

SUPPORTING STATEMENT

OMB-XXXX-XXXX

Original Issue

Congestion Management Rule for
New York's LaGuardia Airport

Justification

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

The FAA has broad authority to regulate and control the use of navigable airspace of the United States. Under 49 U.S.C. § 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of such airspace. Also, under 49 U.S.C. § 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace.

On April 5, 2000, the "Wendell H. Ford Aviation Investment and Reform Act of the 21st Century" (the "AIR 21 Act") was enacted. This Act, among other things, provided for the phase-out of the High Density Rule ("HDR") at New York's LaGuardia Airport (LaGuardia) on January 1, 2007. FAA expects that without a rule to reinforce the operating limits that were established under the HDR and the AIR 21 Act, significant congestion and delay would occur at the airport (subsequently affecting the entire National Airspace System).

The proposed rule would require carriers to hold Operating Authorizations to conduct arrivals and departures at LaGuardia during the local hours of 6:30 a.m. through 9:59 p.m., Monday through Friday, and 12:00 p.m. through 9:59 p.m. on Sunday. Thus, the rule, if adopted, would establish an operational limit on the number of aircraft landing and taking off at the airport. To offset the effect of this limit, the proposed rule would increase utilization of the airport by encouraging the use of larger aircraft through implementing an airport-wide, average aircraft size requirement designed to increase the number of passengers that may use the airport within the overall proposed operational limits. The rule would permit air carriers to transfer Operating Authorizations between other carriers through a variety of mechanisms, including one-for-one trades, leases and sales.

Generally, the information collection requirements of the rule involve scheduled carriers notifying the FAA of which Operating Authorizations they hold and how they are being used. The carriers must notify the FAA of: (1) requests to be included in a lottery for available Operating Authorizations; (2) requests for confirmation of one-for-one Operating Authorization trades; (3) usage of Operating Authorizations that are subject to

the airport-wide upgauging target, and compliance with that target (on an annual basis); (4) usage of Operating Authorizations that are not subject to the airport-wide target (on a bi-monthly basis); and (5) participation in the blind secondary market.

This collection supports the Department of Transportation's strategic goal of mobility for shaping an accessible, reliable transportation system for all people, goods and regions.

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

The information would be reported to the FAA by operators holding Operating Authorizations. The FAA would log, verify, and process the requests made by the operators.

This information is used to allocate, track usage, withdraw, and confirm transfers of Operating Authorizations among the operators and facilitates the buying and selling of Operating Authorizations in the blind secondary market. The FAA also uses this information in order to maintain an accurate base of operations to ensure compliance with the operations permitted under the rule and those actually conducted at the airport.

3. 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.

A significant amount of the reporting requirements proposed involve scheduling information that the carriers already have in their computer databases. The FAA expects to determine several common reporting formats for the information; therefore, the carriers may not have to alter their databases in order to meet this reporting requirement. The airline industry is one of the leaders in the use of improved information technology; the carriers are expected to use their information technology capabilities to assist them in reducing any burden due to the information reporting requirements of this rule. Carriers that would be required to report usage on a bi-monthly basis (for baseline and small community authorizations) would be able to submit the necessary information electronically. In addition, the FAA would establish an electronic mailbox for the submission of annual Operating Authorization usage reports, requests for confirmation of transferred Operating Authorizations and requests to participate in a lottery or the sale/purchase of Operating Authorizations in the blind secondary market. This is consistent with the requirements of the Government Paperwork Elimination Act.

4. 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.

This rule proposes a new program for congestion management at LaGuardia. The HDR is phasing out, and we are proposing operational limits on the number of aircraft landing and taking off at the airport. We, therefore, do not already collect information that would be required by this rule. Because this would be imposing modified reporting

requirements for scheduled operators at LaGuardia, there would be no duplication. There are no other data sources that would assign carrier flight numbers to specific Operating Authorizations or to obtain the other information on allocation, transfer, or usage.

5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (item 5 of OMB Form 83-I), describe the methods used to minimize burden.

Some small operators may be classified by the Department of Transportation as small businesses. The large air carriers are not classified as small businesses. The burdens on the small operators are minimized since they have fewer operations. Therefore, operators that are small businesses will have less of a reporting burden than large carriers that will hold the bulk of the Operating Authorizations. The FAA will accept the submission of information by e-mail, fax, and telex. The FAA does not anticipate that submission of information through these mediums would represent any burden to small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Reports on the use of Operating Authorizations that are subject to the airport-wide upgauging target would be required annually. Carriers holding Operating Authorizations that are exempt from the airport-wide upgauging target (baseline and exempt small community authorizations) may be required to provide reports to the FAA every other month on usage of those Operating Authorizations.

