creditor) ______ as security for a loan (state type of loan, i.e., revolving line of credit, ______ if known) in the amount of $______.

9. That there are no liens, as of the date hereof, on record with respect to the property of Borrower other than those set forth above.

10. There are no actions, suits or proceedings pending or, to the best of our knowledge, threatened before any court or administrative agency against Borrower which could materially adversely affect the financial condition and operations of Borrower.

11. Borrower has good and marketable title to the real estate security free and clear of all liens and encumbrances other than those set forth above. I/we have no knowledge of any defect in the title of the Borrower to the property described in the Loan Instruments.

12. Borrower is the absolute owner of all property given to secure the repayment of the loan, free and clear of all liens, encumbrances, and security interests.

13. Duly executed and valid functioning statements have been filed in all offices in which it is necessary to file financing statements to fully perfect the security interests granted in the Loan Instruments.

14. Duly executed real estate mortgages/deeds of trust have been recorded in all offices in which it is necessary to record to fully perfect the security interests granted in the Loan Instruments.

15. (IN SOME OTHER CIRCUMSTANCES) The Indemnification Agreemnt has been duly executed by the Indemnitors and is a legal, valid and binding joint and several obligation of the Indemnitors, enforceable in accordance with its terms, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

16. That the lease contains a valid and enforceable right of assignment and right of reassignment, enforceable in accordance with its terms, except to the extent the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.

17. The Lender's lien has been duly noted on all motor vehicle titles, stock certificates or other instruments where such notations are required for proper perfection of security interests therein.

18. That a valid pledge of the outstanding and unissued stock and/or shares of Borrower has been obtained and the Lender has a validly perfected and enforceable security interest in the shares/stock of Borrower, except to the extent the enforceability thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors rights.

Dated: January 8, 1987.

Vance L. Clark,

Administrator, Farmers Home Administrator.

[FR Doc. 87-4412 Filed 3-3-87; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 86-126]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the payment of indemnity for animals destroyed because of brucellosis by adding a breed association to the list of registered breed associations. This action is necessary in order to include in the regulations all the registered breed associations that maintain records concerning the purebreeding of animals adequate to identify an animal as a registered animal of that breed association. This action allows for proper payment of indemnities to owners of cattle destroyed because of brucellosis, thereby encouraging the elimination of reactor cattle as a disease source.

EFFECTIVE DATE: March 4, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. William E. Ketter, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8565.

SUPPLEMENTARY INFORMATION:

Background

The regulations entitled "Animals Destroyed Because of Brucellosis" (contained in 9 CFR Part 51 and referred to below as the regulations) provide for the payment of indemnities to owners of cattle, bison, and swine destroyed because of brucellosis. Under the regulations indemnity is paid to an owner of such animals destroyed because of brucellosis to encourage the owner to cooperate in the timely removal of infected animals from the herd or, in the case of herd depopulation, to remove a focus of infection in an otherwise clean area and thereby prevent transmission of brucellosis to nearby susceptible herds.

We published in the **Federal Register** on November 13, 1986 (51 FR 41108-41109), a proposal to amend the regulations by adding the "American Blonde d'Aquitaine Association" to the list of registered breed associations in § 51.1(cc).

Our proposal of November 13, 1986, invited the submission of written comments on or before December 15, 1986. No comments were received. Based on the rationale set forth in the proposal, the proposed rule is adopted as a final rule.

Executive Order 12291 and Regulatory Flexibility Act

This final rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The economic impact of this rule allows approximately 1,500 small cattle producers owning Blonde d'Aquitaine whose cattle are registered with the American Blonde d'Aquitaine Association to receive a higher indemnity rate when such reactor cattle or exposed cattle must be destroyed because of brucellosis. There are many thousands of small cattle producers who do not own this registered breed of cattle who will not be affected by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 51

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Indemnity payments.

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Accordingly, 9 CFR Part 51 is amended as follows:

1. The authority citation for Part 51 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a-1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

§ 51.1 [Amended]

2. Section 51.1, paragraph (cc) is amended by inserting the "American Blonde d'Aquitaine Association," immediately after "The American Black Maine-Anjou Association."

Done in Washington, DC, this 27th day of February, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-4478 Filed 3-3-87; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 87-013]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of 12 counties in the State of Florida and 12 counties in the State of Texas from Class C to Class B. This action is necessary because we have determined that these counties meet the standards for Class B status. The amendments reduce restrictions on the interstate movement of cattle from these counties.

EFFECTIVE DATE: March 4 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Jan D. Huber, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5965.

SUPPLEMENTARY INFORMATION:

Background

The interim rule published December 1, 1986 (51 FR 43170–43172), was effective on the date of publication in the **Federal Register**, and comments were solicited for 60 days ending January 30, 1987. No comments were received. The facts presented in the interim rule still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of a portion of the States of Florida and Texas reduces certain testing and other requirements on the interstate movement of these cattle. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by the changes in status. Also, cattle from certified brucellosis-free herds moving interstate are not affected by these changes in status. We have determined that the changes in brucellosis status made by this document will not affect market patterns significantly and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entitles.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule without change, the interim rule that amended 9 CFR Part 78 and that was published at 51 FR 43170—43172 on December 1, 1986.

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 27th day of February, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-4479 Filed 3-3-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Research and Special Programs Administration

14 CFR Part 241

[Docket No. 43473; 241-55]

Aviation Economic Regulations; Passenger Origin-Destination Survey

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule reduces the size of the sample of flight coupons to be surveyed by large certificated carriers in the Passenger Origin-Destination Survey. Also, intra-Alaska markets are included in the Survey for the first time and the listing of participating carriers will be updated to eliminate duplicate reporting requirements. This action aligns the data collected with the data needed by the Department to fulfill its aviation responsibilities.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or Donald W. Bright, Office of Aviation Information Management, DAI-1, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4384.

SUPPLEMENTARY INFORMATION:

Background

The Civil Aeronautics Board Sunset Act of 1984 (Pub. L. 98-443) requires the Department of Transportation, under the authority of the Secretary of Transportation (49 U.S.C. 329(b)(1)), to collect and disseminate information on civil aeronautics, other than that collected and disseminated by the

National Transportation Information Safety Board, including information on the origin and destination of passengers in interstate and overseas air transportation.

In a notice of proposed rulemaking issued October 11, 1985 (Notice 85–15, 50 FR 42870, October 22, 1985), the Department proposed to reduce the Passenger Origin-Destination Survey (O & D Survey) reporting requirements contained in 14 CFR 241.19–7. This proposal was intended to reduce up to 50 percent the number of individual passenger ticket coupon records being surveyed in the sample required by the regulations (10 percent [1] of all lifted passenger coupons or each coupon with a ticket serial number ending in "0").

This rule proposed to align the O & D Survey data collected to the Department's specific requirements to effectively and efficiently administer its incumbent aviation responsibilities. Essentially the Department proposed to:

(1) Stratify the market universe and sample at least 1 percent of passenger tickets in the largest domestic markets (which include approximately 1,000 city-pairs) with the markets updated annually;

(2) Include the intra-Alaska markets; and

(3) Permit carriers to report duplicate information or allow carriers to continue reporting under the participating carrier list.

The Department also requested comments on reducing the six fare code summarizations to four and distinguishing between restricted and unrestricted fares.

Comments

Thirteen comments were received in response to the rulemaking notice. Four airlines,[2] the Air Transportation Association of America (ATA) on behalf of 15 member airlines,[3] and 8 users [4] of O & D data filed comments. In addition, answers to a few telephone inquiries were filed in the docket.

The airlines were generally opposed to making any changes in the O & D Survey other than including intra-Alaska markets. Users commented for the most part on sample size and were also generally opposed to changing existing procedures. These comments are discussed below under separate captions.

Stratified Sample and Sample Size

The Department proposed to stratify the domestic market universe and sample 1 percent at a minimum of the lifted coupons in the largest domestic markets[5] while continuing to sample the small and medium domestic markets at 10 percent. International markets would also continue to be sampled on a 10 percent basis. The 1 percent sample is designed to apply only to single coupon or two-coupon round trip tickets, with more complex itineraries still sampled at 10 percent so that the effective sample size is somewhat larger than 1 percent for the large domestic markets.

All comments, except one, were opposed to stratification and reducing the sample size and wanted the present system continued. These opposing comments were usually based on data reliability and/or cost considerations. NY/NJ supported the proposal stating that even with the changes, the O & D Survey would still provide reliable data on the New York passengers.

Data Reliability

ATA, TWA, UAL, Concours, Stewart and Oakland were opposed based on data reliability. ATA commented that he airlines are users as well as providers of O & D Survey data. From a users point of view, ATA states that the airlines are opposed because of the relatively high sampling error in the lower 250 markets of the 1 percent sample of passenger tickets. ATA points out that the sampling error range moves from 2.6 percent to 3.1 percent at 10 percent to 8.7 percent to 10.2 percent at 1 percent of passenger tickets.

United states that in certain markets the error factor will become too great and is therefore opposed. For instance, United states that the error rates for a single contributing airline are much larger than those for the industry; that when estimating passenger share, errors in airline counts and industry counts are roughly additive, yielding unreliable market share estimates; and that when carrier shares are leveraged against each other, such high error rates can lead to grossly misrepresented market performance.

Concours is opposed because the accuracy of the passenger counts for the largest city pairs would decrease, particularly in the case of coupon-level studies where single-coupon directional journeys are summarized with the same city pairs as coupons of multi-coupon tickets. In addition, Concours states that time series analyses will lose their integrity as city pairs pop on and off the largest city pair list.

