



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**WRITTEN EXPLANATION OF DENIED BOARDING COMPENSATION AND
BOARDING PRIORITIES**

NOTICE

August 5, 2011

This notice provides guidance for foreign air carriers regarding the content of the written explanation on denied boarding compensation and boarding priorities that carriers must provide to passengers who are denied boarding involuntarily, and to other interested persons at a U.S. airport upon request.

On April 25, 2011, the U.S. Department of Transportation (Department) issued a final rule on enhancing airline passenger protections (see 76 FR 23110). This final rule amended portions of the Department's regulation on denied boarding compensation (DBC), 14 CFR Part 250, including revisions to the written explanation of DBC and boarding priorities as set forth in section 250.9. As stated in the preamble of the rule, the purpose of such revision to section 250.9 is to provide a more straight-forward description of the methodology applicable under different circumstances for calculating DBC amounts. As the result of the revision, however, the length of the written explanation is increased by almost 30%.

Since the issuance of the final rule, the Department has been contacted by foreign air carriers asking whether it is permissible for those carriers to omit the "Domestic Transportation" portion of the "Amount of Denied Boarding Compensation" section of the written explanation. We do not foresee any circumstances under which this portion of the explanation will become

applicable to those foreign carriers' operations, since foreign air carriers do not provide U.S. domestic transportation. We agree that omitting the domestic DBC explanation will reduce the length of the document for those carriers and avoid time wasted for their passengers in screening through unnecessary material, often under time constraints. Therefore, as a matter of enforcement policy, we are permitting foreign air carriers whose operations are subject to Part 250 to omit this "Domestic Transportation" language (including the table at the end of that subsection) from their written explanation of DBC. We are also permitting foreign air carriers to delete the word "air" before "carrier," as the term "air carrier" is a term defined in certain areas of the law to refer to U.S. carriers. In the copy of the written explanation that appears below we highlight the text that a foreign carrier may omit. We emphasize that, as indicated at the beginning of section 250.9(b), the remainder of the written explanation must be the verbatim text of the notice that appears in 14 CFR 250.9.

With respect to U.S air carriers that operate no international service, we find no comparable reason to allow those carriers to omit the "International Transportation" section. The "transportation" covered by the oversales rule relates to the passenger's entire trip. Where a passenger's destination or first stopover that day is a foreign point and he or she was bumped from the domestic leg of the journey by a carrier that has only U.S. domestic routes, that passenger's denied boarding compensation will be determined by the Part 250 rules for international transportation.

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§ 250.9 Written explanation of denied boarding compensation and boarding priorities, and verbal notification of denied boarding compensation.

(b) The statement shall read as follows:

Compensation For Denied Boarding

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

Volunteers and Boarding Priorities

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

Compensation for Involuntary Denied Boarding

If you are denied boarding involuntarily, you are entitled to a payment of "denied boarding compensation" from the airline unless:

- (1) you have not fully complied with the airline's ticketing, check-in and reconfirmation requirements, or you are not acceptable for transportation under the airline's usual rules and practices; or
- (2) you are denied boarding because the flight is canceled; or
- (3) you are denied boarding because a smaller capacity aircraft was substituted for safety or operational reasons; or
- (4) on a flight operated with an aircraft having 60 or fewer seats, you are denied boarding due to safety-related weight/balance restrictions that limit payload; or
- (5) you are offered accommodations in a section of the aircraft other than specified in your ticket, at no extra charge (a passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or
- (6) the airline is able to place you on another flight or flights that are planned to reach your next stopover or final destination within one hour of the planned arrival time of your original flight.

Amount of Denied Boarding Compensation

Domestic Transportation

Passengers traveling between points within the United States (including the territories and possessions) who are denied boarding involuntarily from an oversold flight are entitled to: (1) no compensation if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover not later than one hour after the planned arrival time of the passenger's original flight; (2) 200% of the fare to the passenger's destination or first stopover, with a maximum of \$650, if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover more than one hour but less than two hours after the planned arrival time of the passenger's original flight; and (3) 400% of the fare to the passenger's destination or first stopover, with a maximum of \$1,300, if the

carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger's destination or first stopover less than two hours after the planned arrival time of the passenger's original flight.

0 to 1 hour arrival delay	No compensation
1 to 2 hour arrival delay	200% of one-way fare (but no more than \$650)
Over 2 hours arrival delay	400% of one-way fare (but no more than \$1,300)

International Transportation

Passengers traveling from the United States to a foreign point who are denied boarding involuntarily from an oversold flight originating at a U.S. airport are entitled to: (1) no compensation if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover not later than one hour after the planned arrival time of the passenger's original flight; (2) 200% of the fare to the passenger's destination or first stopover, with a maximum of \$650, if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover more than one hour but less than four hours after the planned arrival time of the passenger's original flight; and (3) 400% of the fare to the passenger's destination or first stopover, with a maximum of \$1,300, if the carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger's destination or first stopover less than four hours after the planned arrival time of the passenger's original flight.

0 to 1 hour arrival delay	No compensation
1 to 4 hour arrival delay	200% of one-way fare (but no more than \$650)
Over 4 hours arrival delay	400% of one-way fare (but no more than \$1,300)

Alternate Transportation

"Alternate transportation" is air transportation with a confirmed reservation at no additional charge (by any scheduled airline licensed by DOT), or other transportation accepted and used by the passenger in the case of denied boarding.

Method of Payment

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

payment. The passenger may insist on the cash/check payment or refuse all compensation and bring private legal action.

Passenger's Options

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

ISSUED THIS 5th DAY OF AUGUST, 2011, IN WASHINGTON D.C.

/s/

Samuel Podberesky
Assistant General Counsel
for Aviation Enforcement and Proceedings

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<http://airconsumer.dot.gov>*