

**Department of Transportation
Office of the Chief Information Officer**

SUPPORTING STATEMENT:

**INFORMATION COLLECTION
SUPPORTING STATEMENT
REPORT OF PASSENGERS DENIED CONFIRMED SPACE
DUE TO AN OVERSALE SITUATION
*OMB Control Number: 2138-0018***

JUSTIFICATION

- This is a request for OMB to reinstate and partially-modify control number 2138-0018 as related to the *Report of Passengers Denied Confirmed Space Due to an Oversale Situation*

1. Circumstances that make collection of information necessary. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.*

The Department’s oversales rule in 14 CFR Part 250 (Part 250) establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are not accommodated because their flight has been oversold. BTS Form 250 Report of Passengers Denied Confirmed Space, is filed pursuant to §250.10 of this regulation. The Department uses Form 250 data to monitor airlines’ compliance with Part 250.¹

In November 2016, the Department issued a final rule, *Enhancing Airline Passenger Protections* (81 FR 76800), which, among other things, expanded the pool of carriers required to file Form 251 (now Form 250). Under the previous rule, U.S. carriers that account for at least 1 percent of the domestic scheduled passenger revenue were required to file Form 250. Under the 2016 rule, this threshold was lowered to 0.5 percent. The 2016 rule also requires that marketing carriers report oversales data for the domestic codeshare flights they market. Under the previous rule, carriers were only required to report the oversales data for flights that they operate. The new requirements regarding oversales reporting was applicable to flights operated on or after January 1, 2018. The expanded information collection by the new rule allows the Department to collect oversales data from smaller airlines that often serve small communities. The Department publishes this additional data to give the public a more comprehensive view of the industry-wide oversales situation.

¹ As stated in the 60-day notice, 85 FR 12664, the Department is renaming and renumbering Form 251. The new name and form number, “Report of Passengers Denied Confirmed Space Due to an Oversale Situation; Form 250” will more closely associate the form with the section of the Code of Federal Regulations related to oversales, 14 CFR Part 250.

2. How, by whom, and for what purpose is the information used? **Indicate how, by whom, and for what purpose the information is to be used.**

BTS Form 250 is a one-page report on the number of passengers denied boarding voluntarily and involuntarily, whether the bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. Under the 2016 rule, any reporting carrier that markets codeshare flights is required to submit a separate BTS Form 250 for the oversales data of their domestic codeshare flights. These reports allow the Department to monitor the effectiveness of its oversales rule. The involuntary denied-boarding rate has decreased over the years from 4.38 per 10,000 passengers in 1980 to 0.24 per 10,000 passengers in 2019. The improvement was made in a period when load factors rose. Publishing air carriers' individual denied boarding rates has negated the need for more intrusive regulation.

The lowered rate of denied boardings can be examined as a factor of the Department's continuing evaluation of fitness, as well as for compliance with the Department's rules. This rate provides insight into a carrier's policies on the treatment of passengers and its compliance disposition. A rapid sustained increase in the occurrence of denied boarding often is an indicator of operational difficulty.

In addition, because the rate of denied boarding is released quarterly, travelers and travel agents can identify carriers with low bumping incidents and if choose to do so select such carriers when booking a trip. This information is made available to the public in the Air Travel Consumer Report and on the web at:

<https://www.transportation.gov/individuals/aviation-consumer-protection/air-travel-consumer-reports>

The *Air Travel Consumer Report* is also sent to newspapers, magazines and trade journals. Form 250 assists the Department in determining the effectiveness of its oversales rules.

3. Extent of automated information collection. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.**

The Department's Bureau of Transportation Statistics issued a final rule that was published in the 75 Federal Register, No. 136, page 41579 on July 16, 2010. The rule requires reporting carriers to submit their recurrent reports to the Department via the internet using a comma separated values format or where applicable, PDF (portable document format). Carriers are able to use internet browsers to upload the reports into the system. 100% of the carriers submit the requested data via the internet using browsers.

4. Efforts to identify duplication. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.**

Form 250 is the only report of its kind. There are no other information sources to check carriers' denied-boarding rates.

5. Efforts to minimize the burden on small businesses. ***If the collection of information has a significant impact on a substantial number of small businesses or other small entities, describe the methods used to minimize burden.***

Carriers that count for at least 0.5 percent of annual domestic scheduled passenger revenues are required to submit Form 250 for domestic scheduled and international scheduled outbound flights using aircraft with 30 or more seats. To implement the *Regulatory Flexibility Act* in rules promulgated by the Office of the Secretary of Transportation regarding aviation economic and consumer matters, an airline is a small business if it provides air transportation only with aircraft having 60 or less seats (14 CFR 399.73). Among the carriers that are required to file Form 250, there are no carriers that exclusively operate aircraft with 60 or less seats. Therefore, there are no small businesses or other small entities impacted by this information collection.

