

## JUSTIFICATION STATEMENT BUY /SELL RULE

### 1. Circumstance that Makes the Collection Necessary.

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.

This rule resulted in part from the recommendations of a number of airlines that the Department of Transportation (DOT) should propose an alternative mechanism to distribute arrival and departure slots to air carriers and commuter operators at the high density airports. Prior to the promulgation of the rule, the limited slots at the high density airports were distributed by air carrier and commuter scheduling committees. On a number of occasions, however, these committees were unable to reach agreement on slot allocations.

The rule permits air carrier and commuter operator slots for takeoffs and landings at Ronald Reagan National Airport to be transferred for any consideration.<sup>1</sup> This action also adopted procedures for the allocation and use of slots, including a use-or-lose provision, at this airport. In addition, a procedure was adopted to allocate unused slots. Special procedures were provided for international flights and flights which fulfill obligations under the Essential Air Service Program, to ensure that a sufficient number of slots will be available for these operations

Generally, the information collection requirements of the rule involve the air carriers or commuter operators notifying the FAA of their current and planned activities regarding use of the arrival and departure slots at the high density airport. The air carriers or commuter operators must notify the FAA of: (1) requests for confirmation of transferred slots; (2) slots required to be returned or slots voluntarily returned; (3) requests to be included in a lottery for available slots; (4) usage of slots on a bi-monthly basis; and (5) requests for short-term use of off-peak hour slots.

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.

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<sup>1</sup> 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 provided for the phase-out of the High Density Rule at O'Hare International Airport on January 1, 2001, and at John F. Kennedy International Airport and LaGuardia Airport on January 1, 2007.

2. How, By Whom, and For What Purpose the Information Is To Be Used.

The information is reported to the FAA by air carriers and commuter operators or other persons holding a slot at the high density airport. The FAA logs, verifies, and processes the requests made by the operators. This information is used to allocate and withdraw takeoff and landing slots at the high density airports, and confirms transfers of slots made among the operators. The FAA uses this information on a daily basis in order to maintain the most accurate slot base.

3. Consideration of the Use of Improved Information Technology.

A significant amount of the reporting requirements imposed by the rule involves scheduling information that the carriers already have in their computer data bases. The FAA has not established a particular format for the submission of such information; therefore, the carriers do not have to alter their databases in order to meet this reporting requirement. The FAA, through automation changes, has minimized the reporting burden for the carriers. Moreover, the airline industry is one of the leaders in the use of improved information technology. The carriers are using their information technology capabilities to assist them in reducing any burden due to the information reporting requirements of this rule. Of the 32 existing slot holders required to report usage on a bi-monthly basis, all submit the necessary information electronically. These automated reports represent 100% of the slots available. In addition, the FAA has established an electronic mailbox for the submission of slot usage reports and requests for confirmation of transferred slots. This is consistent with the requirements of the Government Paperwork Elimination Act (GPEA). The FAA is currently addressing procedures to allow for the electronic submission of remaining information in the near future.

4. Duplication and Why Similar Information Cannot Be Used or Modified.

Prior to the promulgation of this rule, the carriers provided data regarding takeoff and landing slots to the air carrier and commuter operator scheduling committees. The rule requires that this information be reported to the FAA instead of the scheduling committees. Therefore, there is no duplication associated with the reporting requirements of this rule.

Since the air carrier and commuter operator scheduling committees are no longer in existence, and the information previously provided to them is now given to the FAA, similar information, as such, is not available.

5. Minimizing the Burden On Small Business.

Some small operators may be classified by DOT as small businesses. The large air carriers are not classified as small businesses. The burdens on the small operators are minimized since they operate fewer slots. Therefore, operators that are small businesses will have less of a reporting burden than large carriers that operate the bulk of the slots used at the high density airports.

6. Consequences of Not Conducting or Less Frequent Data Collection.

Air carriers, commuter operators, or the person holding a slot at DCA are required to provide reports to the FAA every other month on usage of slots. This level of frequency is necessary to ensure that corrective measures can be taken in a timely fashion if the limited slots at these airports are not being utilized at least 80 percent of the time over a 2-month period.

The FAA maintains a current inventory of slots at DCA. Most of the other reporting requirements (i.e., transfers and returns) occur on an as-needed basis. If this information is collected less frequently, the FAA would not be able to maintain an accurate inventory of slots used.

7. Consistency of Information Collection with Guidelines in 5 CFR § 1320.5(d)(2).

This information reporting effort is consistent with the guidelines in 5 CFR § 1320.5 (d)(2) with the exception of the one reporting burden which occurs once every other month. This level of frequency is necessary to ensure that corrective measures can be taken in a timely fashion if the limited slots at this high density airport are not being utilized at least 80 percent of the time over a 2-month period.

8. Solicitation of Comments and Outside Consultation.

Since 1989, the FAA has amended this rule through "notice and comment" rulemaking. Persons outside the agency had the opportunity to submit comments on the proposed amendments. Communications from interested parties were considered prior to final rulemaking action.

Prior to submitting this package to OMB for its triennial review, a notice was published in the Federal Register on August 15, 2007, Volume 71, #157, page 45863 for a 60-day comment period. No comments were received. A copy is attached for your convenience.

