

Department of Transportation Office of the Chief Information Officer

SUPPORTING STATEMENT:

SUBMISSION OF TARMAC DELAY EMERGENCY CONTINGENCY PLANS PURSUANT TO FAA MODERNIZATION AND REFORM ACT

OMB Control Number 2105-0566

INTRODUCTION AND BACKGROUND

This is a request for OMB reinstatement of control number 2105-0566.

The FAA Modernization and Reform Act (Act), which was signed into law on February 14, 2012, requires U.S. carriers that operate scheduled passenger service or public charter service using any aircraft with a design capacity of 30 or more seats, and operators of large hub, medium hub, small hub, or non-hub U.S. airports, to submit emergency contingency plans for lengthy tarmac delays to the U.S. Department of Transportation's (Department) Office of the Secretary for review and approval. In addition to requiring the initial submission of emergency contingency plans, the Act requires U.S. air carriers to submit an updated plan every 3 years and U.S. airport operators to submit an updated plan every 5 years. The Act further requires each covered carrier and airport to ensure public access to its plan after the Department's approval by posting the plan on its website.

On June 2, 2015, the Department published a 60-day FR Notice to renew/reinstate the OMB control number (80 FR 31455) and on June 17, 2016, a 30-day FR notice was published (81 FR 39750). On February 23, 2017, OMB reinstated the OMB control number, which expired on February 29, 2020. The Department is seeking to reinstate the OMB control number.¹ A FR Notice with a 60-day comment period was published on February 12, 2024.

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.***

These information collection requirements are specifically required by statute and are not being imposed as an exercise of the Department's discretion.

¹ We note that the information collection requirements are specifically required by statute and are not imposed as an exercise of the Department's discretion.

Specifically, the FAA Modernization and Reform Act (the “Act”), which was signed into law on February 14, 2012, required U.S. air carriers that operate scheduled passenger service or public charter service using any aircraft with a design capacity of 30 or more seats, and operators of large hub, medium hub, small hub, or non-hub U.S. airports to submit contingency plans for lengthy tarmac delays to the Secretary of Transportation for review and approval no later than May 14, 2012.

In addition to requiring the initial submission of emergency contingency plans, the Act requires U.S. air carriers to submit an updated plan every 3 years and airport operators to submit an updated plan every 5 years.

The Act also requires each covered air carrier and airport to ensure public access to its plan after the Department’s approval by posting the plan on its website.

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 contingency plans provide information to the Department and the public regarding covered carriers’ and airports’ roles and responsibilities as related to lengthy tarmac delays.

More specifically, each covered carrier must adopt/have a Contingency Plan for Lengthy Tarmac Delays for its scheduled and public charter flights at each U.S. large hub airport, medium hub airport, small hub airport, and non-hub airport at which it operates or markets such air service and shall adhere to its plan's terms. Each Contingency Plan for Lengthy Tarmac Delays must include, at a minimum, the following information:²

- A provision that a passenger shall have the option to deplane an aircraft when there is an excessive tarmac delay (three hours for domestic flights and four hours for international flights) with the following exceptions:
 - For departing flights, when the flight begins to return to a suitable disembarkation point no later than three hours (for domestic flights) or four hours (for international flights) after the main aircraft door is closed in order to deplane passengers. If the aircraft is in an area that is not under the carrier’s control, the aircraft has begun to return to a suitable disembarkation point when a request is made to the Federal Aviation Administration control tower, airport authority, or other relevant authority directing the aircraft’s operations. If the aircraft is in an area that is under the carrier’s control, the aircraft has begun to return to a suitable disembarkation point when the pilot begins maneuvering the aircraft to a suitable disembarkation point;

² Each covered carrier’s updated Contingency Plan for Lengthy Tarmac Delays must comply with both the requirements of section 42301(d)(1) and the Department’s tarmac delay rule in 14 CFR Part 259, as amended in 2021. The amendments do not change the ICRs or burden calculations associated with this OMB control number.

- The pilot-in-command determines that deplaning passengers at a suitable disembarkation point would jeopardize passenger safety or security, or there is a safety related or security related reason why the aircraft cannot leave its position on the tarmac to deplane passengers; or
- Air traffic control advises the pilot-in-command that returning to a suitable disembarkation point to deplane passengers would significantly disrupt airport operations.
- Provisions that the carrier will provide:
 - Adequate food and potable water no later than two hours after the start of the tarmac delay, unless the pilot-in-command determines that safety or security considerations preclude such service; and
 - Operable lavatory facilities, as well as adequate medical attention if needed, during a tarmac delay.
 - Notification to passengers on board the aircraft during a tarmac delay regarding the status of the delay when the tarmac delay exceeds 30 minutes for all flights; and that passengers have the opportunity to deplane each time the opportunity to deplane exists at a suitable disembarkation point for all departing flights and diversions.
- An assurance that the carrier has sufficient resources to implement its Contingency Plan for Lengthy Tarmac Delays.
- A description of how the carrier will share facilities and make gates available at the airport in an emergency.
- Assurances that the Contingency Plan for Lengthy Tarmac Delays has been coordinated with airport authorities (including terminal facility operators where applicable), U.S. Customs and Border Protection and the Transportation Security Administration at each U.S. large hub airport, medium hub airport, small hub airport and non-hub airport that the carriers serve, as well as their regular U.S. diversion airports.

