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OUTLOOK FOR SUMMER AIR TRAVEL: ADDRESSING CONGESTION AND DELAY

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JULY 15, 2008

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CONTENTS

WITNESSES

APPENDIX

OUTLOOK FOR SUMMER AIR TRAVEL: ADDRESSING CONGESTION AND DELAY

TUESDAY, JULY 15, 2008

U.S. SENATE,
SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:03 a.m. in room SR–253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Well, we're meant to have eight in attendance, and they are coming, I do sorely hope.

Aviation and all of its glories. The summer travel season has actually gone relatively smoothly, thus far. For those for whom it has not gone smoothly, they will not agree with that statement. But, relative to what might be, the weather has generally cooperated. The navigation infrastructure improvements the FAA has brought online last year, and capping flights at New York's three regional airports, appears to have made an impact on preventing the extraordinary delays that passengers experienced last summer.

Now, these improvements have saved us from a worse summer, but far too many planes still are delayed. I've not been in my office this morning, but I know three people are going to start screaming at me, as soon as I get there, because of delays. Far too many flights are being cancelled. Far too many passengers are still being inconvenienced.

I met, recently, with the Chief Executive Officer of a major airline—U.S.—and he stated that the exploding cost of fuel, which is about 40 percent of the cost of everything they do, has created a serious and immediate crisis in the industry. However—and this is interesting—he still believes that our aging antiquated air traffic control system remains the single biggest threat to the Nation's—to the industry's long-term viability, and, I would add, to our Nation's ability to compete globally. Mongolia, as I like to say, is ahead of us on this count. And—have that as you will.

The current price of fuel threatens the future of a number of airlines. During the Senate debate over the FAA bill, I gave an absolutely brilliant speech, which nobody paid any attention to. But I did, and I enjoyed it, and it—well, I didn't enjoy it, because it was a dreadful thing to have to do. And it was a speech on the weak-

ened financial state of the airline industry. And what I said then is much worse now.

So, the airlines are cutting jobs, they're reducing capacity and adding a host of new fees to manage their current financial crises. Not all are, but most are. I believe that our commercial aviation system is teetering, to be quite honest, on the brink of collapse.

We hear that in Washington, and don't pay much attention, because everything's always about to collapse. But, an aviation system which is losing money and having to do things which are cutting consumers' capacities to board the airlines, and then all of this in the middle of a national recession, is not good.

The changes in the industry are going to be painful for the airlines. They're going to be painful to their employees, and they're going to be painful for the communities that they serve, particularly the ones in small states, such as West Virginia, which I represent. All of us are going to be affected at some level.

When the current crisis abates—and I believe it will, in time; I say that without knowledge, but I say that if you're not optimistic in life, you don't get anywhere, so I just make that statement: it's going to abate—the challenges and issues we face in modernizing our air traffic control system, if all of these other matters abate, that will still be there.

That will still be there. Despite the recent economic downturn, the number of airline passengers will continue to grow. The air taxi industry will continue to expand, and more business jets will compete for the same limited airspace.

We all know that the current air traffic control system cannot meet current, much less future, demand. I talk about this endlessly, and I will talk about it forever, until it's fixed.

And although air travelers have every reason to be unhappy with significant delays when traveling, we have to be honest, and we have to tell them that there aren't any easy solutions, and certainly not quick ones.

We must recognize that unless we invest in our air traffic control system, which we are probably going to do, although not this year, but when we do our authorization, probably next year, which is a story in itself, our airports can adopt policies that allow for economically viable airlines, the situation's going to get worse, a whole lot worse, before it gets better. When we take up the reauthorization of the FAA again, in all likelihood next year, Congress will again be faced with the challenge of finding a way to pay for the billions in air traffic control infrastructure that the system needs. This change will remain—the need for this change.

This hearing is going to provide the Subcommittee the ability to assess the effectiveness of the policies that FAA has put in place to address congestion and airline delays this summer. And they have made some progress.

The hearing will also give us an opportunity to explore how the changes in the airline industry will affect congestion delays, how pieces of the country and airports—how they interact with each other. I have very specific questions on that. And all of this, in both the near and the long term.