6. Impact of less frequent collection of information. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

Originally, the information was collected monthly. Filing frequency was changed to quarterly to reduce carrier-reporting burden. Because of the nature of the airline business, less frequent filing could obscure seasonal or peak-travel period oversales problems.

7. Special circumstances. ***Explain any special circumstances that require the collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2)(i)-(viii)***

The collection of information is consistent with 5 CFR 1320.5(d)(2)(i)-(viii).

8. Compliance with 5 CFR 1320.8. ***Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and the recordkeeping disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported.***

In accordance with the Paperwork Reduction Act of 1995, on March 3, 2020, the Department published a 60-day notice in the Federal Register (85 FR 12664) announcing its intention to modify the Form 251 and renew the OMB control number. The Department received three comments and carefully considered each one. The Department's response to each comment is contained in the 30-day notice.

9. Payments or gifts to respondents. ***Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.***

There are no payments or gifts in this rule.

10. Assurance of confidentiality: ***Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.***

There are no such assurances in this rule.

11. Justification for collection of sensitive information. *Provide additional justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of this nature.

12. Estimate of burden hours for information requested. *Provide estimates of the hour burden for the collection of information. The statements should: Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories*

Estimated Total Burden on Respondents: 1144 hours

This estimate is based on the following information:²

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

² 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>.

13. Estimate of total annual costs to respondents. ***Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.***

For reports submitted by reporting carriers for flights they operate, the Department estimates that the total annual burden of this information collection will be \$32,000 (\$31,897.60 rounded up). This number is based on the total number of burden hours expected by this information collection (1024) multiplied by \$31.15 (the median hourly wage plus benefits for legal secretaries and administrative assistants³). Thus, per carrier, the estimated annual burden for this information collection is \$2,000 (\$1,993.60 rounded up). This number is based on the total annual burden divided by the number of reporting respondents (16).

For reports submitted by reporting carriers for codeshare flights marketed by reporting carriers, the Department estimates that the total annual burden to be an additional \$3,700 (\$3,738 rounded down). This number is based on the total number of burden hours expected by this information collection (120) multiplied by \$31.15 (the median hourly wage plus benefits for legal secretaries and administrative assistants⁴). Thus, per carrier, the estimated additional annual burden for this information collection is \$750 (\$747.60 rounded up). This number is based on the total annual burden divided by the number of respondents (5).

Other than the hourly burden costs, there are no additional costs and no need for carriers to make additional purchases to report the data.

14. Estimate of cost to the Federal government. ***Provide estimates of annualized cost to the Federal Government.***

There is no annualized cost to the federal government.

15. Explanation of program changes or adjustments. ***Explain the reasons for any program changes or adjustments reported.***

The Department has collected and published information regarding the industry's practice of overselling flights for over 40 years but the form that is the basis for this information has not been updated during this time. Further, in recent years, there have been changes in the airline industry regarding how airlines handle oversale situations and denied boardings. For example, to reduce the number of involuntary denied boardings, airlines have increased 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 widely relied on by the airline industry. The Department is seeking to reinstate the current OMB control number, and to revise and rename Form 251 to Form 250 to reduce the burden on

³ The median hourly wage for legal secretaries and administrative assistants is estimated at \$22.74 (see <https://www.bls.gov/oes/current/oes436012.htm>). We add 37 percent for benefits to estimate total hourly compensation of \$31.15.

⁴ *Id.*

airlines, better clarify the instructions for completing the form, and provide more relevant information to consumers.

16. Publication of results of data collection. *For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

DOT publishes the *Air Travel Consumer Report*, which includes tables giving information by U.S. air carriers on the number of passengers bumped involuntarily and on the number who voluntarily gave up their seats on oversold flights in exchange for compensation. The rate of involuntarily denied boarding per 10,000 passengers is also included.

Although the *Air Travel Consumer Report* is a monthly publication, denied boarding information is displayed for the latest available quarter and year-to-date. The *Air Travel Consumer Report* is also available on the internet.

More detailed denied boarding information is available at:

<https://www.bts.gov/denied-confirmed-space>

17. Approval for not displaying the expiration date of OMB approval. *If seeking approval to not display the expiration date for OMB approval of the information collections, explain the reasons that display would be inappropriate.*

Not applicable.

18. Exceptions to certification statement. *Explain each exception to the certification statement "Certification for Paperwork Reduction Act Submissions."*

Not applicable.