

Department of Transportation

SUPPORTING STATEMENT

ENHANCING AIRLINE PASSENGER PROTECTIONS: REPORTING AND POSTING REQUIREMENTS

OMB Control Number 2105-0561

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) approve clearance for modifications to the information collection entitled, Enhancing Airline Passenger Protections: Reporting and Posting Requirements (OMB Control No. 2105-0561, which is currently due to expire on October 31, 2021).

OMB control number 2105-0561 addresses five information collections: (1) retention of tarmac delay data, (2) adoption and audit of customer service plans, (3) display of on-time performance data on carrier websites, (4) reporting of tarmac delay data, and (5) posting of customer service plans and contracts of carriage on carrier websites. This request is to modify information collections 1 and 4 in the above list, while keeping intact the other information collections that are addressed in OMB control number 2105-0561.

On October 25, 2019, DOT issued a Notice of Proposed Rulemaking (NPRM) entitled, "Tarmac Delay Rule" (84 FR 57370), in which the agency proposed two changes to existing information collection requests that would require U.S. and foreign air carriers to file data and narrative reports regarding lengthy tarmac delays occurring at U.S. airports. By way of the NPRM, the public was notified of a 60-day period to comment on the proposed information collections, and regulated entities supported the changed reporting obligations and the reduction in burdens.

After considering the comments in the NPRM, on May 3, 2021, DOT issued a final rule that includes estimates of the burdens of the information collection requirements that were proposed in the NPRM, with only non-substantive modifications (86 FR 23,260 (May 3, 2021)).

Part A. 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. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.*

The Department's final rule reduces existing information collection requirements while ensuring compliance with a statutory requirement for U.S. carriers to submit a written description of each excessive tarmac delay. Previously, the Department required U.S. and foreign air carriers with a tarmac delay contingency plan to retain specific information related to a tarmac delay for two

years, including, among other information, the length and cause of the delay and an explanation of the actions taken to minimize passenger hardship. Also, under 49 U.S.C. 42301(h), U.S. carriers are required to submit a written description of each excessive tarmac delay, which may include the information required to be retained under 14 CFR 259.4(e). The Department's final rule eliminates the tarmac delay record retention requirement in 14 CFR 259.4(e) and replaces it with a reporting requirement, which would include the same information previously required to be retained under the existing § 259.4(e), and satisfy U.S. carrier obligations under 49 U.S.C. 42301(h).

The information collections further the objectives of 49 U.S.C. § 42301 to prevent and mitigate excessive tarmac delays. They also further 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.

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. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.*

The Department already requires two information collections related to this statement as a result of final rules Enhancing Airline Passenger Protections (EAPP) #1 (74 FR 68983, December 30, 2009) and EAPP #2 (76 FR 23110, April 25, 2011).

Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights) – 14 CFR 244.2 and 244.3

The tarmac delay data reporting requirement applies to U.S. carriers that operate scheduled passenger service or public charter service using any aircraft with a designed seating capacity of 30 or more seats, and foreign air carriers that operate scheduled passenger service to and from the United States using any aircraft with a designed seating capacity of 30 or more seats. Under 14 CFR 244.3, such covered carriers must report all passenger flights that experience an excessive tarmac delay (i.e. those tarmac delays exceeding 3 hours on domestic flights and those exceeding 4 hours on international flights), to the extent information for those flights is not reported by U.S. reporting carriers under another regulation, 14 CFR Part 234. To be covered, the tarmac delay must have occurred at a U.S. large hub, medium hub, small hub or non-hub airport. The information is filed with the Department's Bureau of Transportation Statistics.

The data reporting requirement provides critical information to the Department regarding excessive tarmac delays that occur in the United States and is data which the Department incorporates into the monthly publication *Air Travel Consumer Report*. The information in this report, including a list of tarmac delays that are reported to the Department, enables aviation consumers to make informed decisions about carriers and forms the basis for statistical research. OACP also uses this data for investigation and enforcement purposes, as well as to track and investigate large-scale events involving multiple carriers.

Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h) – 14 CFR 259.2 and 259.4(g)

The narrative reporting requirement applies to U.S. carriers that operate or market scheduled or public charter passenger service using any aircraft with a designed seating capacity of 30 or more seats, and foreign air carriers that operate or market scheduled or public charter passenger service to and from the United States using any aircraft with a designed seating capacity of 30 or more passenger seats. Under the rule, carriers are required to submit to OACP a written description of each flight that experiences an excessive tarmac delay at a U.S. airport. The description must include the name of the carrier, the origin and destination airports, the location of the incident, and an explanation of the incident that includes the cause of the delay, actions to minimize passenger hardship, and the resolution of the incident. Prior to this final rule, U.S. carriers filed reports to OACP with similar information under 49 U.S.C. § 42301(h), and all covered carriers were required to retain tarmac delay information for two years.

This requirement provides OACP qualitative information on excessive tarmac delays that occur in the United States. This information permits OACP to fulfill its mission of investigating and enforcing the Department's tarmac delay requirements, and may promote Departmental efficiency by providing sufficient information for OACP to close cases sooner and to re-allocate Department resources to other matters. With this narrative reporting requirement, carriers no longer are required to retain for two years the tarmac delay information that the rule previously required to be retained. The narrative reporting requirement replaces "Data Retention Requirement – 14 CFR 259.2 and 259.4" that was discussed in prior supporting statements for OMB Control Number 2105-0561.

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, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.*

With respect to the first collection of information ("Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)"), 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>.

With respect to the second collection of information ("Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)"), the Department's Office of Aviation Consumer Protection intends to use an existing online filing system. The filing system is currently used for U.S. carriers to file tarmac delay reports under 49 U.S.C. § 42301(h). This information collection is extended to foreign carriers as a result of this rule. No paper reports are expected.

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 PURPOSES DESCRIBED IN ITEM 2 ABOVE.*

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

information (“Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)”) takes the form of data (in a .csv format) for the use of the Department’s Bureau of Transportation Statistics and is incorporated into the bureau’s database. The requirement reduces duplication, as the revised rule (14 CFR Part 244) clarifies that reports need only be filed for flights that are not already reported under a different regulation, 14 CFR Part 234.

The second collection of information (“Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)”) contains narrative information that is used by the Office of Aviation Consumer Protection for investigative and enforcement purposes. For foreign carriers, this information is not required by other statutes or regulations. For U.S. carriers, this information is required by 49 U.S.C. § 42301(h); however, when a U.S. carrier files a report under the revised regulation, the filing fulfills the reporting requirement under 49 U.S.C. § 42301(h) and no duplicative report is required.

5. Efforts to minimize the burden on small businesses. *IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES, DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.*

This rule will not have a significant economic impact on small entities. Because some small entities may qualify as “covered carriers” under the rule, some small entities are subject to the information collections in this rule. However, between 2012 and 2019 (the time period analyzed for the regulatory impact analysis), small entities experienced a relatively small number of tarmac delays, and they filed a relatively small number of tarmac delay reports as a result. In addition, nearly all tarmac delays experienced by small entities were operated on a fee-for-service basis for large entities. Those large entities are required by 14 CFR part 234 to file on-time performance data, including tarmac delay data, for flights they operate and market, including those operated by small entities. Changes to the reporting requirements in this rule—namely, carriers are no longer required to file data reports for tarmac delays under 14 CFR part 244 if those tarmac delays are already filed under 14 CFR part 234—result in fewer small entities filing tarmac delay reports with the Department, as such reports are already filed by larger entities that are subject to 14 CFR part 234. It is therefore expected that very few small entities will both incur excessive tarmac delays and be required to file reports for such delays in the future.

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 (“Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)”) is not conducted, the Department’s Bureau of Transportation Statistics would have incomplete information related to tarmac delays, which could include a lack of information on any tarmac delays occurring on international flights. This information could also be excluded from *Air Travel Consumer Reports*, which would deprive consumers of critical information regarding tarmac delays.

If the second collection (“Changing Tarmac Delay Record Retention Requirement into a

Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)”) is not conducted, the Office of Aviation Consumer Protection may not learn about a tarmac delay until a consumer complaint is received, if at all. Such complaints, if received, could arrive after critical evidence is lost. (For example, certain air traffic data is discarded after 45 days.) The end result could be that the office is unable to effectively investigate tarmac delay cases, which could lead to greater consumer harm.

If both information collections are not conducted, the Department would not learn about tarmac delays on international flights at all, and unless a consumer complaint is received, no investigation or enforcement would be conducted for such tarmac delays. The Office of Aviation Consumer Protection would fail to fulfill adequately its mission of investigating tarmac delays.