Despite the first weeks of summer air travel season is going, as I indicated, relatively well, with some exceptions, we cannot guar-

antee that the weather will hold—it doesn't totally appear to me that it has held, but that it will stay at least as good as it is—or some other event will not create havoc in the skies creating massive disruptions for airlines and their passengers.

But, every time the aviation system collapses under the strains of weather or equipment failures, it's another dramatic and painful reminder of how much work we have to do to make sure our Nation has a modern air traffic control system capable of meeting our future needs.

Those are my comments. And when Senator Stevens arrives, which he will, I will ask for some comments from him.

But, I seem to be having my own hearing, here, and I'm going to enjoy it.

[Laughter.]

Senator ROCKEFELLER. Mr. Krakowski, I think that many passengers become frustrated——

Ah, Senator Stevens. We cannot proceed without an opening statement from you, sir. Comments, ruminations, we accept anything.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Have you finished?

Senator ROCKEFELLER. I have.

Senator STEVENS. I missed that statement? Good morning. I'm sorry to be late. I'll just ask that you put my statement in the record as though read, and we will proceed with the witnesses.

Senator ROCKEFELLER. Well, that's disappointing, but I will obey your wishes.

[Laughter.]

Senator STEVENS. Thank you.

[The prepared statement of Senator Stevens follows:]

PREPARED STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Thank you, Senator Rockefeller, for holding today's hearing. The summer travel season last year was certainly difficult for both the airlines and their passengers, and the airline delays and cancellations experienced so far this year have impacted the travel schedules of many travelers.

This coupled with the announced airline capacity reductions and workforce reductions, has made for a very difficult summer and the situation does not look any brighter for the rest of the year.

While most of the traveling public has become tolerant of modest flight delays, government agencies and the airlines need to take note of the lessons learned from previous summers. I recognize delays will never be avoided altogether, but how we deal with them and track them can certainly be improved.

I understand the frustration felt as a result of airline delays and cancellations. When I travel to Alaska, on average, the flight time to transit from Washington D.C. to Anchorage, can take almost 10 hours and that doesn't include additional time due to flight delays.

With the financial state of the airline industry, rising fuel costs, and a downturn in the economy, the Government and the airlines are faced with the near impossible challenge of coping with those factors while at the same time developing and implementing a modern air traffic control system to reduce delay and congestion.

The Department of Transportation, the Federal Aviation Administration, and Congress are in an opportune position to significantly modernize our antiquated air traffic control system and should make every effort to take advantage of that opportunity. Coordination between the government and industry on this effort is essential.

Our Nation also is confronted with a troubling energy crisis as well. The cost of airline operations are increasing due to rising fuel costs, which has the greatest impact on rural states like Alaska. The industry is going to have to restructure itself in order to become solvent, and it is important it is done quickly.

The time is now to confront our energy needs and an essential component of that solution is producing and utilizing our domestic oil and gas reserves to increase supply. The effect of utilizing domestic oil and gas reserves will go a long way toward bringing fuel prices down and creating a more stable aviation transportation system.

I look forward to hearing from the witnesses on this issue and working with my colleagues and the industry to construct solutions to this problem.

Senator ROCKEFELLER. I was just going to ask Mr. Krakowski the—and I should identify each of these folks. And Hank Krakowski is the Chief Operating Officer of the Air Traffic Organization, Federal Aviation Administration; Mr. Tyler Duvall, Acting Under Secretary of Transportation for Policy, U.S. Department of Transportation; Ms. Susan Fleming, Director of Physical Infrastructure, Government Accountability Office—I envy you, not; Mr. John Meenan—and there was a question as to whether you were going to be here.

Mr. MEENAN. Not from me, Mr. Chairman.

Senator ROCKEFELLER. Is that right? OK. Well, anyway, you're here, and I'm glad. And you're the Executive Vice President and Chief Operating Officer of the Air Transportation Association, so it was important that you do be here.

Mr. Krakowski, this is about delay. I want to understand it, and I want to help you understand—the Committee as a whole before you here, to help us understand how this works.

I think many passengers become frustrated when they see clear weather outside and cannot understand why their flight is delayed because of weather or air traffic control problems. I'd like you to walk me and other members of this Committee through how the National Airspace System, NAS, is affected by, say, severe weather in Chicago or New York. Please describe what actions FAA takes when weather or other events force you to stop traffic into an airport, or greatly reduce the operations at an airport. I want the Committee to know how problems in one region of the country can cascade into systemwide delays, how all of this system sort of operates together—O'Hare, LaGuardia, Peterborough, Newark, the whole—Atlanta, everything. And please describe how FAA begins to get the system again running smoothly after the weather has passed.