9. Payments or Gifts Provided to Respondents.

The FAA does not provide any payments or gifts to the respondents associated with this collection.

10. Assurances of Confidentiality.

The rule does not require the airlines and commuter operators or other persons holding a slot at DCA to disclose confidential or sensitive information either to the FAA or to the public. Therefore, no assurances of confidentiality are required to be given. The FAA privacy officer and slot allocation subject matter experts completed an initial assessment of the program. It was determined that as an existing system that does not contain publicly personally identifiable information (PII), the slot allocation system does not need a privacy impact assessment.

11. Questions of a Sensitive Nature.

There are no questions dealing with matters of a sensitive nature in this collection of information.

12. Estimates of the Hour Burden of the Collection of Information.

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

Reporting Burden

(# of respondents) x (time involved) x (frequency of response) = hour burden.

Section 93.217(a)(4) - Notification of slots not used every day of the week.

This provision was deleted by AIR21 (PL 106-181).

Section 93.217(a)(5) – International operations slot request.

This provision was deleted by AIR21 (PL 106-181).

Section 93.217(a)(6) – Request for new or additional slots for international operations.

This provision was deleted by AIR21 (PL 106-181).

Section 93.221(a)(3) -- Written evidence of consent for transaction.

Transactions =  $(1360) \times (.5 \text{ hr.}) = 680.5$

Consent is required of both parties. The burden per respondent is estimated to be half of an hour.

Section 93.224(a) - Notification of date slot returned when required.

$2 \times 1 \text{ hr.} = 2 \text{ hrs.}$

Returns due to FAA withdrawal and use-or-lose returns average 2 per year. Each of these occurrences requires one hour for notification.

Section 93.224(b) -- Notification of voluntary return of slot.

$(800)(.0025)(.5 \text{ hr.}) = 1 \text{ hrs.}$

Voluntary return of slots is estimated to involve no more than one quarter of one percent of domestic slots, requiring approximately 1/2 hour for each notification.

Section 93.225(e) - Request to be included in a slot lottery.

$(3 \text{ requests}) \times (1 \text{ lottery}) \times (1 \text{ hr.}) = 3 \text{ hrs.}$

Three requests times one lottery per year and one hour per request.

Section 93.227(i) - Report on usage of slots (every other month).

$(14 \text{ slot holders}) \times (1 \text{ hrs.}) \times (6 \text{ reports per year}) = 84 \text{ hrs.}$

There are 14 slot holders who are required to ensure usage reports are filed with the FAA. The usage reports filed by these slot holders are estimated to require an average of 1 hour preparation each and are prepared 6 times per year.

## Summary

Annual Reporting Requirement Burden – 770.5 hrs.

### Estimated Annualized Cost To Respondents for the Hour Burdens.

The estimated annualized cost to respondents for the hour burdens is \$15,410.

#### 13. Total Annual Cost Burden to Respondents from the Collection of Information.

There are no additional costs not already included in # 12.

#### 14. Cost to the Federal Government.

It is assumed that the information processing requirements of the government are essential of two types logging and verification/processing. The format is a simple undertaking that is estimated to consume thirty minutes or less per occurrence. Verification or processing, though a somewhat more involved operation, still requires no more than one hour per occurrence. The preceding information requirements are divided into these two categories and are estimated to require the foregoing time period per occurrence.

The following figures reflect the annual number of transactions and the way the process works. In some cases, a submittal necessitates a notification in return. Where this is the case, the number of occurrences is followed by (n), and each occurrence triggers a process requiring an additional hour.

Logging	Verification/Processing		
Section	No. of Occurrences	Section	No. of Occurrences
93.217(a) (4)	0	93.217(a) (S) (6) (e)	0(n)
93.217(a)(5)(6)	0	93.221 (a) (4)	1360(n)
93.221 (a) (1)	1360	93.224(a)	2(n)
93.227(i)	84	93.224(b)	1(n)
93.227(g)	0	93.225(e)	<u>3(n)</u>
Total	1444		1366

Processing = (1444 x 0.5 hr.) + (1366 x 1 hrs.) = 2088 hrs.

These figures reflect information processing time only and do not include the uses, such as enforcement and dispute adjudication, for which the information may be used on an expected, though irregular, basis. Based on these figures, the cost to the government is estimated to be \$52,200. This cost is based on an estimate of \$25 per hour (the equivalent of a GS-13 salary). (The decrease in the number of transactions requiring a response from 4401 to 1444 is primarily due to the deletion of John F. Kennedy International Airport, LaGuardia Airport and O'Hare International Airport from the High Density Rule by AIR21 (PL 106-181)).

#### 15. Changes or Adjustments In Burden.

The number of entities required to provide usage reports has decreased from 32 to 14. This was primarily due to the elimination of slots at O'Hare International Airport, John F. Kennedy International Airport and LaGuardia Airport pursuant to AIR 21, which has reduced the reporting burden under sections 93.217 and 93.227.

16. **Publication of Information Collections.**

The collections of information will not be published, but will be used by the FAA to allocate slots and maintain accurate records of slot transfers at the High Density Traffic Airports.

17. **Seeking Approval To Not Display the Expiration Date for OMB Approval.**

The FAA is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. **Exceptions to the Certification Statement.**

There are no exceptions to the certification statement.