

The reference in the last two sentences to the requirement as a "cash payment" is revealing as to the Board's intent that the payment be cash or a cash equivalent. Similar references to "cash payment" are made in §§ 250.4 and 250.5(b). There would be little point to the insistence on immediate payment, with a limited 24-hour exception for passengers who are rushed off before a check can be drawn, if the document given could be either a post-dated check or any other document that merely entitled the recipient to convert it to cash at some point a week or more in the future.

The Board, therefore, considers the rule to have been clear in its intent and uniformly interpreted by the industry since its issuance in 1967.

Having considered the policies underlying the rule, the Board answers PE's requests in the negative, and with this issuance will make an interpretative amendment to align the language of the rule with the way it has been understood by both the Board and the industry.

While all the situations of individual travelers cannot be anticipated, prompt payment of DBC by cash or an immediately negotiable check unquestionably eases the hardship of bumping for many, and that is the central intent of the rule. The basic jusification for the rule has been amply discussed in previous issuances (*e.g.*, ER-1306, 47 FR 52980, November 24, 1982) and need not be repeated here. The rule has been well received by the public, and in the Board's judgment is a successful resolution of the bumping problem. The Board finds no sufficient reason in this proceeding to change it.

Interpretative Amendment

For the reasons set forth, the Board is hereby amending § 250.8 by deleting the word "drafts" from the title, so that the title reads, "Denied boarding compensation." In § 250.8(a), the words "a draft" are replaced by the words "cash or an immediately negotiable check." In § 250.8(b), the word "draft" is replaced by the word "payment." In the statement set forth in § 250.9, under the heading "Method of Payment," the words "check or draft" are changed to "cash or check."

Because this interpretative amendment merely clarifies a technical ambiguity in a rule, so that its language is consistent with the way it has generally been understood for many years, it is found for good cause that notice and opportunity for public comment thereon is unnecessary.

Regulatory Flexibility Statement

Pursuant to 5 U.S.C. 604, the Board finds that this interpretative amendment will not have a significant impact on a substantial number of small entities. The rule in question applies only to operators of large aircraft, which are not small entities within the meaning of the Regulatory Flexibility Act. Furthermore, the amendment evidently will make no change in the practice of any company other than People Express, which is not a small entity.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 250, *Oversales*, as follows:

PART 250—[AMENDED]

1. The authority for Part 250 is:

Authority: Secs. 204, 401, 402, 403, 404, 407, 411, 416, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482.

2. Section 250.8 is revised to read:

§ 250.8 Denied boarding compensation.

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

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

3. In § 250.9(b), in the required statement under the heading "Method of Payment," the first sentence is revised to read:

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

* * * * *

(b) * * *

Method of Payment

> The airline must give each passenger who qualifies for denied boarding compensation a payment by cash or check for the amount specified above, on the day and place the involuntary denied boarding occurs.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-28729 Filed 10-30-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83-71-001 through 030; Order No. 380-C]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions

Issued: October 24, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on rehearing reaffirming application of rule to minimum take provisions and denying requests for waiver.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this Order No. 380-C to reaffirm the application of the Final Rule, as promulgated, to minimum physical take provisions in pipeline rate schedules or tariffs and to deny requests for waiver. Order No. 380 amended the Commission's regulations by adding a new § 154.111 that requires the elimination from natural gas pipeline tariffs of any provisions that operate to recover variable costs for gas not taken by the buyer. Order No. 380-A, *inter alia*, affirmed that the pipeline tariff provisions to which § 154.111 applies include minimum physical take provisions but stayed the effect of the rule with respect to such provisions until November 1, 1984, in order to permit additional public comment on and Commission reconsideration of this issue.