TWA, a party to the ATA response, also filed a separate comment stating that since it is well recognized that the 10 percent sample is marginal from a statistical standpoint for international markets, it is hard to understand how 1 percent could produce valid information. Further, TWA states that while arguably there may be a somewhat greater regulatory need for reliable international data, there is still a demonstrated need for reasonably reliable domestic data, and given this factor, it seems irresponsible for the Department to rely on domestic data that is theoretically 9 times less reliable than international data.

Stewart and Oakland also oppose stratification. Stewart states that the shift from 10 to 1 percent of passenger tickets would be disastrous on the accuracy of the data in small markets, while Oakland states that the sampling technique will be further complicated.

Although ATA and Western are opposed to stratification and would like to see the present system continued, both propose, as an alternative sampling technique to stratification, an across the board 5 percent sample size. ATA states that if DOT was willing to accept a sampling error 10.2 percent at the bottom of the largest markets (those over 35,000 passengers per annum) it seems reasonable that a 5 percent sample which has a sampling error of 12.1 percent in a 5,000 passenger market would be acceptable. ATA contends that this approach would yield savings in the cost of data captured and reported and still produce a worthwhile survey. American, while a party to ATA's response, does not agree with ATA on the alternative sampling. American disagrees with ATA's position and feels that the O & D Survey sample should remain at 10 percent, that to propose anything less would bring the reliability in question, and that a 50 percent reduction in sample size (from

[1] Note that fewer ticket coupon records are reported than the 10 percent of lifted ticket coupons that are sampled, because some coupons are nonreportable and carriers group identical coupons as one record.

[2] American Airlines (American), Trans World Airlines (TWA), United Air Lines (United) and Western Airlines (Western).

[3] Passenger carriers—Alaska Airlines, Braniff, Continental Airlines, Delta Air Lines, Eastern Air Lines, Hawaiian Airlines, Jet America Airlines, Midway Airlines, Northwest Airlines, Piedmont Aviation, Republic Airlines, Trans World Airlines, USAir, and Western Air Lines; and Flying Tiger, an all-cargo carrier.

[4] Airport Operators Council, Incorporated (AOCI), Aerospace Industries Association of America (AIA), State of Michigan (Michigan), Stewart International Airport (Stewart), Port of Oakland (Oakland), Port of New York and New Jersey (NY/NJ), Norfolk Port Authority (Norfolk) and Concours Data Systems (Concours). Dallas/Fort Worth International Airport filed a late comment received over six weeks after the due date which was not considered because of its lateness.

[5] Approximately 1,000 city-pairs with directional origin-destination passengers in excess of 35,000 passengers a year.

10 percent of passenger tickets to 5 percent) will reduce confidence limits to unacceptable levels for a large share of the applications.

Costs

ATA, TWA, Western and Concours also filed comments opposing stratification based on costs. All contend that there will be more work and additional expense involved with stratification. ATA, TWA and Concours state that there will be additional one-time costs involved with changing the existing systems as well as making modifications each year for the changes in the largest market city pairs. Concours alleges that in the high density markets it doubts that the number of records submitted will decrease. Finally, ATA states that the increase in processing costs caused by stratification would exceed any benefits derived.

The Department is not persuaded by these arguments. The proposal was based on the Department's need for a statistically valid sampling strategy that provides a reasonable sampling error rate for both large and small markets, as balanced against the Department's objective of reducing carrier reporting burden in handling an increasing volume of passenger ticket records. Since 1975, the total number of flight coupon records reported annually over the ten years has increased about 92 percent, to approximately 5 million records for the year 1985.

The two-tiered, stratified sample meets these dual objectives of providing for a significant reduction in the number of coupon records reported, while preserving the quality of the reported O & D Survey data. The Department's statisticians and program officials are in agreement that the stratified sample will provide valid data that are with the Department's tolerable sampling error range for their regulatory programs.

The Department cannot adopt a uniform reduced sample size, for instance a 5 percent sample size as suggested, because the Department's program officials have strongly rejected such an approach, stating that it would produce unreliable data for very small domestic markets and for all international markets. The Department's decision-makers would have no confidence in such a small sample size in very small domestic markets or international markets of several passengers per day, because the sampling error rates would exceed the range the Department finds tolerable. Therefore, it is the oversampling in very large markets, such as those in excess of 35,000 passengers per year, where significant reductions in volume of data sampled and reported are available. Further, the Department's statisticians are convinced that the two-tier, stratified sampling procedures do offer a very real and practicable opportunity for burden reduction by the elimination of unnecessary oversampling and overreporting in large domestic markets.

The opposition to a smaller sample size in the largest domestic markets because of the relatively high sampling error rates in the lower portion of the top 1,000 markets appears to be an unfounded concern. ATA's argument is true that the error rates in the bottom 250 of the top 1,000 markets would increase from 2.6 percent to 3.1 percent for a 10 percent sample of tickets to 8.7 percent to 10.2 percent for a 1 percent sample of tickets. However, these error rates pertain to a straight 1 percent sample of passenger tickets.

The 1 percent sample in the two-tiered stratified approach is not a straight 1 percent. It provides for at least a 1 percent sample of passenger tickets in the largest domestic markets form one and two-coupon tickets (single coupon and two-coupon round trips), which tickets account for about 60 percent of the ticket volume in the domestic major markets. The remaining 40 percent of the ticket volume is produced from multistop, complex itineraries, which are to continue to be sampled at the 10 percent standard. When the sampling results from these two strata are aggregated, the resulting sampling error rates would be better than those described by the opposing comments.

United's concerns that the stratified sampling procedure may produce unacceptable results for its purposes with respect to data for individual markets and for individual carriers is a reasonable concern. The Department agrees that a basic principle of statistical sampling indicates that, as the overall sample results are split into smaller, more finite bits (such as markets or carrier portions of markets), the sampling error rates for individual markets and individual carriers within those markets grow larger. This was clearly demonstrated by Attachment VI to the NPRM. That attachment disclosed that the sampling error rate for a 1 percent sample of tickets was 247.1 percent to 78.1 percent in markets with less than a 1,000 passengers per annum and only 2.5 percent to .1 percent in markets with over 1 million passengers each year. The Department considered quite carefully whether the stratified sampling procedures preserved the quality of data, not only for the overall Survey results, but also for individual carriers within individual markets.

The Department is satisfied that the two-tiered, stratified sampling procedures prescribed in this final rule will accomplish this objective. The Department took the 10 percent sample results for the domestic major markets for 1984, split the data into small bits of 10 small samples of 1 percent each and 20 small samples of 0.5 percent each and tested the results for variability and consistency. It was found that there was a threshold number of incidence in a sample for a particular carrier in a particular market that were necessary for the data to be consistent enough to be useful. This same principle also applied to the 10 percent sample size.

These tests confirmed the validity of the stratified sampling procedures. The stratified sampling procedures will produce data for the largest domestic markets that demonstrate remarkable consistency and non-variability in small slices (such as 10 simulated 1 percent samples) in the aggregate for the market and by carrier, and even by fare category within markets, provided a threshold number of incidents or observations are encountered. Even the data that were quite variable could be interpreted and made somewhat useful by aggregating the instances (such as occasional observations of unknown or foreign carriers or commuter data) for comparison with the data that were more consistent and non-variable.

Concours' comment that time series market analyses will lose their integrity as markets pop on and off the list is well taken. The Department intends that the number of changes will be minimal and can be adjusted for in any historical analyses that it may perform. The Department will annually review [6] the list of the largest domestic city-pairs, but will only revise the list when significant market changes occur.

Concerning the cost arguments, the Department acknowledges that there is burden associated with any change in reporting. However, once the system is modified, the overall reporting burden should decrease since the result of the stratified sampling will mean a lesser number of coupons to be processed for reporting.

In the NPRM, carriers were requested to give the Department input on the cost savings or burden reduction resulting from the proposed changes. The commenters who responded commented in general terms that the changes would increase and not decrease burden. From

[6] Markets will be reviewed for the 12 months ended June 30 and any significant changes will be made effective January 1 of the year following the review.

the Department's study it was estimated that the overall number of coupons to be selected and processed for individual carriers could be reduced up to 50 percent based on the number and size of the large domestic markets. The comments that the additional selection criteria will increase and not decrease burden is true for the selection process, but when that process is combined with the processing cycle, the Department still believes that an overall significant burden reduction will occur.

In summary, the Department is convinced that the two-tiered, stratified sampling procedures will result in valid data that in the aggregate and for individual carriers and markets will produce O & D Survey data that are within the Department's tolerable sampling error range. The Department is also convinced that the stratified sampling procedure will not adversely affect the quality of data in the O & D sample. Further, the Department believes that the stratified sampling technique will produce overall burden reductions for the carriers.

Nevertheless, for those carriers who do not want to change their sampling strategies, the Department will look favorably upon waiver requests from the stratified sampling procedures. In lieu of stratification, such carriers would continue their present method of surveying every zero ending ticket. For carriers who do stratify, the 1 percent sample of passengers will be conformed to the 10 percent sample of passengers by adding a zero prior to reporting the data, as discussed in the following caption. A clear identification will be maintained in the O & D Survey documentation of those carriers using stratified sampling, and those electing to report the straight 10 percent sample of tickets.

Other Comments Concerning Stratification

AOCI and Norfolk also oppose stratification for reasons other than data reliability or cost. AOCI states that some carriers have failed to report quarterly and there has been virtually no enforcement by the Government. AOCI believes that the Government's first objective should be to improve the compliance by having all carriers reporting before anyone can reasonably determine the extent to which the sample size may be reduced. In light of these problems, AOCI feels that the two-tiered reporting will complicate matters.