7. Special circumstances. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

- *REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;*

The information collections referenced in this document are required for each instance an excessive tarmac delay occurs. For the collection related to tarmac delay data, a report is required within 15 days of the last day of the month in which the tarmac delay occurs. For the collection related to the written description of a tarmac delay incident, a report is required within 30 days of the incident. To the extent that a carrier does not experience a tarmac delay, neither of the two information collections will be required. The frequency of reports is dependent on the frequency tarmac delays occur with a given carrier.

- *REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;*

The information collection requirement in the final rule related to providing written description of a tarmac delay has been written to be consistent with the statutory requirement for U.S. carriers under 49 U.S.C. 42301(h). The Department requires that the new reports be submitted within 30 days of the date an excessive tarmac delay occurs, which is consistent with the time frame reports are due for U.S. carriers under 49 U.S.C. 42301(h).

For the collection requirement related to tarmac delay data, a report is required within 15 days of the last day of the month in which the tarmac delay occurs. In certain scenarios, a report of tarmac delay data may be required less than 30 days after an excessive tarmac delay occurs. (For example, if an excessive tarmac delay occurs on April 30, a report with data from the delay would be due under 14 CFR 244.3 by May 15.) However, these requirements are longstanding, and carriers have advance notice of these requirements. Delaying the report of data beyond the timeline specified in these requirements could result in missing information on the Bureau of Transportation Statistics website and in the *Air Travel Consumer Report*. Consumers would have access to carrier on-time performance information, including domestic tarmac delays, under 14 CFR Part 234, but they would lack information regarding some international tarmac delays. Information available would be inconsistent and misleading as a result.

- *REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;*

- *REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;*
- *IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;*
- *REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;*
- *THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR*
- *REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.*

The information collections referenced in this document do not contain any of these requirements.

8. Compliance with 5 CFR 1320.8: PROVIDE AN ELECTRONIC COPY AND IDENTIFY THE DATE, VOLUME NUMBER AND PAGE NUMBER OF THE PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE (FOR A 60-DAY AND A 30-DAY NOTICE), REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB.

The Department issued a 60-day PRA notice along with the NPRM, Tarmac Delay Rule, 84 FR 57370 (Oct. 25, 2019). The NPRM is available at this link:

<https://www.govinfo.gov/content/pkg/FR-2019-10-25/pdf/2019-22973.pdf> and the notice is provided on page 57374. A 30-day PRA notice was provided in the final rule, Tarmac Delay Rule, 86 FR 23,260 (May 3, 2021), on page 23267.

Notice and public comment were solicited with publication in the Federal Register of the NPRM in the docket DOT-OST-2019-9144. The Department received 18 comments, which were analyzed and considered for the final rule (FR). The comments received were in reference to the NPRM's substantive proposals, including adjustments to reporting requirements, and did not directly address the cost and hour burdens related to the collection of information.

Commenters generally supported the proposed changes to data reporting requirements. Some commenters also proposed that flights falling under the departure delay exception be excluded from reporting requirements, as they preferred not to have such flights included in the Department's monthly *Air Travel Consumer Report*. They also proposed excluding such flights from the statutory reporting requirement for U.S. carriers under 49 U.S.C. 42301(h). Another commenter believed that non-reporting carriers (those who do not submit reports under 14 CFR

part 234) should be exempt from 14 CFR part 244 reporting requirements entirely, including when a flight is not reported by a reporting carrier. Two other commenters opposed the proposal that international tarmac delays of between 3 and 4 hours in duration no longer needed to be reported under 14 CFR part 244.

The Department was not persuaded that non-reporting carriers should be exempt from the part 244 reporting requirement, as such reports may serve significant value to consumers when they evaluate flight options from smaller, non-reporting carriers, many of which may be less familiar to the traveling public than larger, reporting carriers. The Department found unpersuasive commenters' suggestion that tarmac delays meeting the departure delay exception or another exception be excluded from reporting requirements. The Department noted that the commenters' suggestion would be inconsistent with statutory law and would add subjectivity to the data. The Department also found that the reporting of international tarmac delays of between 3 and 4 hours in duration (i.e. not violations of the law) served limited value to consumers, particularly as they are not published in the *Air Travel Consumer Report*.

