



BILLING CODE: 4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. DOT-OST-2011-0170]

Notice of Submission of Proposed Information Collection to OMB

Agency Request for Revision of BTS Form 251 and Renewal of OMB Control

Number 2138-0018: Part 250 of the Department's Economic Regulations - Oversales

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's (Department) intention to renew and revise an Office of Management and Budget (OMB) control number as related to the Department's Bureau of Transportation Statistics (BTS) Form 251, *Report of Passengers Denied Confirm Space*. The Department has collected and published information regarding the industry's practice of overselling flights for over 40 years. In the past few years, there has been changes in the airline industry regarding how airlines handle oversale situations and denied boardings. For example, airlines have begun taking proactive steps to reduce the number of involuntary denied boardings including increasing the amount of compensation offered to passengers in exchange for voluntary changes to a passenger's itinerary. These changes have resulted in an overall reduction in the rate of denied boardings, but the practice still occurs and is an integral part of the airline industry. The Department is seeking to renew the current OMB control number

and to revise and rename Form 251 to Form 250 to reduce the burden on airlines, better clarify the instructions for completing the form, and provide more relevant information to consumers.

DATES: Written comments should be submitted by [**insert date 60 days after date of publication in the Federal Register**].

ADDRESSES: You may submit comments (identified by DOT Docket Number OST-2011-0170) through one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Hand Delivery:* U.S. Department of Transportation, West Building Ground Floor, 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal Holidays. The telephone number is 202-366-9329.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building, Room W12-140, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Stuart Hindman, (202) 366-9342, Stuart.Hindman@dot.gov, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2138-0018

Title: Report of Passengers Denied Confirmed Space Due to an Oversale Situation

Type of Request: Request to Revise and Rename Form 251 and Renew OMB Control Number

Abstract/Background: BTS Form 251 is a one-page report that U.S. reporting carriers submit to the Department on a quarterly basis. Among other things, the form contains the following information: 1) the number of passengers denied seats on flights that they hold confirmed spaces, either voluntarily or involuntarily, 2) the numbers of passengers involuntarily denied boarding (bumped passengers) who were and who were not provided alternate transportation, 3) the number of passengers voluntarily or involuntarily denied boarded who received compensation and the amounts of the compensation paid to them, and 4) the total number of enplanements at a U.S. airport relating to flights that are subject to the oversales rule. For the purpose of Form 251, reporting carriers are U.S. air carriers that account for at least .5 percent of domestic scheduled-service passenger revenues. These reporting carriers must submit Form 251 for all flights operated on aircraft with a designed passenger capacity of 30 or more seats which depart a U.S. airport. Carriers do not report data from inbound international flights to the United States because the protections of 14 CFR Part 250 *Oversales* do not apply to these flights. In addition, reporting carriers must file a separate form for all scheduled flight segments originating in the United States which are operated by a codeshare partner of the reporting carrier that is a certificated air carrier or commuter air carrier using aircraft that have a designed passenger capacity of 30 or more seats, and marketed only under one U.S. carrier's code. As of January 1, 2020, there are 5 such reporting carriers.

Certain information collected from Form 251 is made available to the public in the Department's monthly publication, the *Air Travel Consumer Report (ATCR)*, at: <https://www.transportation.gov/individuals/aviation-consumer-protection/air-travel-consumer-reports>. The *ATCR* is a reliable and widely cited source of information for newspapers, magazines, and trade journals. The report allows the Department to monitor the level of oversales activities by each reporting carrier, their impact on passengers, and the effectiveness of the Department's oversales rule. A review of the data reveals that the overall involuntarily denied-boarding rates have been consistently decreasing in recent years while passenger enplanements are increasing. For example, compared to the annual involuntary denied boarding rate of 4.38 per 10,000 passengers in 1980, this rate has been reduced to .24 per 10,000 passengers in 2019. The publishing of the carriers' individual denied boarding rates has diminished the need for more intrusive regulation because the public availability of this information deters carriers from setting unreasonable overbooking rates – a market-based mechanism that is more efficient than direct regulation of those rates. In addition, a carrier's denied boarding rate provides an insight into that carrier's operational principles and customer service practices. For instance, a rapid sustained increase in the rate of denied boarding may indicate operational difficulties. Because the rate of denied boarding is released quarterly, travelers and travel agents concerned about being bumped can select carriers with lower incidences of denied boardings.

