

**DOT Response to Comments from A4A and IATA
Regarding
DOT Notice Seeking Reinstatement of OMB Approval for Information Collection**

Background

On August 31, 2013, the OMB control number for the following four information collection requirements expired:

- (1) requirement to retain for two years information about any tarmac delay that lasts at least three hours (259.2 and 259.4);
- (2) requirement that certain U.S. and foreign air carriers retain for two years the results of annual self-audit of compliance with customer service plan (259.2 and 259.5);
- (3) requirement that each large U.S. carriers display on its web site the on-time performance of flights (234.11); and
- (4) requirement that certain carriers report tarmac delays data for tarmac delays exceeding 3 hours to the Department monthly (244.2).

On May 22, 2017, DOT issued a 60-day FR notice seeking to renew the information collections, adding one ICR requiring covered carriers to post customer service plans and contracts of carriage on their respective websites, and asking for public comment. DOT received one comment on the notice from Airport Council International strongly supporting the renewal of the control number. On November 16, 2017, DOT issued a 30-day FR notice announcing its intention to reinstate an OMB control number for the information collection. On December 18, 2017, A4A and IATA submitted comments on the information collection requesting that OMB not clear these information collection requests.

A4A/IATA Arguments

1. PRA Burden Calculations

- A4A/IATA state that the burden calculation is understated and does not accurately reflect the true scope of the collection.
- DOT Response: The overall burden costs/hours shown in the 2017 notice are low because all but one covered carrier had already incurred the initial costs and time to set up the systems needed for the information collections.¹ The costs/hours in 2017 are generally recurrent costs to maintain these systems, which is much lower. See attached chart for details.

2. Enforcement Efforts

- A4A/IATA state that DOT should rescind any enforcement action taken based on information supplied during a lapse in authority to collect the information, and should return any funds collected.

¹ We estimate that one carrier will incur set-up costs/time to report certain data. The specifics are explained more fully in the supporting statement associated with this PRA package.

- DOT Response: There are three cases where DOT inadvertently took enforcement action after the OMB control number expired (totaling \$65,000). Staff members have been instructed not to pursue cases involving potential violations of the rule until there is a valid OMB control number. Airlines could also have raised the lack of an OMB control number as a defense which they did not do. These enforcement cases are now closed.

3. Redundant Rules

- A4A/IATA state that we have redundant rules that should be eliminated to reduce the burden on carriers.
- DOT response: This is not the proper place to address requirements that A4A or IATA believe should be repealed. In response to the President's direction in Executive Orders (E.O.) 13771, E.O. 13777, and E.O. 13783, as well as other legal authorities, the Department published a Notice of Regulatory Review in the Federal Register on October 2, 2017, inviting public comment on existing rules and other agency actions that are good candidates for repeal, replacement, suspension, or modification.² The Department received comments from a number of interested stakeholders including airline associations such as A4A and IATA. The DOT is determining through that process the rulemakings that should be repealed, replaced, suspended or modified.

OIRA Notice of Action

OIRA's Notice of Action dated August 24, 2011 required that DOT meet with BTS to discuss statistical methods related to Part 244 reporting prior to submission of this collection. OIRA's Notice of Action also states that BTS should revise its Part 244 Directive to include Paperwork Reduction Act Information and the OMB control number associated with the collection.

DOT's Response: We discussed the issue of statistical methods related to Part 244 with BTS. They have assured us that no statistical methods are employed for this collection. BTS receives flight specific information from the airlines regarding **all** tarmac delays of more than 3 hours. The Supporting Statement Part B which is referenced in OIRA's Notice of Action is not needed here since we are not using statistical methods such as sampling, imputation, or statistical estimation techniques to generalize results.

BTS has revised its Part 244 Directive to include Paperwork Reduction Act Information and does not plan to issue the revised directive until the OMB Control Number is reinstated.

² 82 Fed. Reg. 45750 (Oct. 2, 2017).