And then, Mr. Meenan, I'd like to have you, sir, add your thoughts on whether the airlines are generally pleased with how FAA handles delays.

So, just take us through and do this interconnection of airports and the special problem in the Northeast and the rest of it. Just have at it.

STATEMENT OF HENRY P. "HANK" KRAKOWSKI, CHIEF OPERATING OFFICER, AIR TRAFFIC ORGANIZATION, FEDERAL AVIATION ADMINISTRATION; ACCOMPANIED BY HON. TYLER D. DUVALL, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY AND ACTING UNDER SECRETARY FOR POLICY, DEPARTMENT OF TRANSPORTATION

Mr. KRAKOWSKI. OK, thank you, Mr. Chairman. Senator Stevens, good to see you.

I will also come from the context of actually being——

Senator ROCKEFELLER. Oh, yes. I made a rather large mistake. I have no right to ask questions until you have given statements. And so, Mr. Krakowski, will you so do?

Mr. KRAKOWSKI. Would you like me to read the whole statement, or submit——

Senator ROCKEFELLER. No, not particularly.

[Laughter.]

Mr. KRAKOWSKI. OK.

Senator ROCKEFELLER. But, because of the question that you were about to answer, I have to assume your mind is so concise and so ordered that you can boil it down to a nice 5 minutes.

Mr. KRAKOWSKI. Very good. OK.

With me today is Tyler Duvall, the Department of Transportation Acting Under Secretary for Policy. He will be available to answer questions relative to consumer issues and slots at congested airports. I'll stay more on the operational side, which is what I do.

I'd like to start with something Bobby Sturgell said to our people. This 4th of July, we saw a 30-percent dropoff in traffic—35 percent in IFR traffic. This is one of the biggest drops we've seen in a holiday period ever. With the announcements that we've already seen from the airlines, we're looking at a potential of a 10-percent reduction of operations by year's end. If you look at the small airlines that have just gone out of business, we see 700 flights already coming out of the system. So, we're really seeing, the pressure of the system go down, overall.

But, unfortunately, because many of those reductions are not happening at the big hubs, like Kennedy Airport and Newark and O'Hare, you're going to see less of an effect, in terms of delay improvement when the weather gets bad, because that's where they're keeping their assets, and that's where they're keeping the operations going. And that's what's happened in previous recessionary times, or post-9/11; the big hubs tend to keep the traffic.

But——

Senator ROCKEFELLER. So, we'll need to discuss America's pullout, right?

Mr. KRAKOWSKI. Yes. I think all of this is something to consider. And, you know, we, at FAA, are watching this very carefully, because as we try to figure out how to manage the system as the airlines redeploy their assets into their new route structures to accommodate these aircraft pulldowns, we have to be able to serve that effectively for them. So, it's of great interest to us, obviously.

But, in actuality, to your question, 70 percent of the delays do come from weather and are driven by weather in the system, but we're trying to do some things to help mitigate that. We have new routes over the Atlantic, particularly from the Caribbean up

through Boston, up through the oceanic airspace into Europe, which is helping reduce some delay. We have some new routes coming westbound out of New York, so we can now offload the airport faster when the weather clears—again, to your question. These are playbook routes, new routes that we've put into effect.

We think we've increased our collaboration with industry in our convective weather forecasting abilities as we work the tactical operation every day. And, more importantly, we have new tools, so that when slots become open because airlines cancel flights, more so now this year than last year, we can actually move flights into those slots much faster, much more effectively, and I think that benefits everybody. That program's called "adaptive compression."

Probably the most significant improvement we're looking forward to this year are three new runways—at Chicago O'Hare, Seattle, and Washington/Dulles. Particularly at Chicago, which has a lot of crossing runway issues, when you start to straighten out the airports and add parallel runways, that is a significant safety and capacity improvement that we're looking forward to.

Of course, there is NextGen, the modernization program. We're going to be deploying the ADS–B technology through Florida this year as, the first model, the first laboratory to use this new technology, which is foundational to our NextGen program going forward, and we thank the Committee's help with supporting that, as well.