Norfolk is opposed to changing the present survey stating that the 10 percent sampling must be mandatory for all Tables of the O & D Survey publication. Also Norfolk states that all new entrants should be required to report true origination and destination of the passengers.

The Department has made a conscientious effort to have new carriers report O & D Survey data. It has a rigorous enforcement program to assure compliance with its reporting requirements. In some cases it has taken a few carriers using nonstandard tickets longer than usual in getting their collection systems in place. The Department, however, does not believe that the impact of a few carriers' reporting practices would change the overall merits or stratified sampling.

Norfolk's comment that the 10 percent sample should be mandatory for all O & D Survey tables is worth considering. The Department concurs that the data presented in the O & D output tables should be stated on a uniform basis to facilitate their use. When sampling at 1 percent, carriers will add a zero to the sample results before submitting their data. Therefore, all data received and published will be on a uniform basis, as if it were a 10 percent sample of the universe.

Duplicate Reporting

The Department proposed to accept duplicate reporting. That is, carriers could report the O & D Survey data for every ticket coupon that is sampled. This means that on a reportable ticket with 3 carriers in the itinerary, each carrier may report the same data. This method is now being used by approximately 50 percent of the reporting carriers with the Department eliminating the duplicate data. The other carriers report the data from a reportable ticket only if a participating carrier did not precede them in the itinerary. Under this second method duplicate reporting is greatly reduced. The list of participating carriers using this second method had not been updated since 1979.

ATA and Western expressed opposition to the proposal stating that the present procedures should be continued. United concurred with ATA. Concours, on the other hand, states the proposal has merit.

The Department has decided to continue the present method of reporting, using the participating carrier list. Instead of maintaining a static list of participating carriers, the Department will review the participating carrier list annually and update it as necessary for changes caused by carriers entering and existing the marketplace. The participating carrier list will be reviewed each June 30 and any revisions will be made effective January 1 of the following year.

Those carriers who begin operating after the annual review is made will still be required to file O & D data. When the next review is made, these carriers will be added to the participating list. Any duplicate reporting resulting because of the lag in adding a carrier to the participating list will be eliminated by the Department through its edit program.

This change will for the most part permit standardized reporting for the industry and will substantially eliminate duplicate reporting. Nevertheless carriers wishing to continue their present method of reporting can do so provided they notify the Director, Office of Aviation Information Management at the address shown in the "For Further Information Contact" section. This will permit the necessary edit criteria to be maintained.

Intra-Alaskan Markets

The Department proposed to eliminate the restriction against including intra-Alaskan markets in the O & D Survey.

ATA, United, Western and Concours concur in the proposal. Concours stated that the additional data on these markets is timely in light of the increased interest in these markets.

This final rule will eliminate the outmoded restrictions and require the reporting of intra-Alaskan markets.

Fare Codes

Presently, fare codes are summarized into six categories—first class, first class discounted, coach, coach discounted, unknown and other. The Department requested comments on the usefuless and format of these summarizations. It also requested comments on whether the present codes should be constricted further into only four codes—first class full fare, first class discounted or retricted, coach full fare, and coach discounted or restricted.

ATA opposed changing the present classifications and summarizations, stating that the effect of the proposal would be to increase staff and processing costs. TWA and United concur with ATA. Western supports the reduction or even elimination, stating that the fare codes have little value to Western.

The Department has decided to maintain the *status quo* for reporting summary categories of fare basis code data, since fare code data is still needed. Department analysts, however, feel that fare code data would be more useful if restricted fares were known. The staff believes that further work is needed in this area before it can be decided if the benefits would outweight the burden involved if the changes were made. The Lepartment may lool at the reporting of fare categories in a future rulemaking.

In a related issue, the Department's staff are faced with the issue of carrier code-sharing arrangements and similar cooperative agreements. Under these arrangements the O & D Survey does not necessarily portray the actual carriers who participated in the transportation of the passenger. For instance, when a smaller carrier uses/shares a larger carrier code on the passenger ticket, the larger carrier rather than the carrier that actually transported the passenger is likely to be the carrier code reflected in the O & D Survey. Currently, the Department's policy is that the O & D Survey is intended to reflect the data sampled from the ticket. The Department's statisticians believe that the overall validity of the Survey would be enhanced by reporting the code for the carrier who actually transported the passenger. The actual carrier code could only be reflected, however, if the data entry personnel recording the O & D Survey were to recognize and substitute the smaller carrier's code in lieu of the larger carrier's code. The Department does not know whether this or some other method is feasible from a burden standpoint, and may consider this issue further in a future rulemaking.

Other Comments

Nonstandard Ticketing

United believes that procedures are needed to improve or at least maintain the current reporting requirements for online O & D data for nonstandard tickets. Exemptions should not be granted to reporting on a flight segment basis United feels, since it distorts online O & D data and allows other carriers a competitive advantage in analyzing other carriers online O & D data.

The final rule provides for continuing the current data collection flexibility that permits carriers using nonstandard ticketing procedures, or those who do not interline, to report their actual online passenger O & D data. The requirement that departures from prescribed O & D Survey procedures must be approved by the Director, Office of Aviation Information Management is also retained. The Department is sensitive to the complaint that some carriers using nonstandard tickets were reporting segment data rather than true online origin-destination data. The Department will continue to insist upon compliance with the regulations by all carriers, utilizing enforcement sanctions as necessary. Where nonstandard ticketing or other special circumstances justify a waiver to permit an individual carrier to report actually on-line O & D data instead of true O & D, the Department does and will continue to monitor the submissions. If the data are found to be merely point-to-point data, as for instance, where a carrier reportedly enplanes and deplanes all traffic at a hub when obviously some of the traffic consists of "through passengers," the carrier will be contacted and required to improve the quality of reported data.

Length of Reported Routings

The Department proposed to reduce the maximum number of reported routings from 23 stages to 7 stages, while giving carriers submitting O & D Survey data before 1979 the option of continuing to report up to 23 stages.

Concours felt that passengers using a ticket with more than seven coupons was insignificant, that most of them are used in the international sector, and that it would be better to leave the maximum at 23 coupons per ticket sinced the information from the international sector is sparse anyway.

The major international carriers who are currently reporting up to 23 stages did not comment on this reduction.

The Department is not persuaded by Concours' comment and will finalize the rule as proposed.

Uniform Reporting

Michigan and Norfolk commented that they would like to see uniform reporting established between the large certificated carriers and small certificated and commuter carriers. Large certificated carriers report the 10 percent O & D Survey data while the small certificated and commuters report the 100 percent online origin-destination data. The standardization proposed by Michigan and Norfolk is not germane to this proceeding and will not be addressed here.

Rulemaking Process

Stewart stated that it was concerned that participation by others would be precluded in defining future sample sizes. This is not the case. The rule section defines the sample sizes as 1 and 10 percent. These sizes cannot be changed at the whim of the Department, but must be done through the administrative rulemaking process. This process gives everyone a chance to make their views known.

Intraline Reporting

Oakland commented that it would like to see intraline connections reported the same as interline connections in Table 10 of the Survey Tables. The NPRM stated that content, form and media of end products would not be considered in this rulemaking. The data Oakland wants already appears in the O & D Survey. For instance, Tables 12 and 16 show in great detail, by ticket coupon, the intraline and interline passenger movements.

City Versus Airport

New York/New Jersey commented that the Survey Tables should portray airport-to-airport rather than city-to-city as they do in some cases because some flights were incorrectly coded. If a ticket is coded erroneously with the "city" instead of the airport in a multi-airport market, the Department has no efficient way of deciding which airport was used and of necessity must publish the city code.

Data Use

AIA commented that it did not care which survey method was used, 1 and 10 or straight 10 percent, as long as it could continue receiving the data. The Department has no plans to curtail the users of the Survey. A future rulemaking will review the confidentially requirements of the O & D Survey at which time changes could be made to the disclosure requirements for release of Survey data. Users will have ample opportunity to make their views known in that proceeding.

Transmission of Data

The Department is actively exploring the concept of accepting computer—generated "floppy discs" as a reporting medium for O & D data. A pilot project is currently underway to test the feasibility of disc submissions. Volunteer carriers are needed for this pilot project. Interested carriers should write to Richard King, Office of Aviation Information Management at the address listed in the "For Further Information Contact" section of this rule. Mr. King can also be contacted by telephone on (202) 366–4375.

Carrier Procedures and O & D System Documentation

Participating carriers are requested to resubmit or recertify their O & D System procedures and flow chart documentation effective July 1, 1987, because this rule implements a major change in sampling strategy. Further some new carriers have not submitted their O & D Survey system procedural statements and flow charts, as required by the Survey instructions (see Exhibit A for revised instructions), and other carriers have not updated these submissions in several years. However, where system procedures and flow charts are unchanged, it is sufficient for the carrier to submit a statement to the Department confirming this re-certification as of July 1, 1987. Subsequently, resubmissions are required only as changes in procedures and work flow occur.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting provisions contained in 14 CFR 241.19–7 have been approved by the Office of Management and Budget (OMB) and have been assigned the control number 2138–0017.

Regulatory Evaluation and Regulatory Flexibility Act Determination

This final rule was evaluated under Executive Order 12291, "Federal Regulation," dated February 17, 1981, and the Department of Transportation's Regulatory Policies and Procedures dated February 26, 1979. This rule is not considered to be "major," as defined by E.O. 12291, because it will not have an annual effect on the economy of $100 million or more; it will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or regions; and it will not have a significant adverse effect on competition or any other aspect of the economy. Its economic impact is minimal and full regulatory evaluation is not required. The rule is considered to be significant under DOT's Regulatory Policies and Procedures because it concerns a matter in which there is substantial public interest. The rule should have no environmental impact.

I certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects only large certificated air carriers. The net effect of this rule is a reduction in reporting burden.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform system of accounts and reports.

Final Rule

PART 241—[AMENDED]

Accordingly, the Department of Transportation amends 14 CFR Part 241, *Uniform System of Accounts and Reports for Large Certificated Air Carriers* as follows:

1. The authority for Part 241 continues to read:

Authority: Secs. 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, 1601, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 758, 766, 769, 771, 783, 784, 788; 76 Stat. 145; 92 Stat. 1744; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1472, 1482, 1551; sec. 43, Pub. L. 95–504, 92 Stat. 1750, 49 U.S.C. 1552.

2. Section 19–7 is revised to read as follows:

19–7 *Passenger origin-destination survey.*

(a) All U.S. large certificated air carriers conducting scheduled passenger operations (except helicopter carriers) shall participate in a Passenger Origin-Destination (O & D) Survey covering domestic and international operations, as described in the instructions manual entitled, *Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics* (Appendix A to this section), and in *Passenger Origin-Destination Directives* issued by the Department's Research and Special Programs Administration (RSPA), Office of Aviation Information Management (OAIM). Copies of these *Instructions* and *Directives* are provided to each large carrier participating in the Survey. Copies are also available from the Office of Aviation Information Management, RSPA, Department of Transportation, DAI–1, 400 Seventh Street, SW., Washington, DC 20590.

(b) Those participating air carriers having access to automatic data processing (ADP) services must utilize magentic tape, floppy discs or other ADP media for transmitting the prescribed data. Those carriers without ADP capability will use RSPA Form 2787. Before the initial submission of floppy discs, carrier should contact the Director of the Office of Aviation Information Management at the address in paragraph (a) of this section to set the necessary procedures in motion.

(c) A statistically valid sample of light coupons shall be selected for reporting purposes. The sample shall consist of at least 1 percent of the total lifted ticket flight coupons for all large domestic markets listed in the Instructions and 10 percent for all others—including domestic and international markets. The sample shall be selected and reported in accordance with the requirements of paragraph (a) of their section, except that the participating O & D carriers with nonstandard ticketing procedures, or other special operating characteristics, may propose alternative procedures. Such departures from standard O & D Survey practices shall not be authorized unless approved in writing by the Director, Office of Aviation Information Management under the procedures in Sec. 1–2 of 14 CFR Part 241. The data to be recorded and reported from selected lifted ticket flight coupons, as stipulated in the *Instructions* and *Directives* shall include the following data elements: Point of origin, carrier on each flight-coupon stage, fare-basis code for each flight-coupon stage, points of stopover or connection (interline and intraline), point of destination, number of passengers, and total dollar value of ticket (fare plus tax).

(d) Data covering the operations of foreign air carriers that are similar to the information collected in the Passenger Origin-Destination Survey are generally not available to the Department, the U.S. carriers, or U.S. interests. Therefore, because of the damaging competitive impact on U.S. carriers and the adverse effect upon the public interest that would result from unilateral disclosure of the U.S. survey data, the Department has determined its policy to be that the international data in the Passenger Origin-Destination Survey shall be disclosed only as follows:

(1) To an air carrier directly participating in and contributing input data to the Survey or to a legal or consulting firm designated by an air carrier to use on its behalf O & D data in connection with a specific assignment by such carrier.

(2) To parties to any proceeding before the Department to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the Administrative Law Judge or by the Department's decision-maker. Any data to which access is granted pursuant to this section may be introduced into evidence subject to the normal rules of admissability of evidence.

(3) To agencies and other components of the U.S. Government.

(4) To other persons upon a showing that the release of the data will serve specifically identified needs of U.S. users which are consistent with U.S. interests.

(5) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable O & D data.

(e) The Department reserves the right to make such other disclosures of the O & D data as is consistent with its regulatory functions and responsibilities.

3. RSPA Form 2787 and the Survey manual *Instruction to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics* are added as Appendix A to Sec. 19–7 of Part 241 as set forth below.

APPENDIX A to Sec. 19-7—Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics

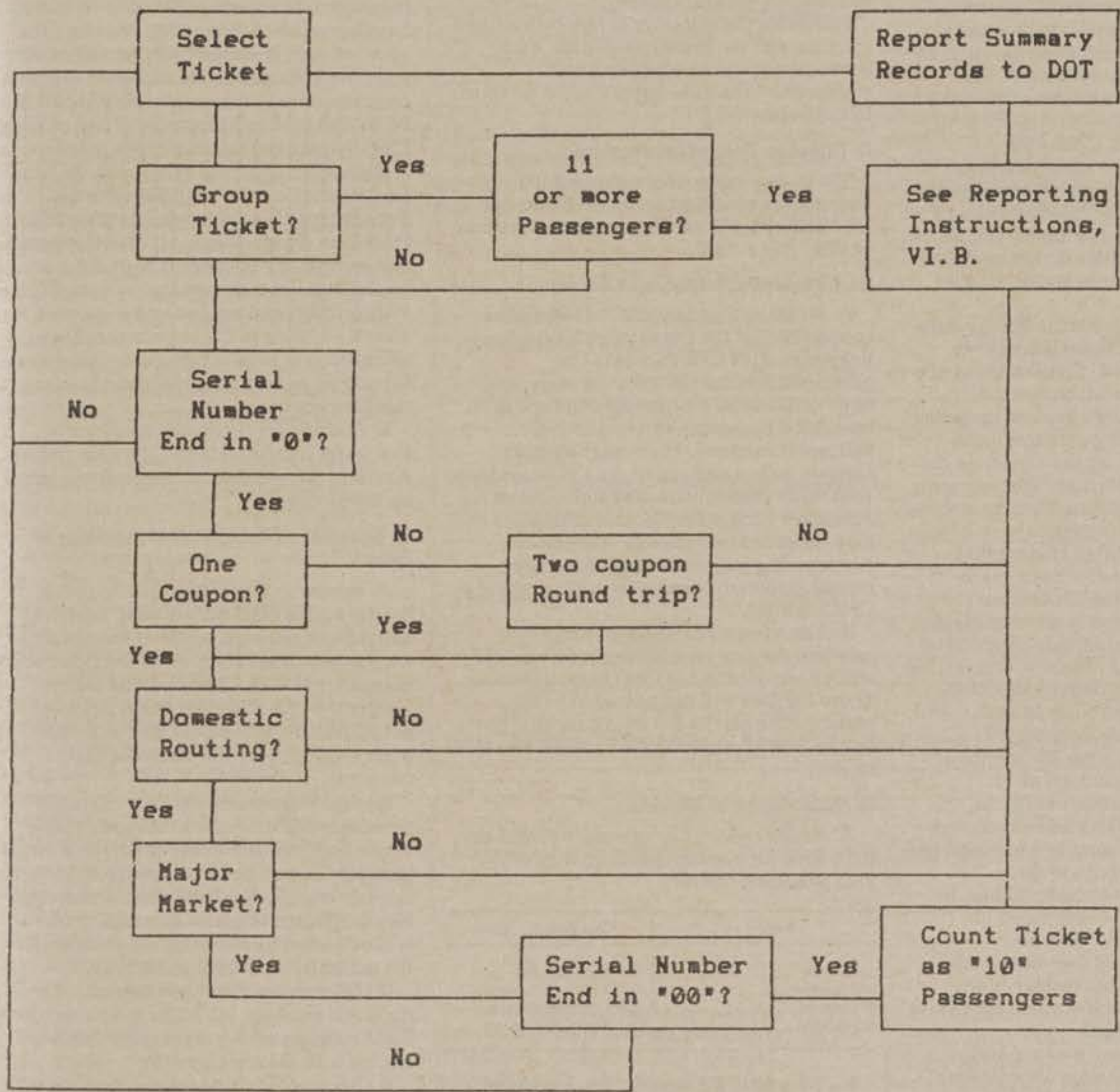
All questions, comments, extension and waiver requests should be addressed to:

Robin A. Caldwell, Director, Office of Aviation Information Management, DAI-1, Research and Special Programs Administration, Room 4125, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Telephone (202) 366-9059.

BILLING CODE 4910-62-M

I. GENERAL DESCRIPTION OF O&D SURVEY

A. Flow Chart of O&D Reporting From Tickets



BILLING CODE 4910-62-C

B. Narrative Description

A single O&D Survey is conducted continuously by the large U.S. certificated air carriers. Foreign air carriers do not directly participate in the Survey, although some of their data are captured in the Survey, since passengers who share a ticketed itinerary between a U.S. carrier and a foreign carrier may be sampled by the U.S. carrier. The authority for these instructions is found in 14 CFR Part 241, section 19-7, and in the CAB Sunset Act of 1984 (Pub. L. 94-443).

The Survey samples revenue passenger trips moving in whole or in part on domestic and/or international scheduled services of the carriers participating in the Survey. In general, these requirements do not apply to small certificated, all-cargo and all charter carriers.

The source documents for the Survey data are passenger tickets. These data are collected from the "lifted" flight coupons of tickets (a portion of a multi-part ticket booklet of three [1] or more coupons, including one for each stage of the passenger's trip itinerary which is lifted by the carrier as the passenger boards a particular flight segment).

The Survey data are taken from the coupon that is lifted by a participating carrier, unless it is apparent from the lifted coupon that another participating carrier has already recorded and reported the data, in which instance the ticket coupon is non-reportable for the second honoring/participating carrier. The complete passenger itinerary, and related data on type of fare and dollar value of the ticket, is recorded as one entry from the sampled, reportable flight coupon.

