

Department of Transportation Office of the Chief Information Officer

SUPPORTING STATEMENT:

REPORTING REQUIREMENTS FOR ENHANCING AIRLINE PASSENGER PROTECTIONS (Final Rule) (revised on April 5, 2011)

OMB Control Number 2105-0561

JUSTIFICATION

- This supporting statement has been revised to include new or amended information collection systems as required by a second rule to enhance airline passenger protections (Docket Number DOT-OST-2010-0140);
- On December 30, 2009, the DOT issued the first final rule to enhance airline passenger protections (EAPP #1) that included three information collection systems;
- On April 25, 2011, the DOT issued a final rule (EAPP #2) that amended the existing information collection systems by extending two of the existing requirements to foreign carriers, as well as to include a new reporting requirement.
- The DOT is extending the collection of information by requiring covered foreign carriers to retain information for ground delays of at least three hours, as is currently required of covered U.S. carriers;
- The DOT is extending the collection of information by requiring covered foreign carriers to audit adherence to a Customer Service Plan, as is currently required of covered U.S. carriers; and
- The DOT is adopting a requirement that certain U.S. and foreign air carriers report tarmac delay information to the DOT for passenger operations that experience a tarmac delay time of 3 hours or more at a U.S. airport.

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 Enhancing Airline Passenger Protections Rule, as currently effective, amended, and newly adopted, 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, (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 and (iv) report all passenger operations that experience a tarmac time of three hours or more at a U.S. airport.

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 a total of four collections of information in EAPP #1 and EAPP #2.

The first is a requirement that U.S. certificated and commuter air carriers that operate passenger service (scheduled or charter) and foreign air carriers that operate passenger service (scheduled or charter) to or from the U.S. 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. This requirement currently exists for U.S. carriers and is new for foreign carriers. 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 U.S. certificated and commuter air carriers that operate scheduled passenger service and foreign air carriers that operate scheduled passenger service to or from the U.S. 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. This requirement currently exists for U.S. carriers and is new for foreign carriers. The Department plans to review the audits to monitor carriers' compliance with their plans and take enforcement action when appropriate.

The third is a currently existing requirement that each reporting air carrier (i.e., U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenues) 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.

The fourth is a requirement that U.S. certificated and commuter air carriers that operate passenger service (scheduled or charter) and foreign air carriers that operate passenger service (scheduled or charter) to or from a U.S. airport using any aircraft with 30 or more seats report on a monthly basis all passenger operations that experience a tarmac time of 3 hours or more at a U.S. airport to the extent such information is not reported under 14 CFR Part 234. This requirement currently exists for the largest U.S. carriers (i.e., U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenues) for their scheduled domestic flights and is new to them with respect to their charter and international flights. The requirement is entirely new for other U.S. carriers and foreign carriers. The Department plans to use this information to determine whether lengthy tarmac delays are or will be a significant problem for consumers.

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 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 issued a Direct Final Rule that amended the date carriers must upload information to the fourth Saturday of each month (75 Fed. Reg. 42599; July 22, 2010).

With respect to the fourth collection of information, the reports shall be made in the form and manner set forth in accounting and reporting directives issued by the Office of Airline Information of the Department's Bureau of Transportation Statistics. That office has specified that the information be provided to them electronically at <http://esubmit.rita.dot.gov>.

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.***

None of the information being required is available through other means.

For the first and second collection of information, covered U.S. carriers are currently required to collect information about ground delays of more than 3 hours and to audit their customer service plans, this rule will extend that obligation to include covered foreign carriers.

With respect to the third information collection, 14 CFR Section 234.11 requires disclosure of on-time performance when requested during the course of reservations or ticketing discussions, transactions, or inquiries. However, the publication of on-time performance on a carrier's website was not previously required. This requirement ensures that consumers making reservations through a carrier's website are also presented with on-time performance information.

With respect to the fourth information collection, 14 CFR Part 234 requires U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenues to report certain "On-Time Flight Performance" data with the Office of Airline Information on a monthly basis. Tarmac delay information that is already reported under Part 234 is not required to be reported

under the new regulation. The new regulation will require these large U.S. carriers to report data about their international flights and charter flights as this information is not currently available. The regulation will also require other U.S. carriers and foreign air carriers to report tarmac delay data.