Comments from industry were supportive of the proposed change to turn the record retention requirement into a narrative reporting requirement. Several commenters noted that the 30-day timeframe for filing the narrative reports as proposed in the NPRM may be insufficient, particularly when the precise cause of the delay may take longer to determine. The commenters felt that carrier personnel may feel uncomfortable certifying to information that may change after the report is filed, and they asked that the certification statement accompanying the report be qualified to certify to the accuracy of the report at the time the report is submitted. The Department maintained the 30-day timeframe for filing narrative reports, as this period aligns with the reporting requirement in the statute under 49 U.S.C. 42301(h). The Department did make modifications to the certification statement to accommodate commenters' concerns.

Outside of the rulemaking process, the Department's Office of Aviation Consumer Protection regularly meets with regulated entities and other stakeholders to discuss compliance with the Department's aviation consumer protection rules, which has included discussion on tarmac delay reporting requirements. In addition, the Office conducts training to regulated entities on tarmac delay requirements. For example, in August 2017 and March 2018, the office held training sessions for representatives of regulated entities on the tarmac delay requirements, including reporting requirements. Meetings and training sessions such as these have presented an opportunity for regulated entities to provide input on the reporting requirements.

9. Payments or gifts to respondents. EXPLAIN ANY DECISION TO PROVIDE A PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN ENUMERATION 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.

The information collections referenced in this document do not contain any questions of this nature.

12. Estimate of burden hours for information requested: *PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:*

- *INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSES, CALCULATION FOR THE INDIVIDUAL BURDENS AND FOR THE TOTAL ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED.*
- *PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOURLY BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES.*

- **Table 1: Data for Collection of Information, Tarmac Delay Rule** (OMB Control Number 2105-0561): Requirements 1 and 2 (Rounded to the nearest dollar)

	Reporting Tarmac Delay Data to BTS	Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement
Total # of Respondents	61 U.S carriers and 70 foreign carriers	61 U.S. carriers and 70 foreign carriers
Frequency	27 average annual incidents per BTS data from CY 2012 to 2019 (13 by U.S. carriers and 14 by foreign carriers)	150 average annual incidents per BTS data from CY 2012 to 2019 (134 by U.S. carriers and 14 by foreign carriers)
Burden per Respondent	For U.S. and foreign carriers, .5 hours per report	For U.S. carriers, 2 hours per report and for foreign carriers, 4 hours per report
Total Annual Burden (in minutes and hours)	13.5 hours total ¹	324 hours total
Total Burden Costs (Salary)	\$421.00	\$10,093.00

1. *Title:* Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)

Number of Respondents: 61 U.S. and 70 foreign carriers (estimated).

Frequency of Responses: The frequency of responses is dependent on whether a reportable

¹ The Department has rounded this number to 14 hours for purposes of entering the data into ROCIS.

incident occurs. If a reportable incident occurs, the report would be due the 15th day of the month following the month of the incident. Based on BTS data submitted between 2012 to 2019, the rule's requirements would result in each U.S. air carrier filing 0 to 18 reports annually under 14 CFR Part 244, and each foreign air carrier filing 0 to 7 reports annually under 14 CFR Part 244, which reflects the highest number of reportable tarmac delays on international flights experienced in a year by carriers during that period.

Estimated Annual Burden on Respondents: Based on data submitted by airlines to BTS from 2012 to 2019, the final rule results in an average of 27 tarmac delays on international flights to be reported in a given year. At 30 minutes of burden per report filed, the rule would result in a burden of between 0.0 hours and 9.0 hours for each U.S. carrier, and between 0.0 and 3.5 hours for each foreign air carrier.

Estimated Total Annual Burden: This rule would result in an estimated 27 reports filed under 14 CFR Part 244 each year, with a total annual burden of 13.5 hours (calculated by multiplying 27 total reports x .5 hours per U.S. or foreign carrier to file a report).

Regarding the salary costs, the Department estimates that the total annual burden of the first information collection ("Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)") will be \$421.00 (\$420.53 rounded up). This number is based on the total number of burden hours expected by this information collection (13.5) multiplied by \$31.15 (the median hourly wage plus benefits for legal secretaries and administrative assistants).²

2. *Title:* Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)

Number of Respondents: 61 U.S. air carriers and 70 foreign air carriers (estimated).

