

Department of Transportation Office of the Chief Information Officer

SUPPORTING STATEMENT:

REPORTING REQUIREMENTS FOR ENHANCING AIRLINE PASSENGER PROTECTIONS (Final Rule)

OMB Control Number 2105-0561

JUSTIFICATION

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 Final Rule (FR) requires the following paperwork requirements for each covered carrier: (i) retain for two years certain information about any ground delay that lasts at least three hours, (ii) audit its own adherence to its Customer Service Plan annually and retain the results for two years, and (iii) display information concerning listed flights' on-time performance for the previous month on its website for both its flights and those of its non-reporting code-share carriers.

The information collection furthers the objectives of 49 U.S.C. §§ 41712, 40101(a)(4), 40101(a)(9), and 41702 to protect consumers from unfair or deceptive practices, and to ensure safe and adequate service in air transportation. The regulation also supports the Department of Transportation's (Department) strategic goal of global connectivity by reducing barriers to trade and enhancing competition.

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.*

The Department is requiring three collections of information in the FR.

The first is a requirement that certificated and commuter air carriers that operate domestic scheduled passenger service using any aircraft with 30 or more passenger seats retain for two years the following information about any ground delay that lasts at least three hours: the length of the delay, the precise cause of the delay, the actions taken to minimize hardships for passengers, whether the flight ultimately took off or returned to the gate, and an explanation for any tarmac delay that exceeds three hours. The Department plans to use the information to investigate instances of long delays on the ground and to identify any trends and patterns that may develop.

The second is a requirement that any certificated and commuter air carrier that operate passenger service using any aircraft with 30 or more passenger seats adopt a Customer Service Plan, audit its adherence to the plan annually, and retain the results for two years. The Department plans to review the audits to monitor carriers' compliance with their plans and take enforcement action when appropriate.

The third is a requirement that each reporting air carrier display on its website information on each listed flights' on-time performance for the previous month for both the carrier's flights and those of its non-reporting code-share carriers. This information will help consumers to select their flights.

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.*

With respect to the first and second collections of information, a covered carrier is free to determine whether or not it would like to use automated, electronic, mechanical, or other technological collection techniques or other forms of information technology in retaining the proposed information.

The use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology is central to the third proposed collection of information because the FR requires that certain on-time performance information be published on a covered carrier's website for consumers to view. It requires that a covered carrier will upload the on-time performance information for the previous month into its internal reservations systems between the 20th and the 23rd days of the current month. The Department intends to issue a Direct Final Rule that amends the date carriers must upload information to the fourth Saturday of each month. The rule will become effective 30 days after publication in the Federal Register, if no adverse comments are filed.

The Department has issued further guidance on the rule in a Frequently Asked Questions (FAQ) document located on its website at <http://airconsumer.dot.gov/rules/rules.htm>.

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.*

There is no similar information accumulated that could be used or modified for the first and second collection of information.

With respect to the third information collection, 14 CFR Section 234.11 requires disclosure of on-time performance when requested during live discussions, transactions, or inquiries. However, there is no regulation as to the publication of on-time performance on a carrier's website. The rule will ensure that consumers making reservations through a carrier's website will be presented with on-time performance information in a readily available forum.

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.***

This rule will not have a significant impact on a substantial number of small entities.

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.***

If the first collection regarding retaining information about ground delays is not conducted, the Department will not be able to investigate instances of long delays on the ground and identify any trends and patterns that may develop.

If the second collection regarding retaining results on audits of a carrier's Customer Service Plan is not conducted, the Department can not ensure carriers comply with their plans in order to determine whether enforcement action is appropriate.

If the third collection regarding displaying on-time performance on a carrier's website is not conducted, the Department can not ensure that consumers using an air carrier's website to make a reservation will be provided the necessary information regarding a carrier's on-time performance to select their flights.

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.***

Notice and public comment were solicited with publication in the Federal Register of an Advanced Notice of Proposed Rulemaking (ANPRM) in Docket DOT-OST-2007-0022 entitled "Enhancing Airline Passenger Protections" on November 15, 2007 (72 Fed. Reg. 65233; November 17, 2007). Approximately 200 comments were received, analyzed and considered when drafting the Notice of Proposed Rulemaking (NPRM).

Notice and public comment were also solicited with publication in the Federal Register of a Notice of Proposed Rulemaking (NPRM) in the same docket on December 8, 2008 (73 Fed. Reg. 74586; December 8, 2008). Approximately 22 comments were received, analyzed and considered when drafting the Final rule (FR). The comments received were in reference to the NPRM and not to the collection of information. All of the above-mentioned comments can be found on Regulations.gov under the docket number DOT-OST-2007-0022.

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*

Table 1: Data for Collection of Information, Enhancing Airline Passenger Protection’s Rule (OMB Control Number 2105-0561)

| | Retain Tarmac Delay Information | Audit Customer Service Plans | Display Flight Information on Websites |
|-------------------------------------|----------------------------------------|-------------------------------------|-----------------------------------------------|
| Total # of Respondents | 42 carriers | 42 carriers | 9 carriers |
| Frequency | 830 incidents | 1 | 1 |
| Burden per Respondent (in minutes) | 15 | 15 | 717,780 (first year only) |
| Total Annual Burden (in minutes) | 12,450 | 630 | 6,460,020 (first year only) |
| Total Burden Costs | \$4,805.70 | \$243.18 | \$3,603,614 (first year only) |
| Grand Total: (annual burden) | 107,885 hrs (6,473,100 minutes) | | |

#1 Requirement to retain for two years information about any ground delay that lasts at least three hours.

