

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

Section 145, referred to below, expired in 2006. Since that time there has been no requirement for airlines to honor the tickets of another airline that ceases operations(although some air carriers do so voluntarily, usually with restrictions and/or a small fee).

**HONORING TICKETS OF NATIONAL AIRLINES PURSUANT TO THE
REQUIREMENTS OF SECTION 145 OF THE AVIATION AND
TRANSPORTATION SECURITY ACT**

NOTICE

The Department issued a notice on August 8, 2002, providing guidance for airlines and the traveling public regarding the obligation of airlines under section 145 of the Aviation and Transportation Security Act (“Act”) to transport passengers of airlines that have ceased operations due to insolvency or bankruptcy. (P.L. 107-71, 115 Stat. 645 (November 19, 2001)) That notice, which was issued after Vanguard Airlines’ July 2002 cessation of service, was intended to provide immediate guidance in response to numerous complaints from ticketed passengers and inquiries from airlines. On November 6, 2002, National Airlines ceased operations. The purpose of this notice is to remind carriers that the provisions of section 145 also apply to National Airlines’ cessation of service.

As guidance to the industry, the Department's August 8 notice mentioned several factors that we would look to in determining whether airlines were complying with section 145.¹ Section 145 requires, in essence, that airlines operating on the same route as an insolvent carrier that has ceased operations shall transport the ticketed passengers of the insolvent carrier "to the extent practicable." The Department stated, among other things, our preliminary view that, at a minimum, section 145 requires that passengers holding valid confirmed tickets, whether paper or electronic, on an insolvent or bankrupt carrier be transported by other carriers who operate on the route for which the passenger is ticketed on a space-available basis, without significant additional charges. We further pointed out that, under section 145, passengers whose transportation has been interrupted have 60 days after the date of the service interruption to make alternative arrangements with an airline for that transportation. We made clear in our guidance, however, that we did not believe that, in enacting section 145, Congress intended to prohibit carriers from recovering from accommodated passengers the amounts associated with the actual cost of providing such transportation. We wish to reiterate that advice with respect to the current situation involving National Airlines' cessation of service.

After the issuance of our August 8 notice, several carriers informally sought additional clarification, specifically regarding recovery of the costs of accommodating passengers under section 145. In our August 8 notice, we stated that we did not foresee that such costs would exceed \$25.00.² We wish to make clear that the \$25.00 amount stated above was simply an estimate of the

¹ Failure by an airline to comply with section 145 may constitute an unfair and deceptive practice in violation of 49 U.S.C. 41712.

² We pointed out that examples of such costs include the cost of rewriting tickets, providing additional onboard meals, and the incremental fuel cost attributable to transporting an additional passenger.

magnitude of the additional direct costs carriers might incur in transporting affected passengers on a standby basis.

Several carriers have informally raised concerns that the \$25.00 cost estimate was too low. In each such instance, Department staff has advised those carriers that, to the extent they experienced and could document reasonable direct costs in excess of the \$25.00 estimated amount, they should be entitled to recover such costs under the statute. Department staff has specifically requested each airline that had expressed concern to provide evidence demonstrating that its reasonable direct costs exceeded the estimated \$25.00 amount. No airline has provided any documentation in response to that request.³ We thus have no information demonstrating that the estimated amount of \$25.00 would be inadequate to cover additional direct costs to transport persons holding Vanguard Airline tickets on a space available basis.

With respect to National Airlines, the Department has not received any written comments or other evidence from any airline demonstrating that \$25.00 would be insufficient to cover additional direct costs to transport persons holding tickets on a space-available basis. However, we have received reports that in some instances airlines have charged far in excess of \$25.00 for transportation. Because we wish to ensure that airlines have had the opportunity to demonstrate that costs in excess of \$25.00 each way are reasonable, the Department has not yet taken any action with respect to any airline in connection with section 145 involving either Vanguard Airlines' or National Airlines' cessations of operations. To obtain further information on this issue from the traveling public

³ A few airlines also expressed separate concerns about difficulties in verifying confirmed reservations of passengers holding electronic tickets, in which case a hard-copy ticket would not be available. Department staff suggested it would be appropriate to require such passengers to provide proof of payment and confirmation, such as receipts and printed itineraries.

and the airlines, we request that any airline or person who believes that the Department's estimate of \$25.00 is either insufficient, or is more than necessary to cover the direct costs of accommodating ticketed passengers on a space available basis, contact the Department's Office of Aviation Enforcement and Proceedings, at the address below, within seven days of the date of this notice and provide written comments and evidence of costs in support of their position.

Questions regarding this notice may be addressed in writing to Dayton Lehman, Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, 400 7th St., S.W., Washington, D.C. 20590, or he may be contacted by telephone at (202) 366-9342.

By:

Read C. Van de Water
Assistant Secretary for
Aviation and International Affairs

Dated: November 14, 2002

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