And, of course, up in New York we have 77 initiatives that we're working on. We have over 17 of those done for the summer travel period. As you pointed out, Mr. Chairman, we believe they're effective. We actually do see delay reduction at New York Kennedy's Airport because of these, also at Newark, a little less so at LaGuardia.

The Department of Transportation has several other policy efforts underway in the New York region related to the congestion and the rulemaking. My colleague Mr. Duvall will be happy to address those topics during the question-and-answer period.

That concludes my remarks, sir.

[The prepared statement of Mr. Krakowski follows:]

PREPARED STATEMENT OF HENRY P. "HANK" KRAKOWSKI, CHIEF OPERATING OFFICER, AIR TRAFFIC ORGANIZATION, FEDERAL AVIATION ADMINISTRATION; ACCOMPANIED BY HON. TYLER D. DUVALL, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY AND ACTING UNDER SECRETARY FOR POLICY, DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Senator Hutchison, Members of the Subcommittee:

Thank you for inviting me here to testify about aviation congestion and delays. With me today is Tyler D. Duvall, Assistant Secretary for Transportation Policy and Acting Under Secretary for Policy from the Department of Transportation (DOT). With the summer travel season upon us, the Federal Aviation Administration (FAA) and the DOT have a number of efforts underway to address aviation congestion and delays.

State of the Industry

In order to frame the issues properly, we must first take a look at the state of the aviation industry today. Record oil prices, a slowing economy, and increased competition are just a few factors that have created a number of significant challenges for airlines—challenges that certainly will change the face of the aviation industry in the years to come.

To meet these challenges, many carriers are raising fares, streamlining operations, and reducing service. With a few notable exceptions—JFK, Denver and San

Francisco, for example—air traffic is down. General aviation operations are also down, due to fuel and insurance costs, further de-stressing the system. System-wide, FAA data shows the number of flights have decreased just over 2 percent, comparing May 2008 to May 2007.

While airlines are announcing reductions in service, and air traffic overall is down, it is likely that the busiest and most congested airports, particularly in the New York/New Jersey region, will not see a significant reduction. Even if they do see a downturn in the short run, history tells us that the aviation industry is very cyclical and that service will eventually return to—and exceed—the record levels we saw last year. Of the current delay minutes, 32.9 percent were at the three largest airports in the New York area (Newark Liberty International, LaGuardia Airport, and John F. Kennedy International Airport), as compared to 33.4 percent from last year. Approximately one-third of the Nation's flights and one-sixth of the world's flights either start or traverse the airspace that supports the New York/New Jersey/Philadelphia (NY/NJ/PHL) region.

In 2007, the aviation industry recorded the second worst year for delays since 1995; 27 percent of flights were delayed or canceled in 2007. Both the frequency and the severity of ground delays were unprecedented. The costs of delays are huge—the Senate Joint Economic Committee estimates that last year flight delays alone cost passengers, airlines, and the U.S. economy over $40 billion. Additionally, the Travel Industry Association estimates that air travelers avoided over 41 million trips last year—leading to lost revenues and taxes of over $26 billion.

Even if carriers reduce flights this summer enough to reduce congestion, we still must do something to fix the problems that caused last summer's horrible delays. We continue to work toward developing and providing solutions for all of the users of the Nation's airspace system.

As we frame the problem, we should note that we are living in the safest period in aviation history and we are constantly striving to make it safer still. In the past 10 years, the commercial fatal accident rate has dropped 57 percent. General aviation accidents are down. Safety is and will always be the primary goal of the FAA. Nothing we do to address congestion and delays will compromise the FAA's safety mandate.

Summer 2008

A snapshot of the system comparing May 2008 to May 2007 for the 35 Operational Evolution Partnership airports is telling. As you know, we had far more severe weather during May 2008 than we had in May 2007, particularly in the Midwest. Previously, this would have caused major delays throughout the NAS, and had the FAA done nothing, we would have seen thousands of delayed and stranded passengers all over the country. Instead, our projected data estimates that the average minutes of delay for all flights decreased slightly (by almost 1 percent), while the number of flights with more than 1 hour of delay decreased by 8 percent. Although the data from the Bureau of Transportation Statistics has not been finalized, we are expecting to see that cancellations for May 2008 have decreased approximately 8 percent and on-time arrivals increased nearly 1 percent over May of last year.