The recording of data from the sampled flight coupon normally consists of transcribing the information exactly as indicated on the ticket. The detail recorded for each trip shows the complete routing from the origin city (airport code) to the destination city (airport code) including, in sequence from the origin, each point of transfer and stopover (intraline and interline), the summarized fare-basis code shown for each flight coupon stage of the itinerary, and the total dollar value of the fare and tax for the entire ticket.

Prior to 1987, the Survey was generally based on a 10-percent sample of passenger tickets. Beginning July 1, 1987, the Survey is collected primarily on the basis of a stratified, scientific sample of at least 1 percent of tickets in domestic major markets and 10 percent of tickets in all other domestic and in all international city-pair markets. The Survey data are taken from the selected flight coupons of the tickets sampled: single-coupon or double-coupon round trips in domestic major markets where the ticket serial number ends in double zero (00) and all other ticket coupons ending in zero (0). This procedure yields a "two-tiered" stratified sample.

Group tickets are included on the basis of a 10-percent sample when the number of passengers on such a group ticket is 10 or less. Group tickets with more than 10 passengers on each ticket are included on the basis of a 100 percent census, *i.e.*, all such tickets are sampled, regardless of serial number, and the total data listed are conformed to a 10 percent sample for inclusion in the O&D Survey.

Following the selection of reportable flight coupons and the recording of data, each participating carrier shall edit and summarize [2] the data into a quarterly report to the Department.

II. Effective Date of Instructions

These data collection and reporting instructions are effective on and after July 1, 1987 and apply to all flight coupons lifted on or after July 1, 1987.

III. Carriers Participating in Survey

A. *Participating carriers.* As defined in section 19-7 of the Department's Economic Regulations (14 CFR Part 241), the participants in the O&D Survey include all large certificated air carriers conducting scheduled passenger services (except helicopter carriers). These participating carriers collect and report data in accordance with these Instructions, and suplemental *Passenger Origin-Destination Directives* that may be issued periodically. The list of participating carriers will be issued by reporting directive under the authority in 14 CFR 385.27(b).

B. *Amendments to list of participating carriers.* As new carriers begin service, they will be required to file O&D Survey Data. These carriers will not be added to the participating carrier list automatically, but will be added when the next annual review is made.

IV. Submission of Reports

A. *Period covered by reports.* Reports are to be filed for each calendar quarter of the year as shown below:

Report	Time period covered
1st quarter	Jan. 1 through Mar. 31.
2nd quarter	Apr. 1 through June 30.
3rd quarter	July 1 through Sept. 30.
4th quarter	Oct. 1 through Dec. 31.

B. *Filing date for reports.* Reports are to be filed with the Department on or before the dates listed below. The mailing address is on the inside cover to these instructions.

Report	Due date [1]
1st quarter	May 15
2nd quarter	Aug. 15
3rd quarter	Nov. 15
4th quarter	Feb. 15

[1] Due dates falling on Saturday, Sunday or national holiday will become effective the first following work day.

C. *Format of report.* The report may be submitted in any one of the following formats:

(1) ADP media including magnetic tapes and floppy discs.[3]

(2) Hard copy RSPA Form 2787, in typewritten form, for carriers that lack computer capability. Sample formats of the required data appear in Sections IX and XII. Supplies of blank Form 2787 are available, upon request, from the Director, Office of Aviation Information Management (address on inside cover). Any reasonable facsimile of Form 2787 will be acceptable in lieu of Form 2787, if approved in advance by the Director.

D. *Number of copies of report to be filed.* A participating carrier shall file with the Department a single copy of its quarterly O&D data report. When ADP submissions are transmitted, the package is to contain a transmittal letter describing the contents, and stating the overall record and passenger counts included in the submission. Each submission is to be labeled externally as to submitting carrier and time period of the O&D Survey data.

E. *Address for filing reports.* Reports should be submitted to the Director, Office of Aviation Information Management (address on inside cover).

V. Selection of Sample and Recording of Data.[4]

A. *Sampling Basis.* Each participating carrier in this O&D Survey shall search all listed flight coupons, whether the coupons are its own ticket stock or on the ticket stock of another U.S. or foreign carrier (either standard IATA and ARC ticket stock or nonstandard ticket stock), and is to *select for reporting purposes* the following flight coupons:

(1) *Major domestic markets.* All single-passenger flight coupons that are either a single flight coupon ticket or part of a round trip, two coupon ticket where the ticket serial number ends in the digits double-zero (00). Note.—The list of major domestic markets will be issued by reporting directive under the authority in 14 CFR 385.27(b).

(2) *International markets and all other domestic markets.* (a) All single-passenger flight coupons with ticket serial numbers ending with the digit zero (0);

(b) Those group-ticket flight coupons with 10 or fewer passengers with ticket serial numbers ending with the digit zero (0);

(c) Those group-ticket flight coupons with 11 or more passengers without regard to serial number; and

[1] Each ticket booklet is comprised of one or more *flight coupons* for passenger travel in a city-pair market, plus a *passenger coupon* (the traveler's receipt) and the *auditor coupon* (for the carrier's internal controls).

[2] These summarization procedures include showing two or more passengers with the same itinerary as one O&D record and compressing extremely lengthy itineraries (such as around-the-world tickets) into a standard trip stage length limit (which may be either seven or twenty-three stages, at the carrier's option), as explained in Section V.D.

[3] Magnetic tapes, floppy discs and similar media will be returned to the carriers, upon request, following completion of the processing cycle by the Department.

[4] Upon approval of the Director, Office of Aviation Information Management, carriers may continue current reporting procedures (up to twenty-three stages of a passenger flight) and may report a uniform 10 percent sample of tickets lifted (each zero ending lifted coupon) without reducing the sample size from 10 percent to 1 percent for domestic major markets. Note that the domestic major markets will be reviewed each year at June 30, based on the prior 12 months O&D data, and the list amended as necessary. The list could remain static for more than a year, although it will be reviewed annually. Necessary amendments will be effective on January 1 of the following year.

(d) Itineraries in major domestic markets that comprise more than two coupons are sampled on a uniform 10 percent basis, by selecting all ticket serial numbers ending with the digit zero (0).

B. *Selection of Reportable Flight Coupons.* The flight coupons identified above are to be examined to isolate the reportable flight coupons, *i.e.* coupons from which data are to be recorded. Flight coupon data are reported only by the first honoring and participating carrier listed on the lifted flight coupon. Such carriers shall report the required data for the entire ticketed itinerary.

If a participating carrier has preceded the examining carrier on any stage in the trip itinerary, including any stage in a conjunction itinerary and any stage in a reissued ticket (either before or after reissue), that coupon is not reportable.

Intra-Alaska tickets (those for which the entire ticketed itinerary is wholly within the State of Alaska) are now included in the O&D Survey.

Conjunction tickets do not require special treatment and are governed by the above rules for regular tickets. No adjustment is made in the Survey for alterations or changes in trip itinerary subsequent to the stage coverd by the reportable coupon.

C. *Optional Use of Other Sampling Procedures.*

(1) Alternative sampling procedures or alternative O&D data systems may be proposed by participating carriers with nonstandard ticketing procedures, or other special operating characteristics. Data reported under proposed alternative procedures must approximate the usefulness and statistical validity of the O&D Survey.

(2) Such departures from the prescribed O&D Survey practices shall not be authorized unless approved in writing by the Director, Office of Aviation Information Management (address inside front cover). The proposed alternative O&D Survey procedures must be described in detail in the letter requesting the waiver.

D. *Recording of Data from Reportable Flight Coupons.*

(1) The following items are to be reported from the reportable flight coupons:

(a) Point of origin,

(b) Carrier on each flight coupon stage,

(c) Fare-basis on each flight coupon, F, FD, Y, YD, UK, or Z,

(d) Points of stopover or connection (interline and intraline),

(e) Point of destination,

(f) Number of passengers, and

(g) Total dollar value of ticket (fare plus tax).

(2) The individual items are to be recorded in the sequence of occurrence in the itinerary as follows:

(a) All entries for *points* (airport codes [5]) in an itinerary are to be recorded in three-letter airport code data to fit into the stage-length limitation (seven or twenty-three stages at the carrier's option), all airport codes are to be reported, including data on commuter, foreign, intra-state and other carriers' portions of itineraries. Normally codes are recorded as they appear on the ticket. However, if a code is obviously incorrect, *record the correct code.* For instance, if a ticket is coded DCA–NYC or Washington/National to New York when the flight stage actually operated from Washington, Dulles to Newark (EWR), record the correct airport code. When only name spellings of a city appear on the ticket for multi-airport cities (such as Washington, New York, San Francisco, or Los Angeles), record the specific *three letter airport code.* In cases where two airport codes are shown on the ticket for a point, such as when the passenger arrives at an airport such as San Francisco and departs from another local airport such as Oakland, record the code for the arrival airport, enter a surface segment indicator (—) to the departure airport, and record the departure airport code. (When the surface portion is at the beginning or end of an itinerary, the surface indicator is to be omitted). For example:

```
    000001        UCA     URY              JFK         TWY
Passenger(s), Utica, EMPIRE,          New York, TRANS WORLD,
                     & Coach fare, Kennedy,  & Coach
```

```
      SFO               --
San Francisco, Surface segment,
```

```
    OAK       UAY       LAX            WA         SLC
Oakland, United, Los Angeles, Western, Salt Lake,
          & Coach,                 & Coach
```

```
    NW         PHX       WA         LAX          WN
Northwest, Phoenix, Western, Los Angeles, Southwest
```

```
      UK                 NRT              1500
Unknown Carrier(s), Tokyo, Dollars of Fare and Tax
                    Narita
```

In the above example, the passenger trip stages or segments are compressed into the maximum of 7 stages so that several intermediate city-pairs (Los Angeles to Seattle to Anchorage, or LAX—SEA—Anc) and the related carriers have not been recorded, as prescribed below in this Section V.D.(3)(e). In addition, after the fourth city-pair (Los Angeles-Salt Lake City), the passenger trip itinerary moves from the initial four-part ticket booklet onto another "conjunction" ticket, and the summary fare code data are not recorded beyond the initial four-part ticket.