In 2016, the Department issued a final rule that, in part, revised the oversales reporting requirements. In conjunction with that rulemaking, on May 23, 2014, the

Department published a 60-day FR Notice (79 FR 29970), and, on November 3, 2016, a 30-day FR notice (81 FR 76800) to renew and revise the OMB control number regarding oversales information collection (2138-0018). On October 12, 2017, OMB approved the control number authorizing these new collections of information until October 31, 2020. This 60-day notice serves to notify the public of the Department’s intention to renew the OMB control number and to revise and BTS Form 251 to Form 250.

Based on changes in the industry involving how airlines handle oversale situations, the Department is proposing to revise and rename Form 251 to Form 250 to reduce the burden on the reporting carriers, to clarify form instructions, to resolve any inconsistencies among the data provided by reporting carriers, and to provide more relevant and helpful information to consumers. A line-by-line summary of the proposed changes to the form with an explanation for each change is below:

Form 250

- Title
 - The current title of the form— “Report of Passengers Denied Confirmed Space”—is revised to “Report of Passengers Denied Confirmed Space Due to an Oversale Situation” and renamed to be “Form 250”. This revision is intended to clarify that the form is meant to capture data relating to passengers denied boarding due to an oversale situation and not for other reasons such as safety, security, or health related reasons. Renaming the form to “Form 250” is intended to further clarify the applicability of the data to oversale situations

and correspond to the appropriate part of Title 14 of the Code of Federal Regulations which addresses oversales, Part 250.

- Line 1
 - Added “from flights that were oversold” to the leading sentence to reinforce that the form is intended to capture data from oversold flights.
 - In order to provide more complete and accurate regulation citations, changed the regulation citation in line 1(a) to “§ 250.5(a)(2) or (b)(2)” and added a regulation citation in lines 1(b) of “§ 250.5(a)(3) or (b)(3)”.
- Line 2
 - Added “from flights that were oversold” in the leading sentence to reinforce that the form is intended to capture data from oversold flights.
 - Reworded the contents in lines 2(a), 2(b), and 2(c) to ensure that the language in the form matches the regulatory text, listed order of exceptions to the denied boarding compensation rule found in 14 CFR 250.6, and included the applicable citation to section 250.6.
 - Moved the content of line 6 to line 2.
 - Rearranged the orders of lines 2(a), 2(b), 2(c), and 2(d).
- Line 3 – no change
- Line 4
 - Added “from an oversold flight” to reinforce that the form is intended to capture data from oversold flights.

- Added “regardless of the type of compensation (e.g., voucher, cash)” to clarify that reporting carriers must report the actual number of all passengers who receive any type of compensation as a result of being denied boarding involuntarily.
- Line 5
 - Added “due to a potential oversale situation” to reinforce that the form is intended to capture data from oversold flights.
- Line 6
 - Moved the text in line 6 to line 2 so that all data relating to exceptions to the denied boarding compensation rule is on one line.
 - Moved the text from line 7 up to line 6 without any change.
- Line 7
 - Moved the text from line 8 up to line 7 and added the regulation citation to “§ 250.5(a)(2) or (b)(2)” to line 7(a) and “§ 250.5(a)(3) or (b)(3)” to line 7(b) to complete the applicable regulatory citation.

Instructions to Form 250

- Instruction (A)
 - Added clarifying language to ensure reporting carriers are only reporting data relating to oversold flights operated by covered aircraft (i.e., aircraft with 30 or more seats).

- Added language related to the requirement for reporting carriers to submit a separate Form 250 for flights operated by a reporting marketing carrier's code-share partner if the code-share partner is also a reporting carrier.
- Instruction (B)
 - Added clarifying language to include the full citation to the applicable regulation to ensure that reporting carriers are properly reporting data on lines 1(a) and 1(b).
- Instruction (C) – no change.
- Instruction (D)
 - Added a new instruction D to clarify that reporting carriers must include on line 4 passengers who receive any type of compensation as a result of being denied boarding involuntarily from an oversold flight.
- Instruction (E)
 - Moved text from previous Instruction (D) to Instruction (E) without additional change.
- Instruction (F)
 - Moved text from previous Instruction (E) to Instruction (F) without additional change.
- Instruction (G)
 - Moved text from previous Instruction (F) to Instruction (G) and added clarifying language to ensure reporting carriers properly report only the amount of cash or

cash-equivalent compensation provided to passengers denied boarding either voluntarily or involuntarily.

- Instruction (H)
 - Moved text from previous Instruction (G) to Instruction (H) without additional change.
- Instruction (I)
 - Moved text from previous Instruction (H) to Instruction (I) and include a new submission email address.

Copies of the proposed revisions to the form and its instructions are included in this notice.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501) requires a statistical agency to clearly identify information it collects for non-statistical purposes. The Departments hereby notifies the respondents and the public that it uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of the data in the Department's Air Travel Consumer Report and submission of the information to DOT agencies outside BTS for review, analysis, and possible use in regulatory, enforcement, and other administrative matters.

The Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. A Federal agency generally cannot conduct or sponsor a collection of information, and the

public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to monetary penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

For each of these information collections, the title, a description of the respondents, and an estimate of the annual recordkeeping and periodic reporting burden are set forth below:

Requirement to Submit BTS Form 250 as related to oversold flights.

Respondents: U.S. air carriers that account for .5 percent of domestic scheduled-service passenger revenues for all flights operated on aircraft with a designed passenger capacity of 30 or more seats which depart a U.S. airport. We have identified 16 carriers meeting this threshold in 2020. Additionally, out of the 16 carriers, five reporting carriers must file a separate form for all scheduled flight segments originating in the United States which are operated by a codeshare partner of the reporting carrier that is a certificated air carrier or commuter air carrier using aircraft that have a designed passenger capacity of 30 or more seats, and marketed only under one U.S. carrier's code.

Number of Respondents: 16 (effective January 1, 2020)

Frequency: Four times a year

Estimated Total Burden on Respondents: 1144 hours

This estimate is based on the following information:¹

FLIGHTS OPERATED BY REPORTING CARRIERS
(Form 250 for Flights They Operate)

Respondents	16
Quarterly Reports	4
Total Reports	<u>64</u>
Hours per Reports	16
Burden Hours	1024

CODESHARE FLIGHTS MARKETED BY REPORTING CARRIER
(Form 250 for Codeshare Flights They Market)

Respondents	5
Quarterly Reports	4
Total Reports	<u>20</u>
Hours per Reports	6
Burden Hours	120

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents without reducing the quality of the collected information, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Issued in Washington, D.C. on February 25, 2020.

¹ The burden estimate was based on a cost/benefits analysis conducted in 2016 as part of the Department's Final Rule on Enhancing Airline Passenger Protections III. See, *Regulatory Impact Analysis for Final Rule Enhancing Airline Passenger Protection III, October 18, 2016.*
[https://www.regulations.gov/document?D=DOT-OST-2014-0056-0792.](https://www.regulations.gov/document?D=DOT-OST-2014-0056-0792)

Blane A. Workie,
Assistant General Counsel
for Aviation Enforcement and Proceedings.

 <p>U.S. Department of Transportation Bureau of Transportation Statistics</p> <p>This form should be mailed within 30 days after the calendar quarter to: Office of Airline Information, BTS, U.S. Department of Transportation, 1200 New Jersey Ave., S.E., Washington, D.C. 20590-0001.</p> <p>(See Instructions Below)</p>	<h3>Report of Passengers Denied Confirmed Space Due to an Oversale Situation</h3>		Name of Air Carrier: _____
			OAG Carrier Code: _____
			Quarter ended: _____
	(See Instructions Below)		
1.	Number of passengers who were denied boarding involuntarily from flights that were oversold, who qualified for denied boarding compensation, and: (a) were given alternate transportation within the meaning of § 250.5(a)(2) or (b)(2) (b) were given alternate transportation within the meaning of § 250.5(a)(3) or (b)(3)		
2.	Number of passengers denied boarding involuntarily from flights that were oversold, who did not qualify for denied boarding compensation due to: (a) The passenger does not comply fully with the carrier's contract of carriage or tariff provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation (see § 250.6(a)) (b) substitution of aircraft of lesser capacity or due to weight/balance restrictions on an aircraft with a designed passenger capacity of 60 or fewer seats (see § 250.6(b)) (c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on the ticket at no extra charge (see 250.6(c)) (d) The carrier arranges comparable air transportation or other transportation that is planned to arrive not later than 1 hour after the planned arrival time of the passenger's original flight or flights (see 250.6(d))		
3.	TOTAL NUMBER DENIED BOARDING INVOLUNTARILY		
4.	Number of passengers denied boarding involuntarily from an oversold flight who actually received compensation, regardless of the type of compensation (e.g., voucher, cash).		
5.	Number of passengers who volunteered to give up reserved space due to a potential oversale situation in exchange for a payment of the carrier's choosing.		
6.	Total Boardings		
7.	Amount of compensation paid to passengers who: (a) were denied boarding involuntarily and were given alternate transportation within meaning of § 250.5(a)(2) or (b)(2) (see item 1(a) above). (b) were denied boarding involuntarily and were given alternate transportation within the meaning of § 250.5(a)(3) or (b)(3) (see item 1(b) above). (c) volunteered for denied boarding (see item 5 above).		
I, _____, (Name and Title) of the above-named carrier, certify that the above report has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report for the period stated.			
_____ (Signature)		_____ (Date)	
BTS Form 250 Formerly CAB, RSPA, and BTS Form 251		Estimated burden — 1 to 16 hours with the average being 6 hours. Comments regarding reporting burden or any aspect of this data collection should be sent to this office.	