Respondents: Certificated and commuter air carriers that operate domestic passenger service using any aircraft with 30 or more passenger seats (42).

Estimated Annual Burden on Respondents: A maximum of 21 hours and 15 minutes (1,275 minutes) per year for each respondent. The estimate was calculated by multiplying the estimated time to retain information about one ground delay (15 minutes) by the total number of ground delay incidents lasting at least three hours per respondent (a maximum of 85 incidents) averaged in 2007-2008.

Estimated Total Annual Burden: A maximum of 207 hours and 30 minutes (12,450 minutes) for all respondents. The estimate was calculated by multiplying the estimated time to retain information about one ground delay (15 minutes) by the total number of ground delay incidents lasting at least three hours in calendar years 2007-2008 (averaged) for the reporting carriers (748 incidents) and adding the product of the estimated time to retain information about one ground delay (15 minutes) multiplied by 11 percent of the total number of ground delay incidents lasting at least three hours in calendar years 2007-2008 (averaged) for the reporting carriers (748 x 11% = 82.28 incidents). (The reporting carriers accounted for 89 percent of domestic scheduled passenger service, so we have assumed that nearly all of the remaining 11 percent was provided by other certificated and commuter carriers using aircraft with more than 30 passenger seats.)

Frequency: A maximum of 85 ground delay information sets to retain per year for each respondent. (*N.b.* Some air carriers may not experience any ground delay incidents of at least three hours in a given year, while some larger air carriers could experience as many as 85 in a given year according to data reported to the Bureau of Statistics by the reporting carriers on ground delays in the average of calendar years 2007 and 2008.)

#2 Requirement that each covered carrier retain for two years the results of its annual self-audit of its compliance with its Customer Service Plan.

Respondents: Certificated and commuter air carriers that operate domestic passenger service using any aircraft with 30 or more passenger seats (42 carriers).

Estimated Annual Burden on Respondents: 15 minutes per year for each respondent. The estimate was calculated by multiplying the estimated time to retain a copy of the carrier's self-audit of its compliance with its Customer Service Plan by the number of audits per carrier in a given year (1).

Estimated Total Annual Burden: A maximum of 10 hours and 30 minutes (630 minutes) for all respondents. The estimate was calculated by multiplying the time in a given year for each carrier to retain a copy of its self-audit of its compliance with its Customer Service Plan (15 minutes) by the total number of covered carriers (42).

Frequency: One information set to retain per year for each respondent.

#3 Requires that each covered carrier display on its website, at a point before the consumer selects a flight for purchase, the following information for each listed flight regarding its on-time performance during the last reported month: the percentage of arrivals that were on time, the percentage of arrivals that were more than 30 minutes late (with special highlighting if the flight was more than 30 minutes late more than 50 percent of the time), and the percentage of flight cancellations if the flight is cancelled more than 5% of the time. We are adding a requirement that a marketing/reporting carrier display delay data for its non-reporting code-share carrier(s).

Respondents: Every U.S. carrier that accounts for at least one percent of scheduled passenger revenue, maintains a website, and is not already displaying the required information. (9 carriers).

Estimated Annual Burden on Respondents: 11,963 hours (717,780 minutes) in the first year and no more than 12 hours (720 minutes) in subsequent years for each respondent. The estimate for the first year was calculated by adding the estimated number of hours per respondent for developing its website for data posting (11,951 hours [717,060 minutes], the quotient of a one-time programming cost of \$400,000 divided by \$33.47, the median hourly wage for computer programmers) to the estimated number of hours for management of data links (12 hours [720 minutes], estimated at one hour per month).

Estimated total annual burden: 107,667 hours (6,460,020 minutes) in the first year and no more than 108 hours (6,480 minutes) in subsequent years for all respondents. The estimate for the first year was calculated by multiplying the number of hours per respondent for developing its website for data posting (11,951 hours) by the number of covered carriers requiring action to come into compliance (9) and adding the product of the number of hours per year for management of data links (12) and the number of covered carriers (9). The estimate for subsequent years was calculated by multiplying the number of hours per year for management of data links (12) by the number of covered carriers requiring action come into compliance (9).

Frequency: Development of website for data posting: 1 time for each respondent. Updating information for each flight listed on website: 12 times per year (1 time per month) for each respondent.

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.*

The Department estimates that the total annual cost burden to respondents resulting from the first requirement will be \$4,805.70 (\$23.16, the average hourly wage for office and administrative workers in schedule air transport industry, times 207 hours and 30 minutes [12,450 minutes]).

The Department estimates that the total annual cost burden to respondents resulting from the second proposed requirement will be \$243.18 (\$23.16, the average hourly wage for office and administrative workers in schedule air transport industry, times 10 hours and 30 minutes [630 minutes]).

The Department estimates that the total annual cost burden to respondents resulting from the third proposed requirement will be \$3,603,614.49 in the first year (\$33.47, the median hourly wage for computer programmers, times 107,667 hours [(6,460,020 minutes)]) and no more than \$3,614.76 in subsequent years (\$33.47, the median hourly wage for computer programmers, 108 hours [6,480 minutes]).

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.***

There are no changes or adjustments because this is a new rule. (14 CFR 234, 252, 259 and 399)

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.***

Information about the proposed collection requirements, including cost estimates, is available in the FR.

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.