(b) All entries for *carrier* on a coupon stage of an itinerary are to be recorded in a *two letter* alphabetic code, as in the above example. Note that in the above example, the carrier has properly inserted the fare code summary together with the carrier code, *i.e.*, UR for Empire and Y for Coach class service. When a two-letter carrier code is shown on the ticket, record that code. However, if a code is obviously incorrect, record the correct code. If a carrier's name is used instead of the code, record the correct code. Code sharing cooperative arrangements between carriers are not considered as "incorrect" carrier codes. The carrier of record on the ticket coupon is to be reported in the O&D Survey. Generally the sampled data are limited to those which can be obtained on the face of the ticket coupon. For example, if NW is the carrier code of record (rather than HP, even though HP actually carries the passenger), the traffic data will be attributed to NW in the O&D Survey. Except for the infrequent compression of data to fit into the stage-length limitation (seven or twenty-three stages at the carrier's option), all carrier codes are to be recorded, *including data on air taxis, commuters, intra-state and other carrier portions of itineraries.* On tickets involving interchange service or other cooperative carrier arrangements, the juncture point(s) where the passenger moves from one carrier system to another is to be recorded as an intermediate point in the itinerary, even when not shown on the ticket and even though the flight may overfly the juncture point.

(c) Entries for *fare-basis* codes are to be taken from the "fare-basis" and "fare description" portions of the ticket. No

[5] Codes to be used are those appearing in the *Official Airline Guide* at the time the data are being recorded. If a code is not found in the OAG, contact the Director, Office of Aviation Information Management (address inside front cover).

attempt shall be made to determine and record fare-basis codes for that portion of a conjunction ticket appearing in the ticket. Fare-basis codes are to be recorded in one-character or two-character alphabetic codes. When a single-character code is shown on a flight coupon, record that code in the left-hand position of the two-position field. When a two-character code is shown on the coupon, record that code with the prime (entitlement) code in the left-hand position and secondary (qualifying) or discount code in the right-hand position.

However, if a code is obviously incorrect, record the correct code. In recording excursion fare-basis codes, disregard any suffixes denoting the number of days or months of validity.

For example, YE–21 is to be recorded as YD, and FE–2M is to be recorded as FD. Where a fare-basis code of more than two alphabetic characters is shown on the ticket the code is to be *compressed* to a two-character code by recording the prime code in the left-hand position and by substituting the discount code "D" in the right-hand position in place of the remainder of the code combination. For example, YDG would be recorded as YD. All acceptable code combinations after compression to two characters are included in the Passenger Origin-Destination Directives which are issued periodically. Refer to Directive No. 138 which has further information on the summarization of the fare-basis codes into the several categories shown below. The fare-basis codes YMA and YMZ, which designate Military Categories A and Z travel, and other Military fare codes are included—together with thrift, economy and youth fares and other very low fares—in the "Z-Other" summary category below, as provided by Directive No. 138. When special ticket forms other than the standard forms are used which do not show a fare-basis code but from which a fare basis code is evident, such as shuttle tickets, identify and record the appropriate fare-basis code, using the universally accepted codes applicable to interline ticketing. If none is determinable, or if the code is not shown, as may be the case in "open" tickets, no fare-basis code is to be recorded. Where carriers use individual fare codes that are more than one or two alphabetic characters (such as, for instance, YE 21–45), the carrier will compress the fare descriptions into one of the following six summary fare code categories:

F—First Class (Includes supersonic fare codes).

FD—Discounted First Class.

Y—Coach Class.

YD—Discounted Coach Class (Includes Business Class).

UK—Unknown (This fare category is used when none is shown on a ticket coupon, or when a fare category is not discernable, or when two or more carrier fare codes are compressed into a single stage of a passenger trip).

Z—Other (This fare code is used for Military, Youth, Thrift and other very low fares).

(d) In recording the number of passengers, each single-passenger ticket is to be recorded as one passenger. A half-fare passenger, such as a child, is to be counted as one passenger. A fractional-fare passenger, such as a family plan fare, is also to be counted as one passenger. Tickets for infants under two years of age *not occupying a seat* are not to be counted. A revenue passenger is defined in Section X.

For group tickets of 10 or fewer passengers per ticket record the actual number of passengers on each ticket, *i.e.,* either 2, 3, 4, 5, 6, 7, 8, 9 or 10. For group tickets with 11 or more passengers (those sampled at a 100-percent rate) record the actual number of passengers traveling on each ticket, but keep these entries separate from the group ticket records with 10 or fewer passengers and from the single-passenger ticket records. Group tickets with 11 or more passengers are to be sorted and summarized to combine all passengers for all itineraries which are identical in every respect, *i.e.,* points, carriers, fare basis codes, and average dollar value (as defined in paragraph (e), below). The total number of passengers on each summarized record is to be divided by 10, rounding to the nearest whole passenger. If the quotient ends in 0.5 or more, raise to the next whole passenger. If the quotient ends in less than 0.5, drop the fraction. These large group-ticket records, after division by 10 for compatibility with the other data, are to be merged with the single-passenger records and with the group-ticket entries from tickets of 10 or fewer passengers for the quarterly O&D Survey report.

(e) The total dollar value shall be taken from the "Total" box on each ticket and shall be the sum of the fare plus tax for the entire ticket. Record this amount in whole U.S. dollars, with the cents dropped. Do not round cents to nearest whole dollar.

Amounts on tickets stated in foreign currency are to be converted to U.S. dollar equivalents. For *all group tickets,* the dollar value to be recorded shall be the average amount per passenger, determined by dividing the total dollar value for the entire group by the number of passengers on the group ticket, dropping cents in the average amount.

(3) The *length of the itineraries to be recorded is limited* to a maximum of seven stages or twenty-three stages, at the carrier's option. This recognizes that the vast majority of tickets sampled have seven stages or fewer and that the rare occurrences of extremely lengthy itineraries do not impact the overall Survey results enough to justify their reporting burden. Therefore, trips longer than these limits are *compressed* to fall within the stated maximums. The ticketed origin and destination are retained, but the *intermediate routing is compressed* by applying the following rules, in sequence:

(a) Combine any contiguous open, unknown carrier, or surface stages eliminating the connecting point, and ignoring the fare-basis codes, if different:

(b) Combine any contiguous stages via the same non-U.S. carrier, eliminating the connecting point, and ignoring the fare-basis codes, if different;

(c) Combine any contiguous stages via different non-U.S. carrier, making the carrier "UK", eliminating the connecting point, and ignoring fare-basis codes, if different:

(d) Combine any contiguous stages via the *same U.S. carrier,* eliminating the connecting point, and ignoring the fare-basis codes, if different, and;

(e) If the trip, after applying the four steps above, is still too long, record the compressed routing through to the stage length limitation city (seventh or twenty-third city), enter UK as the final carrier, and then record the ticketed destination as the next (the 8th or 24th) city.

VI. Summarization of Recorded Data

A. *General.* Prior to the submission of each quarterly report to the Department, each carrier is to summarize the data in accordance with the rules in Section VI.B. In special hardship cases, carriers may submit a waiver request (with justification under Section 1–2 of 14 CFR Part 241) requesting permission to report their flight coupon records exactly as represented on their lifted tickets. Waiver requests must provide the documentation described in Section VI.C. so that the Department can develop the necessary procedures and edit routines to ensure the accuracy and reliability of the overall O&D Survey results. The granting of such waivers will depend upon the availability of resources for the Department to assume this addtional burden, which can only be determined on a case by case basis, after evaluating each carrier's need.

B. *Rules for Summarization.* Sort the recorded entries into sequence by the entire record (excluding the passenger field), *i.e.,* by origin, complete routing (including fare-basis codes), tickets destination, and dollars value of ticket. *All identical records are then to be combined into one summary record.* The number of passengers on the summary record is to be the sum of the passenger amounts of all the individual records combined. Passengers are only summarized where records are identical in all respects except in number of passengers including dollar value of ticket. NOTE: DO NOT SUMMARIZE DOLLARS OVER IDENTICAL RECORDS. This summarization is to include the entries from group tickets, but only after the entries for *group tickets with 11 or more passengers* have been *summarized and divided by 10,* as stated in Section V.D.(2)(d). Carriers submitting quarterly O&D Survey reports on magnetic tapes or similar formats such as "floppy discs" will follow the ADP INSTRUCTIONS in Section IX. Carriers filing reports on hardcopy RSPA Forms 2787 are to enter, on the last page of the report, the overall total of the number of passengers in the report.

C. *Waiver Requests.* Requests for permission to depart from the required O&D Survey procedures should include a *procedural statement* describing the process the carrier proposed to emply in *examining, selecting and editing* the data from reportable flight coupons for the O&D Survey, as well as a flow chart diagramming the proposed procedures.

D. *Quantity and Quality Controls.* Carriers are expected to establish and maintain *continuous quantity and quality* controls on the flow of all lifted flight coupons through their system processes to determine the total *number of coupons handled* and the number of reportable *coupons selected.* Such data controls and tests have not been specified by the Department, and necessarily must be developed by each carrier. Each participating carrier shall develop and use on a continuous basis such control tests as are necessary to ensure that all reportable coupons are being selected, recorded and reported as intended by these O&D Survey Instructions. Such controls should extend over all ADP processing, both in-house and that from external service bureaus.