According to FAA data, bad weather causes 70 percent of all delays. The situation is worse during the summer, unlike winter storms, which take time to develop and move slowly, summer storms can form quickly, stretch for hundreds of miles and travel rapidly over large portions of the country, grounding flights and sending chain reaction delays throughout the NAS. While we cannot control the weather, we can control how we manage the delays. With new dispersal headings, the use of Adaptive Airspace Flow Programs (detailed below), new westbound departure routes out of New York, and other improvements, we are dealing more effectively with delays, using people, procedures, and technology.

In 1998, the FAA initiated Collaborative Decision Making (CDM), which represented a change in how the FAA communicates with the airlines in order to reduce delays. Prior to CDM, airlines were hesitant to share certain information for competitive reasons. Airlines now share schedule information with the FAA's Command Center in Herndon, VA, including flight delays, cancellations and newly created flights. The Command Center uses this information to monitor airport arrival demand and take steps to reduce delays caused by heavy traffic and severe weather. Daily teleconferences are held every 2 hours between FAA air traffic managers, the airlines, and general aviation users, to discuss problems affecting capacity in the system and decide the most efficient, and collaborative solution as these situations arise.

For 2008, the FAA is implementing a number of new procedures and tools to enhance this system and to help manage and reduce congestion, outlined below:

Western Atlantic Route System

This initiative will increase capacity along the East Coast over the Atlantic this summer by reducing lateral separation from 90 miles to 50 miles for aircraft with avionics that provide an appropriate level of accuracy. The area includes parts of Miami and New York high altitude airspace, as well as the San Juan Center Radar Approach Control airspace.

In the past, lateral separation in oceanic airspace has been set at 90 miles between aircraft to maintain safe separation. This initiative takes advantage of more precise aircraft position technology to allow for more Atlantic routes, 20 more transition route fixes and ultimately more access to the available airspace. The procedures became fully operational on June 5, 2008.

New Playbook Routes

Playbook routes are pre-coordinated routes that are developed to route aircraft around convective weather. New playbook routes will be in place this summer to provide alternate route options during periods of severe weather. Nineteen new playbook routes will be available, including four Virginia Capes Area (VACAPES) routes designed for use in military airspace when it is available.

Integrated Collaborative Rerouting Tool

This is a new automated tool that depicts constrained airspace to airlines and other users of the NAS. This alleviates the need for the FAA to implement required reroutes, which may be less favorable to the users. It gives the airlines scheduling options and a more efficient utilization of the available airspace. The tool will allow pilots to provide early intent of their preferred routing around constrained areas, such as storms-affected areas.

Adaptive Airspace Flow Programs (AFPs)

The Airspace Flow Program was deployed in June 2006 and enables the FAA to manage adjustments to changing weather patterns. This is crucial during the summer convective weather season when storms grow rapidly and move across large swaths of the country. Before the FAA developed the technology to implement AFPs, the FAA's primary tool was a ground delay programs to prevent aircraft from taking off if they were headed for a delayed airport from any direction. Ground delay programs remain valuable under appropriate circumstances, but sometimes have the unintended consequence of delaying flights that would otherwise not encounter severe weather.

Last summer from May 2 through August 30, 2007, a total of 58 AFPs were used. Use of these AFPs provided approximately $68 million in savings for the airlines. AFPs, which focus on particular areas in the sky where severe weather is expected, generally are a more equitable and efficient way of handling flights during severe weather.

The Adaptive Airspace Flow Program is an enhancement to the original program. This summer, the FAA can adjust the parameters of an AFP based on changing weather intensity, providing a more effective way to manage traffic during severe summer storms that will minimize delays.

Using AFPs, the FAA is able to target only those flights that are expected to encounter severe weather. The targeted flights are issued an Expect Departure Clearance Time (EDCT), giving the airlines the option to accept a delayed, but predictable departure time, to take a longer route to fly around the weather or to make alternate plans.