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 economic 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 cannot determine whether carriers are complying with their plans or whether enforcement action is needed to protect consumers.

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

If the fourth collection regarding collection and submission of tarmac delay data is not conducted, the Department cannot get a complete picture of lengthy tarmac delays in order to obtain a baseline that the Department can use to analyze the issue by carrier, by region/airport, by month, or by the type of flight.

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.***

For the first rule on Enhancing Airline Passenger Protections (EAPP #1), 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 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. The final rule to enhance airline passenger protections (EAPP #1) was issued on December 30, 2010 (74 Fed. Reg. 68983; December 30, 2009).

For the second rule to Enhance Airline Passenger Protections (EAPP #2), notice and public comment were solicited with publication in the Federal Register of a NPRM (75 Fed. Reg. 32318; June 8, 2010). Approximately 2100 comments were received, analyzed and considered when drafting the Final Rule (FR). All of the above-mentioned comments can be found on Regulations.gov under the docket number DOT-OST-2010-0140. Similar to EAPP #1, the comments received were in reference to the NPRM and not to the collection of information.

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)

	Collect and Retain Tarmac Delay Information	Retain Audit of Customer Service Plans	Display Flight Information on Websites	Report Tarmac Delay Data
Total # of Respondents *	61 U.S carriers and 103 foreign carriers	45 U.S. carriers and 88 foreign carriers	9 carriers	61 U.S. carriers and 103 foreign carriers
Frequency **	268 incidents (209 for U.S. carriers; 59 for foreign carriers) per year	1 per year	12 per year 1 set	268 incidents (166 for reporting carriers; 43 for non-reporting U.S. carriers***; 59 for foreign carriers) per year
Burden per Respondent (in minutes)	For U.S. carriers 2 hours per report. For foreign carriers – 18 hours one-time set-up costs plus 4 hours per report.	15	24 hours per carrier (1440 minutes)	half hour per report
Total Annual Burden (in minutes)	150,480 minutes (2,508 hours) total – (418 hours for U.S. carriers; 2,090 for foreign carriers)	1,995 minutes (33.25 hours)	12,960 minutes (216 hours)	8,040 minutes (134 hours)
Total Burden Costs	\$150,756	\$2,294	\$22,032	\$9,246
Grand Total: (annual burden)	2,891.25 hrs (173,475 minutes)			

* The number of U.S. carriers expected to need to retain data on long on-tarmac delays is higher than previously estimated. Before the first rule Enhancing Airline Passenger Protections was issued, it was assumed that carriers which already had plans with tarmac delay limits in place would be able to avoid future long on-tarmac delays of 3 or more hours, and thus would not have to retain any such data. Recent review carrier performance under the existing rule led to revising that assumption and now assuming that all covered carriers might, at some time, need to retain such data.

**Revised to reflect carrier experiences under the existing Rule.

***Note that for continuing costs for reporting carriers are assumed to be minimal, since these carriers are already required to collect and report data to BTS on all departing and arriving flights.

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

Respondents: U.S. carriers that operate passenger service using any aircraft with 30 or more seats, and foreign air carriers that operate passenger service to and from the United States using any aircraft with 30 or more seats (61 U.S. and 103 foreign carriers).

Estimated Annual Burden on Respondents: A maximum of 40 hours (2,400 minutes) per carrier for U.S. respondents and a maximum of 54 hours (3,240 minutes) per year for each foreign respondent. The estimate was calculated multiplying the estimated time to retain information about one ground delay (2 hours) by the total number of ground delay incidents lasting at least three hours per respondent (a maximum of 20 incidents, derived from partial year analysis of on-tarmac delays since the current Rule has been in effect). For foreign respondents, the estimate was similarly calculated by adding the first year set-up time estimates for these carriers of 18 hours to the total of 36 hours (found by multiplying the estimated time to retain information about one ground delay (4 hours) by the total number of ground delay incidents lasting at least three hours per respondent (a maximum of 9 incidents)).