This level of reporting frequency would ensure that corrective measures may be taken in a timely fashion if the limited Operating Authorizations at this airport are not being utilized according to any minimum usage requirement that is adopted.

If this information is collected less frequently, the FAA would be unable to maintain an accurate inventory of Operating Authorizations and to enforce the operational limits. Most of the other reporting requirements (i.e., transfers, blind market) occur on an as-needed basis with most of those events being initiated by the carriers.

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

This information reporting effort is consistent with the guidelines under 5 CFR § 1320.5(d)(2) with the exception of the usage reporting requirement that would occur once every other month. This level of frequency would be necessary to ensure that corrective measures could be taken in a timely fashion if the limited Operating Authorizations at this airport are not being utilized according to the proposed minimum usage requirement.

8. Describe 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 recordkeeping, disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported.

The FAA is seeking comment from all interested parties through the publication of the NPRM in the Federal Register. The NPRM was published on August 29, 2006, vol. 71, no. 167, pages 51360-51380.

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

There are no monetary considerations for this collection of information.

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

The rule does not require the holder of Operating Authorizations to disclose confidential or sensitive information either to the FAA or to the public. Therefore, no assurances of confidentiality are required to be given.

11. 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 a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

The annual reporting burden for each subsection of the rule is presented below.

The reporting burden was calculated by the following formula:

Annual Hourly Burden = (# of respondents) * (time involved) * (frequency of the response)

Section 93.67(c) Sale and Lease of Operating Authorizations

(16 carriers) * (1.5 hours per submittal) * (4 occurrences per year) = 96 hours

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours for each occurrence of a sale or lease of an Operating Authorization. For each

operator, we assumed that a sale or lease of an Operating Authorization would occur quarterly.

Section 93.68(b) One-for-one Trades of Operating Authorizations

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (4 \text{ occurrences per year}) = 96 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours for each occurrence of a one-for-one trade of an Operating Authorization. For each operator, we assumed that a one-for-one trade of an Operating Authorization would occur quarterly.

Section 93.72 (a) Reporting Requirements

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (1 \text{ occurrence per year}) = 24 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours for each annual occurrence of the data required in §93.72(a)(1) and §93.72(a)(2).

Section 93.72(b) Reporting Requirements

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (6 \text{ occurrences per year}) = 144 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours every two months of the data required by §93.72(b).

Section 93.72(c) Reporting Requirements

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (1 \text{ occurrence per year}) = 24 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours for each annual occurrence of the data required in §93.72(c).

Section 93.73(d) Weighted Lottery

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (4 \text{ occurrences per year}) = 96 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours every quarter for participation in a lottery for an Operating Authorization.

Section 93.74(d) Administrative Provisions

$(16 \text{ carriers}) * (1.5 \text{ hours per submittal}) * (4 \text{ occurrences per year}) = 96 \text{ hours}$

We assumed that the 16 marketing carriers operating at LaGuardia expend one and one half hours every quarter for administrative provisions.

Summary – Total Annual hourly reporting burden – 576 hours.

13. Provide an estimate of the total annual cost burden to respondents or record.

From the Economic Values for FAA Investment and Regulatory Decisions, A Guide, we used an hourly labor rate of \$49.04 for a white-collar aviation industry employee. The estimated cost total annual costs to respondents for the hour burden is about \$28,250. The estimated total discounted cost over the 13-year analysis interval is approximately \$220,650.

14. Provide estimates of annualized cost to the Federal Government.

We assumed that the information processing requirement of the government consist of logging, verifying, and processing the information reported under question #12. The format is a simple undertaking that we estimated to consume 30 minutes or less per occurrence. We also assumed the same labor rate for a government employee as we did for an industry white-collar worker.

The total annual hourly burden to the FAA is estimated at about 192 hours with a cost of about \$9,400. The estimated total discounted cost over the 13-year analysis interval is about \$73,550.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This is an original report. Therefore, there are no changes or adjustments.

16. 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.

Generally, the only information collected by the FAA that will be published would be the results of the blind secondary market transactions. The frequency of this reporting is expected to occur on an as-needed basis.

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

The FAA is not seeking this approval.

**18. Explain each exception to the certification statement identified in Item 19.
"Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions to Item 19.

Attachments List:

- 1. Supporting Statement**
- 2. Published NPRM**
- 3. 49 USC 40103**
- 4. AIR 21 Act**