VII. Editing of Recorded Data

A. *City and Airport Codes.* Prior to submission of O&D Survey reports, each carrier is to edit the recorded data to validate city and airport codes. This edit is to verify that the codes recorded are valid official codes, and it is independent of whether or not the carriers shown actually operated into or out of the airport shown. Any questions about airport codes should be addressed to the Director, Office of Aviation Information Management (see inside of cover).

B. *Edit Responsibility of Carriers.* Each carrier is responsible for developing edit procedures and internal controls over its data entry and processing procedures so that valid and reliable data are captured in the O&D Survey inputs and are properly summarized in the outputs. Since the carriers have many different statistical systems, it is not practicable for the Department of Transportation to prescribe specific controls in this area, and each carrier is responsible for developing the appropriate internal control procedures to edit the O&D Survey data and ensure the integrity of these data. The Department will control the accuracy of its processing of the sampled data upon receipt from the carriers.

C. *System Documentation of Edits.* Carriers are required to maintain written O&D Survey procedural statements and flow charts. As provided in Section VIII, these must be established, or re-certified as of July 1, 1987, and thereafter when significant procedural revisions occur.

VIII. Control of Sample Selection and Data Recording

A. *Sample Accuracy and Reliability.* In order to maximize the accuracy and reliability of the sample selection and data recording, each carrier is to:

(1) Develop a written statement describing the procedures it will employ in examining and selecting reportable flight coupons and in recording, summarizing, editing, and testing the Survey data.

(2) Submit any proposed changes in the above procedures to the Department's Office of Aviation Information Management, prior to implementation of such changes.

(3) Establish continuous quantity controls on the flow of all lifted flight coupons through the carrier's accounting processing to determine the total number of coupons handled, and the number of reportable coupons selected. Tests are to be made continuously to assure that all reportable coupons are being selected and the data recorded. Such tests should be completed while the "lifted" flight coupons (representing earned passenger revenues for flight segments operated) remain in the possession of the carrier. Establish such other internal control procedures as are necessary for supervising and monitoring the accuracy of the recording of data from reportable flight coupons.

B. *Staff Review.* The OAIM staff will review the carrier procedures and practices and may request modifications or the use of special procedures necessary to improve the sample or to bolster the controls for accuracy and reliability.

IX. ADP Instructions

Each carrier electing to submit its Survey reports in machine listing form or magnetic media in lieu of hardcopy RSPA Form 2787 is to be governed by the following instructions:

A. Instructions for Submitting Records on Magnetic Media [6]

(1) *Identification record.* This identification record is to include the reporting carrier and the reporting period. It is designed to fall at the beginning of each file when sorted on columns 7 through 200. The record is to be in the format shown as follows:

BILLING 4910-62-M

[6] Each reel of tape will be returned to the individual carrier upon request.

TAPE RECORD LAYOUT

Field	Tape Positions (From - To)
Passengers	1-6
1st city	7-9
1st carrier	10-13
2nd city	14-17
2nd carrier	18-21
3rd city	22-25
3rd carrier	26-29
4th city	30-33
4th carrier	34-37
5th city	38-41
5th carrier	42-45
6th city	46-49
6th carrier	50-53
7th city	54-57
7th carrier	58-61
8th city	62-65
8th carrier	66-69
9th city	70-73
9th carrier	74-77
10th city	78-81
10th carrier	82-85
11th city	86-89
11th carrier	90-93
12th city	94-97
12th carrier	98-101
13th city	102-105
13th carrier	106-109
14th city	110-113
14th carrier	114-117
15th city	118-121
15th carrier	122-125
16th city	126-129
16th carrier	130-133
17th city	134-137
17th carrier	138-141
18th city	142-145
18th carrier	146-149
19th city	150-153
19th carrier	154-157
20th city	158-161
20th carrier	162-165
21st city	166-169
21st carrier	170-173
22nd city	174-177
22nd carrier	178-181
23rd city	182-185
23rd carrier	186-189
24th city	190-192
Blank	193-196
$US value of ticket	197-200

1. Passenger field must contain leading zeros, and not blanks.

2. City fields contain the three-letter alpha code for the city or airport in the first three positions. The fourth position, provided for all cities except the first and 24th city or the 8th city, where carriers are compressing to 7 stages, is to be blank.

3. Carrier fields are to contain the two-letter alpha carrier code in the first two positions. Unknown carrier is to be coded "UK" and surface carrier is to be coded "--" (dash dash). The third and fourth positions are to contain the one or two-character alpha fare-basis summary codes. If only a one-character fare is shown, enter the code in the third position, and leave the fourth blank

4. Portion of record for sorting, summarization, and sequencing includes columns 7 through 200.

5. Dollar amount in positions 197-200 is right justified.

6. Positions 65-192 are used only by those carriers who want to report more data, and are not compressing to 7 stages (See Section V.D.(3) for compression rules).

BILLING 4910-62-C

Field	Columns	Remarks
Reporting carrier.	1–2	Alpha code.
Reporting period:		
Year	3–4	Tens and units position.
Quarter	5	1, 2, 3, or 4.
Blanks	6–200	

(2) *Detail record:*. (a) All records are to be summarized on the complete itinerary [7] (columns 7 through 200) and the summary record *only* for each itinerary is to be submitted. The tape file, including the identification record, is to be in sequence by complete itinerary.

(b) The tape record layout is shown on the following page.

(3) Magnetic Tape Instructions: (a) All tapes are to be written using the standard IBM extended binary coded decimal interchange code (EBCDIC).

(b) The recording density can be either 6250 or 1600 B.P.I.

(c) All tape will contain standard IBM volume header, and trailer records.

(d) External labels will contain the carrier, name, the report date, file identification, and an address for returning the tapes.

(4) *Transmittal letter.* The tape shall be accompanied by a transmittal letter which shows the number of records reproted and the total number of passengers contained in the report.

B. *Editing of Tape Records.* Prior to submission of data, each carrier is requested to edit and correct its data so that its O&D Survey report may be as error-free as is reasonably practicable. The methods to be used in editing are left to the carriers' discretion, but with assistance available upon request from the Department's Office of Aviation Information Management. To aid the carriers in maintaining a current file of editing criteria, OAIM will issue updates to the city/airport-carrier file to each carrier. Application of these updates to the file for the immediately preceding quarter will update it to current quarter status. These updates will be transmitted to the carriers by "Passenger Origin-Destination Directive" which will include a copy of a computer listing of the update transactions in the following format:

Field	Columns (From-To)	Field description and instructions
1	1-2	Year and quarter, e.g., 33 = third quarter 1983.
2	3-5	Airport/city alpha code.
3	6-7	Two-letter carrier code.
4	8	Operative: "A" means add the airport/city with the associated carrier code to edit criteria for immediately preceding quarter. "D" means delete the airport/city with the associated carrier code from the edit criteria for the immediately preceding quarter.
5-37	9-74	These 33 fields consist of fields 2, 3, and 4, repeated as a group 11 times.
38	75-80	Reserved

C. *Format of Machine Listing.* The original copy of the machine listing is to be submitted to the Department in the format described below by any carrier not submitting data on magnetic media or hardcopy RSPA Form 2787. Note that carriers submitting magnetic media are NOT required to submit a redundant machine listing.

(1) *Titling of listing.* The first page of each listing is to be labeled with the title of the Survey, name of the reporting carrier, and the reporting period of the data. All successive pages are to bear an abbreviated title at the top of the data, as shown in the example below. All pages are to be numbered in sequence. For example, the titling of pages 1 and 2 of a report would appear as follows on the machine listing:

Page 1: Passenger Origin-Destination Survey Report (RSPA form 2787), XYZ Airways, Inc., First Quarter 1987.

Page 2: RSPA Form 2787 ZO 1Q87 page 2: In coding the title for page 2 and following pages, indicate the time period by the codes 1Q for the first quarter, 2Q for the second quarter, etc. Indicate the year by the last two digits, *i.e.*, 87 for 1987, 88 for 1988, etc.

(2) *Illustration.* Following is an example of the format of the machine listing. It shows that some carriers report more fare codes than the Department uses, and the Department summarizes these into six basic fare code summary categories.

Format of Machine Listing—Passenger Origin-Destination Survey Report

(RSPA FORM 2787)

XYZ Airways, Inc.—First Quarter 1987

1 OAK ZOYQ EWR ZOYQ OAK ... 618
1 OAK ZOYQ FRA ZOYQ OAK ... 1047
1 OAK ZOYQ HNL ... 174
1 OAK ZOYQ HNL ... 279
1 OAK ZOYQ HNL ZOYC OGG ZAYC LIH ZOYC HNL ZOYD OAK ... 407

* * * * *

RSPA Form 2787 Z0 1Q87 Page 22

* * * * *

4 OAK ZOYQ HNL ZOYQ OAK ... 418
7 OAK ZOYR HNL ... 338
1 OAK ZOYW HNL ZOYW ZAYD LIH HNL ZOYD OAK ... 418
1 OAK ZOYX HNL ... 209

526,700 Overall Total, all Cities
Number of Records—157,900

X. Glossary of Terms

Selected terms used in the foregoing instructions are here defined and explained in the context of the O&D Survey.

ADP. An abbreviation for automated data processing, which is the term applied to all forms of machine processed data.

Carrier. Any scheduled air carrier, U.S. or foreign, that appears on a coupon stage in a ticketed itinerary, including helicopter, air taxi, commuter, intra-Alaska carriers, and intra-state carriers.

City or origin. (See origin.)

Conjunction ticket. Two or more tickets concurrently issued to a passenger and which together constitute a single contract of carriage.