FORM 250
REPORT OF PASSENGERS DENIED CONFIRMED SPACE DUE TO AN
OVERSALE SITUATION
INSTRUCTIONS

- (A) Air carriers that are submitting Airline Service Quality Performance Reports must submit Form 250, as it relates to flights which are oversold, on a quarterly basis for scheduled passenger flights operated by the reporting carriers with 30 or more seat aircraft, departing from a point within the United States.

For air transportation taking place on or after January 1, 2018, air carriers that are submitting Airline Service Quality Performance Reports must submit a separate Form 250 for flights marketed under only their carrier's code and operated by a code-share partner that is a certificated air carrier or commuter air carrier using aircraft that have a designed passenger capacity of 30 or more seats. Reports are due 30 days after the end of the quarter. No data are to be reported for inbound international flights that departed from a foreign point. (Data for a nonstop flight segment that departed from a U.S. point are to be reported even if that flight segment is part of a flight that originated outside the United States). The reporting regulations are contained in 14 CFR Part 250, *Oversales*.

- (B) Line (1)(a) passengers given *alternate transportation within meaning of § 250.5(a)(2) or (b)(2)* means air transportation accepted by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's destination or first stopover more than one hour but less than 2 hours for domestic flight and more than one hour but less than 4 hours for international flights after the planned arrival time of the flight from which the passenger was denied boarding and is therefore entitled to compensation equal to 200% of the passenger's one-way fare. See 14 CFR § 250.5(a)(2) and (b)(2).

Line (1)(b), *passengers given alternate transportation within the meaning of § 250.5(a)(3) or (b)(3)*, means air transportation accepted by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's destination or first stopover two hours or more for domestic flights and 4 hours or more for international flights after the planned arrival time of the flight from which the passenger was denied boarding and is therefore entitled to compensation equal to 400% of the passenger's one-way fare. See 14 CFR § 250.5(a)(3) and (b)(3). Passengers who were not offered or provided alternate transportation are entitled to compensation equal to 400% of the passenger's one-way fare as well and should also be included in Line (1)(b).

- (C) *Total number denied boarding involuntarily* should equal the sum of lines 1 and 2. If not, attach notes explaining any discrepancy.

- (D) Any passenger who receives any type of compensation as a result of being involuntarily denied boarding from an oversold flight, including cash, check, or travel voucher, should be included on Line 4.
- (E) On line 5, a passenger who **volunteers** is a person who responds to the carrier's request for volunteers pursuant to 14 CFR § 250.2b and willingly consents to exchange his or her confirmed reserved space for compensation of the carrier's choosing. Any passenger selected by the carrier for denied boarding in accordance with boarding priority other than a request for volunteers is considered to have been denied boarding **involuntarily**, whether or not the passenger accepts denied boarding compensation. In order to be classified as a volunteer, a passenger must have been given the option of taking the oversold flight for which he or she held a reservation.
- (F) *Total Boardings* on line 7 includes only revenue passengers on flights for which confirmed reservations are offered. For international flights, *Total Boardings* include only revenue passengers on flight segments departing from a U.S. point that are subject to Part 250 and for which confirmed reservations are offered.
- (G) Lines 8(a), (b) and (c), *compensation paid*, should include only cash or cash equivalent (e.g., check or PayPal) to the persons described on the corresponding line; it should not include the actual or estimated value of any transportation vouchers provided to those passengers. Line 8 includes all cash or cash equivalent payments made to those passengers, i.e., payments actually accepted by passengers, plus payments that are offered or mailed and not rejected. If a carrier does not provide cash or cash equivalent as voluntary denied boarding compensation, line 8(c) should be zero.
- (H) Note on the report any abnormal conditions, such as strikes, having an impact on the results.
- (I) Send reports to either: e-mail Form250.support@dot.gov , fax 202 366-3383 or mail:

U.S. Department of Transportation
BTS/OAI, RTS-42
1200 New Jersey Avenue, SE
Washington, D.C. 20590-0001

OMB NO: 2138-0018
EXPIRATION DATE: 10/31/2020

Paperwork Reduction Act Burden Statement

- A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2138-0018. Public reporting for Form 250, Report of Passengers Denied Confirmed Space Due to an Oversale Situation, is estimated to be approximately 10-16 hours per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. This is a consumer report which is released to the public. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: OAI.ICCO@dot.gov

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