Frequency of Responses: Based on reports submitted by carriers to BTS between 2012 and 2019, the Department expects an average of 150 reportable tarmac delays to occur in a given year, with an average of 134 delays on flights operated by U.S. air carriers and an average of 14 delays on flights operated by foreign air carriers.³

Estimated Annual Burden on Respondents: The Department expects that the burden on carriers to file descriptive tarmac delay reports is 2 hours per report for U.S. carriers and 4 hours per report for foreign carriers. (A higher number of burden hours is estimated for foreign carriers, as such carriers may have limited staff in the United States, which may cause delays in investigating incidents and preparing information for submission.) The expected burden per U.S. carrier is between 0 and 84 reports per year, and the expected burden per foreign carrier is between 0 and 7 reports per year (based on the highest annual number of tarmac delays experienced by a single U.S. and foreign carrier between 2012 and 2019), or 0.0 to 168.0 hours of burden per U.S. carrier and 0.0 to 28.0 hours of burden per foreign carrier.

² The median hourly wage for legal secretaries and administrative assistants is estimated at \$22.74 (see <https://www.bls.gov/oes/current/oes436012.htm>). We add 37 percent for benefits to estimate total hourly compensation of \$31.15.

³ Due to rounding, the average number of annual tarmac delays by U.S. and foreign carriers does not add up to the total average number of annual tarmac delays (150).

Estimated Total Annual Burden: This information collection would result in an estimated annual burden of 134 reports for U.S. carriers and 14 reports for foreign carriers, or a total of 324 hours (134 reports x 2 hours per report for U.S. carriers, and 14 reports x 4 hours per report for foreign carriers).

Regarding the salary costs, the Department estimates that the total annual burden of the second information collection (“Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)”) will be \$10,093.00. This number is based on the total number of burden hours expected by this information collection (324 hours total) multiplied by \$31.15 (the median hourly wage plus benefits for legal secretaries and administrative assistants). The total cost to foreign carriers is estimated to be \$1,744.40 (14 narrative reports x 4 hours each x \$31.15) and the total cost to US carriers is estimated to be \$8,348.20 (134 narrative reports x 2 hours each x \$31.15).

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.*

There are no costs to respondents from this collection.

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 resulting from these information collections. The information collections will use existing government infrastructure that is already used for other collections that are not the subject of this supporting statement.

15. Explanation of program changes or adjustments. *EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14.*

These information collections include program changes that reduce the burden on carriers. Under this final rule, the Department eliminated the requirement that tarmac delay reports be filed under 14 CFR Part 244 for international tarmac delays of between 3 and 4 hours in duration. Also, the final rule states reports for tarmac delays on scheduled domestic passenger flights no longer needed to be reported under 14 CFR Part 244, provided that such flights are reported under 14 CFR Part 234. Instead, reports are now only required under this information collection if (1) the tarmac delay exceeds 3 hours for domestic flights or 4 hours for international flights, and (2) the tarmac delay is not already reported by the U.S. carrier under a different regulation (14 CFR Part 234).

Further, under the final rule, carriers no longer need to retain for two years the records related to these tarmac delays. Instead, carriers are required to file a report with a written description of the tarmac delay incident to the Department’s Office of Aviation Consumer Protection. Because U.S. carriers already file such reports pursuant to 49 U.S.C. 42301(h), U.S. carriers do not encounter any additional reporting burdens under the rule’s changes to 14 CFR 259.4, and would experience a net burden decrease as a result of the proposed elimination of the record retention requirement. For purposes of calculating total burdens, the Department has decided to incorporate the U.S. carrier reporting burden under 49 U.S.C. 42301(h) into this information

collection, thereby combining the burden calculation for both U.S. and foreign carrier narrative reports under this rule. U.S. carriers file narrative reports for the 134 average annual tarmac delays they experience, while the 14 average annual tarmac delays operated by foreign air carriers would result in new reports being filed under 14 CFR 259.4. These reports replace the record retention that was required of carriers prior to this final rule.

16. Publication of results of data collection. *FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL 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.*

Data collected under the first information collection (“Reporting Tarmac Delay Data to BTS for Tarmac Delays Exceeding 3 Hours (for Domestic Flights) and 4 Hours (for International Flights)”) is published on BTS’ website and in the Department’s monthly *Air Travel Consumer Report*. Data is typically placed into a table of tarmac delays, and presented in the report which is published approximately 1-2 months after the data is submitted.

Reports collected under the second information collection (“Changing Tarmac Delay Record Retention Requirement into a Narrative Reporting Requirement That Complies with 49 U.S.C. 42301(h)”) are used for investigative purposes and are not published.

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 COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.*

Not applicable.

18. Exceptions to certification statement. *EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.*

Not applicable.