Airport contingency plans must contain a description of how the airport operator, to the maximum extent practicable, will do the following: (1) provide for the deplanement of passengers following excessive tarmac delays; (2) provide for the sharing of facilities and make gates available at the airport in an emergency; and (3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared U.S. Customs and Border Protection.

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.**

The Department's Office of Aviation Consumer Protection (OACP) is the office responsible for reviewing the submitted plans and has an online system allowing covered U.S. air carriers and U.S. airports to submit plans online.³ Covered U.S. air carriers and airports must also post their respective plans on their own website if they have one.

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.**

Not applicable. The information collection requirements are specifically required by statute and are not being imposed as an exercise of the Department's discretion. The Department is not adding to the statutorily-required collection.

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.**

The statutory information collection requirement is not expected to have a significant economic impact on a substantial number of small entities. The Department has also minimized the costs to covered entities by establishing a simple online system for submitting statutorily required data.

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.**

The information collection requirements are specifically required by statute and are not being imposed as an exercise of the Department's discretion. If the collection is not conducted, covered carriers and airports will be in violation of the statutory requirements, as would the Department.

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**

³ OACP is modernizing its online consumer complaints database to provide a more efficient means for air carriers and airports to submit their plans. Should the submission process change prior to the date plans are due, OACP will give covered entities advance notice of the revised procedure for plan submission.

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

The requirements related to this collection of information are statutorily imposed. However, the Department published a 60-day notice in the Federal Register requesting public comment on the requirement on February 21, 2024 (89 FR 9906), and a 30-day notice on June 17, 2024 (89 FR 51385). No comments were received on the 60-day notice.

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 statute.

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 statute.

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.***

For each of these information collections, the title, a description of the respondents, and an estimate of the annual recordkeeping and periodic reporting burden are set forth below:

1. Requirement to submit tarmac delay contingency plan to the Department for review and approval.

Title: Filing of Tarmac Delay Contingency Plan with the Department

Respondents: Each large, medium, small and non-hub airport in the U.S.; U.S. carriers that operate scheduled passenger service or public charter service using any aircraft with a design capacity of 30 or more seats.

Estimated Number of Respondents: 391 U.S. airports⁴ and 76 U.S. airlines⁵

Frequency: Every 5 years for covered U.S. airports; every 3 years for covered U.S. airlines

Estimated Total Burden on Respondents:

For U.S. airports—195.5 hours (391 existing airports x .5 hours = 195.5 hours). This estimate is based on the following facts/assumptions: Tarmac delay plans for submission are general in nature and do not consist of extensive airport-specific customization. Airport associations prepared templates for use by U.S. airports which require very little additional information to be customized for individual airports and have been the templates for most of the airport plans submitted. For U.S. airports that have already prepared and submitted a plan and will continue to be subject to this requirement, they will need to review and update the plan through the Department's electronic submission system. We estimate .5 hour for these 391 airports to review, update, and submit the plan through the Department's electronic submission system.⁶

For U.S. airlines—54.5 hours [(65 existing carriers x .5 hours = 32.5 hours) + (11 new carrier x 2 hours = 22 hours) = 54.5 hours]. Although airlines often choose to prepare more detailed plans for internal use, airline plans for submission generally are not very detailed and provide only the level of information required to meet the statutory requirement. In addition, currently operating U.S. carriers are already required to have such plans in place as this is a continuing requirement and the statute has been in place since 2012. Therefore, we estimate that the 65 covered U.S. carriers will spend .5 hour to review, update, and submit the plan through the Department's electronic submission system. For the 11 carriers that had not prepared and submitted a plan to meet the requirement in 2017, we estimate 2 hours to review and prepare the templates, and to submit the plan through the Department's electronic submission system.⁷

2. Requirement to ensure public access to tarmac delay plan after the Department's approval (as required by the Act).

Title: Posting of Tarmac Delay Contingency Plan on Websites

⁴ Based on FAA CY22 information, there are 31 large, 33 medium, 73 small, and 254 non-hub covered airports. See, <https://www.faa.gov/sites/faa.gov/files/2023-09/cy22-commercial-service-enplanements.pdf>.

⁵ The number of covered airlines was calculated using current data provided to OACP by the Bureau of Transportation Statistics (BTS).

⁶ The total number of airports required to submit plans has decreased from 401 to 391 (-10 airports). The burden is calculated with the assumption that no new airports need to submit a plan. However, if there are any new airports that are required to submit a plan, the burden estimate for such an airport would be two hours.