Estimated Total Annual Burden: A maximum of 2508 hours (150,480 minutes) for all respondents. The estimate was calculated by adding the estimate for U.S. carriers to the estimate for foreign carriers. For U.S. carriers, the subtotal was estimated by multiplying the sum of the total per report time (2 hours) for U.S. carriers by the total estimated number of ground delay incidents projected under the rule lasting at least three hours for all U.S. carriers (209 incidents). For foreign carriers the estimate was calculated by adding sum of the estimated first year set-up time of 18 hours times the number of covered foreign carriers (103) to the sum of the per report time of 4 hours for foreign carriers multiplied by the by the total estimated number of ground delay incidents projected under the rule lasting at least three hours for the foreign carriers (59 incidents).

Frequency: A maximum of 20 ground delay information sets to retain per year for a single 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 20 in a given year according to review of data reported to the Bureau of Statistics by the reporting carriers on ground delays to date under the current rule.)

#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: U.S. carriers that operate scheduled passenger service using any aircraft with 30 or more seats, and foreign air carriers that operate scheduled passenger service to and from the United States using any aircraft with 30 or more seats (45) and foreign carriers (88).

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 33.25 hours (1995 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 (45 U.S. carriers and 88 foreign carriers).

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. In addition, 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: 2 hours per month (24 hours) to cover both updates of a carrier's own delay data (as previously required) and updates of code-share delay data (newly required). The estimate was calculated by multiplying the estimated number of hours per respondent for updating the data by \$102.00 (the median hourly wage for computer programmers for scheduled air transportation).

Estimated total annual burden: No more than 216 hours (12,960 minutes) a year for all respondents. The estimate 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: Updating information for each flight listed on website: 12 times per year (1 time per month) for each respondent (for both own carrier delay data and code-share delay data).

4. Requirement that carrier report certain tarmac delay data for tarmac delays exceeding 3 hours to the Department on a monthly basis.

Respondents: U.S. carriers that operate passenger service using any aircraft with 30 or more seats, and foreign air carriers that operate passenger service to and from the United States using any aircraft with 30 or more seats (61 U.S. and 103 foreign carriers).

Estimated Annual Burden on Respondents: 0.5 to 10 hours per U.S. respondent (the latter if 20 on-tarmac delays must be reported) and 0.5 to 4.5 hours per foreign respondent (the latter if 9 on-tarmac delays must be reported).

Estimated Total Annual Burden: 134 hours for all respondents.

Frequency: One information set to submit per incident for each respondent that experiences a tarmac delay of 3 hours or more.

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 \$150,756. This is estimated by summing the costs to U.S. carriers (\$42,636) and the costs to foreign carriers (\$108,120).

For U.S. carriers, the estimate is calculated by multiplying the number of hours to file (2) and the cost of an hour of time for a programmer (wage including benefits and oversight) at \$102.00 per hour.

For foreign carriers, the estimate is calculated by summing a) the product of the sum of the first year set-up costs of 8 hours of programmer's time at \$102.00 (the median hourly wage for computer programmers for scheduled air transportation) and the number of covered carriers (103), and b) the product of number of estimated reports (102) and the number of hours to file (4) and the programmer's time at \$102.00 per hour.

The Department estimates that the total annual cost burden to respondents resulting from the second proposed requirement will be \$2,294. This is calculated using the total time to audit the reports (45 hours) times \$69.00 (the average hourly wage for office and administrative support of \$24.27 plus benefits and associated supervisor/manager review).

The Department estimates that the total annual cost burden to respondents resulting from the third proposed requirement will be \$22,032 a year. This is calculated using an estimate 24 hours to update the data through the year (\$102.00 the median hourly cost for computer programmers for scheduled air transportation) times the number of hours per month to update the data (2) times the number of carriers that needed to comply with the rule (9).

The Department estimates that the total annual burden to respondents resulting from the fourth proposed requirement will be \$9,246 using the total number of delays that may need to be reported (268) multiplied by half an hour and multiplied by \$69.00 (the average hourly wage for office and administrative support of \$24.27 plus benefits and associated supervisor/manager review).

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 changes and adjustments made to this rule because the Department believes it is necessary to protect more passengers from lengthy tarmac delays and to provide certain standards of customer service on flights to and from the United States whether operated by U.S. or foreign carriers. As such, we have extended requirements #1 and #2 to include foreign carriers, as these carriers were not covered by EAPP #1. We also added a requirement in EAPP #2 for covered carriers to report information about tarmac delays of 3 or more hours in order to better determine the causes of tarmac delays and whether lengthy tarmac delays are or will be a significant problem for consumers. (14 CFR 234, 244, 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.