Connecting point. An intermediate point in an itinerary at which the passenger deplanes from one flight and boards another flight, either on the same carrier or from the flight of one carrier to a flight of another carrier, for continuation of the journey.

Coupon stage. (See flight-coupon stage.)

Destination. The last point in the itinerary and the last point at which the passenger is to deplane at the completion of the journey. (In roundtrip itineraries, the destination and the origin are the same.)

Dollar value of ticket. (See total dollar value of ticket.)

Domestic. Itineraries within or between the 50 U.S. States and the District of Columbia are considered domestic for this Survey.

Fare basis code. The alphabetic code(s) or combination of alphabetic and numeric codes appearing in the "Fare basis" box on the flight coupon which describe the applicable service and discount to which the passenger is entitled. All fare basis codes are summarized into basic categories; namely, F-first class, FD-discount first class, Y-coach.

[7] Itinerary includes total dollar value of ticket.

YD-discount coach, UK-unknown and Z-other.

Fare ladder. The "For-issuing-office-only" box of a ticket.

Flight-coupon stage. The portion of an itinerary which lies between two contiguous points in the itinerary and between which points the passenger is to travel on a single flight.

Group ticket. A single ticket valid for the transportation of two or more passengers over the same itinerary.

Interline transfer. An occurrence at an intermediate point in an itinerary where a passenger changes from one carrier to another carrier, with or without a stopover.

Intermediate point. Any point in an itinerary, other than the origin or destination, at which the passenger makes an interline or intraline connection or stopover.

International. The world area outside the 50 U.S. States and the District of Columbia. Itineraries between points outside the 50 States are considered as international for this Survey, as well as itineraries between the 50 States and U.S. possessions, and between or within U.S. possessions.

Intraline transfer. An occurrence at an intermediate point in an itinerary where a passenger changes from a flight of one carrier to another flight of that same carrier, with or without stopover, or where the passenger changes from one class of service to another class of service on the same flight.

Itinerary. All points in the passenger journey, beginning with the origin, followed by the routing, and ending with the destination, in the sequence shown on the ticket.

Origin. The first point in the itinerary and the point where the passenger first boards a carrier at the beginning of the itinerary.

Participating carrier. A carrier which is governed by the Survey data collection and reporting instructions contained herein and which is required to file Survey reports with the Department of Transportation.

Point. A city or airport (always identified by its airport code).

Reissued ticket. A ticket issued in exchange for all or part of the unused portion of a previously issued ticket.

Reportable flight coupon. A flight coupon in an itinerary in which the carrier examining the coupon is the first participating carrier to lift a flight coupon in the itinerary and from which coupon the examining carrier records the Survey data.

Reporting carrier. The carrier in a given itinerary which has lifted the reportable flight coupon in that itinerary and which carrier is required to record the Survey data for that itinerary for the report to the Department.

Revenue passenger. A passenger transported for which more than a service charge or nominal remuneration is received by the air carrier. Passengers traveling for a zero fare, because of the frequent flyer or mileage programs are considered revenue passengers, since the revenue considerations for passenger travel were included in their previously purchased tickets.

Routing. The carrier on each flight-coupon stage in an itinerary and the intermediate points of routing stopover or connection (interline or intraline) in the sequence of occurrence in the movement of the passenger from origin to destination. The routing also includes fare-basis summary codes on each flight-coupon stage, to the extent these are available from the ticket.

Scheduled service. Transport service operated on a certificated large air carrier's routes pursuant to published flight schedules, including extra sections of scheduled flights.

Stage. (See flight-coupon stage.)

Total dollar value of ticket. The sum of the fare plus tax for the entire ticketed itinerary, in whole U.S. dollars with cents dropped. For a group ticket, the amount is the average per passenger. For fares stated in foreign currency, it is the equivalent in U.S. dollars.

Transfer. (See interline transfer and intraline transfer.)

BILLING CODE 4910-62-M

XI . Sample of RSPA Form 2787

PASSENGER

ORIGIN-DESTINATION

SURVEY REPORT

Reporting Carrier: __________
(Two letter carrier code)

Reporting Period: __________
(Indicate reporting qtr.)

Number of Passengers	City Code (1)	Car. Fare Code	City Code (2)	Car. Fare Code	City Code (3)	Car. Fare Code	City Code (4)	Car. Fare Code	City Code (5)	Car. Fare Code	City Code (6)	Car. Fare Code	City Code (7)	Car. Fare Code	City Code (8)	Amount of Fare plus Tax in U.S. Dollars

Car. Fare Code = Two character alphabetic carrier code followed by fare basis code, such as TWFD, indicating Trans World as the carrier and coach discount as the fare basis summary group code.

City Code = Three character alphabetic airport code, such as EWR for Newark, OAK for Oakland, and SJC for San Jose.

Amount = Dollar amount of ticket, stated in whole U.S. dollars.

No. of passengers = Tickets sampled at one-percent are to be multiplied by 10 for reporting on this form. Note that all passenger data are presented as a ten-percent sample.

RSPA Form 2787

BILLING CODE 4910-62-C

Issued in Washington, DC, on February 24, 1987.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration, DOT.

[FR Doc. 87–4208 Filed 3–3–87; 8:45 am]

BILLING CODE 4910-62-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9176]

Orkin Exterminating Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: This Final Order requires an Atlanta, Georgia-based exterminating company to roll back the "lifetime" annual renewal fees on contracts signed prior to 1975 to the set fee established prior to a 1980 raise in price. Respondent is also required to notify each affected customer.

DATES: Complaint issued May 8, 1984. Final Order issued Dec. 15, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Katherine B. Alphin, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., Room 1000, Atlanta, GA 30367. (404) 347–4836.

SUPPLEMENTARY INFORMATION: In the Matter of Orkin Exterminating Company, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: S 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–60 Release of general, specific, or contractual constrictions, requirements, or restraints. Subpart—Discriminating in Price Under Sec. 5, Federal Trade Commission Act: S 13.870 Charges and prices. Subpart—Furnishing False Guaranties: S 13.1053 Furnishing false guaranties.

List of Subjects in 16 CFR Part 13

Exterminating services, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

[1] Copies of the Complaint, Initial Decision and Opinion of the Commission are available from the Commission's Public Reference Branch, H-130, 6th & Pa. Ave., NW., Washington, DC 20580.

Before Federal Trade Commission

[Docket No. 9176]

Final Order

In the matter of Orkin Exterminating Company, Inc., a corporation.

Commissioners: Daniel Oliver, Chairman; Patricia P. Bailey, Terry Calvani, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

This matter has been heard by the Commission upon the appeals of the respondent, Orkin Exterminating Company, Inc. ("Orkin"), and complaint counsel from the initial decision, and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying opinion, the Commission has determined to deny the appeals of both Orkin and complaint counsel and to affirm the initial decision of the administrative law judge. Accordingly,

It is ordered, that the findings of fact and initial decision of the Administrative Law Judge be adopted insofar as they are not inconsistent with the findings of fact and conclusions of law contained in the accompanying opinion.

It is further ordered, that the following Order to cease and desist be, and the same hereby is, entered:

The following definitions shall apply in this order:

A. "Customer" means any consumer or business owning or holding a pre-1975 contract or guarantee, as defined below, entered into or issued by Orkin and any successor in interest to such a consumer or business.

B. "Contract" means any agreement entered into by Orkin to supply services to control termites, wood-infesting organisms, moisture, or wood decay.

C. "Guarantee" means any guarantee extended by Orkin in connection with a contract.

D. "Pre-1975 contract" means any currently effective contract entered into by Orkin during the period from January, 1966, to February, 1975, that includes the term "lifetime" and that does not provide for adjustments to or increases to the annual fee except and unless the treated premises are structurally modified, altered or otherwise changed after the date of initial treatment.

E. "Pre-1975 guarantee" means any guarantee extended by Orkin in connection with a pre-1975 contract.

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It is further ordered that Orkin, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, of any product or service to protect a house, building or other structure from termites, wood-infesting organisms, moisture, or wood decay, shall forthwith cease and desist from:

A. Charging, requesting, collecting or accepting under any pre-1975 contract or pre-1975 guarantee any annual renewal fee that is greater than the fee specified therein except in accordance with any clause in that contract or guarantee that applies if the treated premises have been structurally modified, altered or otherwise changed after the date of initial treatment.

B. Refusing to accept the amount of the annual fee stated in the pre-1975 contract or pre-1975 guarantee as payment in full for renewing a pre-1975 guarantee.

C. Refusing to perform the services specified in any pre-1975 contract or guarantee upon timely tender of the annual fee stated therein.

D. Charging, requesting, collecting or accepting under any contract or guarantee any annual fee that is greater than the fee specified therein unless the contract or guarantee clearly and conspicuously discloses that such annual fee may be increased at Orkin's option.

E. Modifying, changing, altering or attempting to modify, change or alter, the amount of the annual renewal fee or the duration of the level of that fee in any contract and/or guarantee unless the contract or guarantee clearly and conspicuously discloses that such a modification, change or alteration may be made at Orkin's option.

Provided, however, that nothing contained in this Order shall prevent Orkin from seeking modification or novation of its pre-1975 contracts and pre-1975 guarantees that would permit, *inter alia,* a change in the annual fee to be paid or the services to be rendered, *provided further,* that Orkin may not seek such a modification or novation until after the second anniversary of the renewal of any pre-1975 contract or guarantee that is renewed after the date this Order becomes final; *provided further,* that in any attempt to seek modification or novation of a pre-1975 contract as provided in this Order, Orkin may not represent, directly or by implication, that a customer is required to agree to the modification or novation being sought. Orkin shall include with the reports on compliance required by Part V of this Order