⁷ Based on CY 2022 information provided by the Bureau of Transportation Statistics (BTS), the number of covered carriers that must submit plans increased from 65 to 76 (+11 carriers). As such, the estimated burden for U.S. carriers has slightly increased.

Respondents: Each large, medium, small and non-hub airport in the U.S.; U.S. carriers that operate scheduled passenger service or public charter service operating to or from the United States, using any aircraft with a design capacity of 30 or more seats.

Estimated Number of Respondents: 391 U.S. airports and 76 U.S. airlines

Estimated Total Frequency: Every 5 years for covered U.S. airports; every 3 years for covered U.S. airlines (if not already posted or if there are updates).

Burden on Respondents: 116.75 hours [(391 airports x .25 hours = 97.75 hours) + (76 airlines x .25 hours = 19 hours) = 116.75 hours]. We estimate that the time to upload a plan to a website is 15 minutes as covered U.S. carriers and airports are already required to have such plans in place and plans are generally short and do not take long to upload.

13. Estimate of total costs to respondents. *Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.*

The Department estimates that the total estimated cost burden to respondents resulting from the requirement to prepare and submit tarmac delay plans to the Department for review and approval will be \$10,352.51. This is estimated by summing the costs to U.S. airports (\$8,095.66) and the costs to U.S. carriers (\$2,256.85).

For U.S. airports, the estimate is calculated by multiplying the number of hours for the 391 airports to update a plan that they filed in the past [.5 x 391 = 195.5 hours] by the cost of an hour of time for a paralegal (wage including benefits and oversight) at \$41.41 per hour (the median hourly wage for paralegals).⁸

For U.S. Carriers, the estimate is calculated by multiplying the number of hours for the 11 U.S. newly reporting airlines [2 x 11 = 22] and the 65 U.S. carriers updating a plan that they filed in the past [.5 x 65 = 32.5]) to prepare and submit the plan through the electronic submission system by the cost of an hour of time for a paralegal (wage including benefits and oversight) at \$41.41 per hour (the median hourly wage with benefits for paralegals).

The Department estimates that the total cost burden to respondents resulting from the requirement that each covered carrier and airport ensures public access to its plan after the Department's approval by posting the plan on its website will be \$7,253.68. This is estimated by summing the costs to the U.S. carriers (\$1,180.47) and the costs to U.S. airports (\$6,073.21).

⁸ The average base wage is \$31.95. See, <https://www.bls.gov/oes/current/oes232011.htm#nat>. We account for benefits by multiplying wage rate by 29.6% See, <https://www.bls.gov/news.release/pdf/ecec.pdf>. (March 2023 BLS Employer Costs for Employee Compensation ratio of total compensation to wages & salaries).

The estimate is calculated by multiplying the number of hours for the 76 U.S. carriers [$.25 \times 76 = 19$] and U.S. airports [$.25 \times 391 = 97.75$] necessary to submit the plan through the electronic submission system by the cost of an hour of time for a programmer (wage including benefits and oversight) at \$62.13 per hour (the median hourly wage with benefits for computer programmers).⁹

Note: The requirements to file and publish a plan are based on a three-year cycle for U.S. air carriers and a five-year cycle for U.S. airports. Occasionally, there may be a new entrant to the market that files a plan off cycle, but that action does not alter the burden estimate.

14. Estimate of cost to the Federal government. *Provide estimates of annualized cost to the Federal Government.*

OACP set-up an online system for plan submission in 2012 and there are nominal costs associated with the plan submission process. OACP is modernizing its electronic database to include an updated means for tarmac delay plan submissions, but costs related to tarmac delay plan submissions are nominal and OACP personnel review these plans as part of their regular job description.¹⁰

15. Explanation of program changes or adjustments. *Explain the reasons for any program changes or adjustments reported.*

On May 3, 2021, the Department amended the tarmac delay plan rule. The amended rule does not change the burden hours related to submitting the tarmac delay plans or posting the plans on an entity's website. The burden amount is slightly adjusted as there are 10 less covered airports and 11 new covered carriers subject to the current requirements, and wage rates have been updated.

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.*

We are not planning on publishing or posting the submitted tarmac delay plans, as the airlines and airports are required by statute to post the approved plans on their websites.

⁹ The average base wage is \$47.94. See, <https://www.bls.gov/ooh/computer-and-information-technology/computer-programmers.htm>. We account for benefits by multiplying wage rate by 29.6% See, <https://www.bls.gov/news.release/pdf/ecec.pdf>. (based on the March 2023 BLS Employer Costs for Employee Compensation ratio of total compensation to wages & salaries).

¹⁰ The primary costs for the database modernization project are related to updating the process for consumer complaint submissions and costs associated with OACP personnel having access to the new database. Those costs will be addressed in a separate SS associated with OMB Control Number 2105-0568.

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.