Adaptive Compression

This program, launched in March 2007, automatically identifies unused arrival slots at airports affected by AFP or ground delays and moves other flights into those slots. This means that maximum arrival rates will be maintained, easing congestion and delays. Adaptive Compression saved $27 million for the airlines and 1.1 million delay minutes for the airlines and the flying public in its first year of operation.

Expanding Capacity

Expanding capacity in the overall NAS is always our preference, both on land and in the air. Airport capacity is critical. Along with our partners in the airport community, we have achieved significant progress in increasing capacity and we intend to

continue to support this with our ongoing airport improvement programs. A brief overview of the status of recent airport projects as well as projects in the planning stages might be helpful.

The 35 airports included in the Operational Evolution Partnership (OEP) account for about 75 percent of all passenger enplanements. Much of the delay in air traffic can be traced to inadequate "throughput" (measured as arrival and departure rates) at these airports. Airfield construction (new runways, runway extensions, new taxiways, end around perimeter taxiways, and airfield reconfigurations) is the most effective method of increasing throughput. Consequently, constructing new and/or extending runways, taxiways, and airfield reconfiguration are solution sets of the OEP's Airport Development Domain.

Arrival and departure rates at the Nation's busiest airports are constrained by the limited number of runways that can be in active use simultaneously. The addition of new and extended runways or airfield reconfigurations will expand airport throughput at the target airports, and possibly for other airports in the same metropolitan area. In most cases the airfield projects are sufficient to keep pace with forecasted demand. Since FY 2000, 14 of the 35 OEP airports have opened 15 airfield projects (including 13 new runways providing 20 miles of new runway pavement, 1 end around taxiway, and 1 airfield reconfiguration). The projects have provided these airports with the potential to accommodate 1.6 million more annual operations and decrease average delay per operation at these airports by about 5 minutes, and reduce the potential for runway incursions. The complete listing of airfield projects included in the OEP is shown in the table below.

Airport	Date Opened
Philadelphia	December 1999
Phoenix	October 2000
Detroit	December 2001
Cleveland	December 2002 (Phase 1—1st 7,145 feet) August 2004 (1,775 runway extension)
Denver	September 2003
Miami	September 2003
Houston	October 2003
Orlando	December 2003
Minneapolis-St. Paul	October 2005
Cincinnati/No. KY	December 2005
Lambert-St. Louis	April 2006
Atlanta Hartsfield	June 2006
Boston Logan	November 2006
Atlanta End Around Taxiway	April 2007
Los Angeles (Reconfiguration—Relocated Runway and Center Taxiway)	Relocated RW April 2007 Center TW June 2008

The total cost of these projects is $5.6 billion with approximately $1.9 billion in Airport Improvement Program (AIP) grant funding. End around taxiways provide another means to decrease delays at a busy airport by providing an alternative to having aircraft cross an active runway. With the opening of the end around taxiway at Atlanta in April 2007 about 612 runway crossings per day were eliminated at the busiest airport in the U.S.

Currently, seven OEP airports have airfield projects (3 new runways, 1 airfield reconfiguration, 1 runway extension, and 2 taxiways) under construction. The projects will be commissioned through 2012 and will provide these airports with the potential to accommodate about 400,000 more annual operations, decrease average delay per operation by almost 2 minutes, and significantly reducing runway crossings. The cost of the 7 airfield projects, listed below, is approximately $3.9 billion with about $1.2 billion in AIP funding.

Airport	Anticipated Opening Date
Seattle-Tacoma	November 2008
Washington Dulles	November 2008
Chicago O'Hare Runway 9R/27L extension Runway 10C/28C	November 2008 September 2008 Late 2011
Philadelphia Runway Extension	March 2009
Dallas-Ft. Worth End Around Taxiway	December 2008
Boston Logan Centerfield Taxiway	November 2009
Charlotte	February 2010

There are also ten other projects (3 airfield reconfigurations, 3 runway extensions, and 4 new runways) are in the planning or environmental stage at OEP airports through 2017.

Airport or Metropolitan Area	Project	Completion of Environmental Study (Estimated)
Ft. Lauderdale	Extension	2008
Philadelphia	Reconfiguration	2009
Portland Int'l	Extension	2008
Houston Intercontinental	New Runway	TBD
Denver Int'l	New Runway	TBD
Chicago O'Hare	Reconfiguration—Phase 2	2005
Los Angeles	Reconfiguration—North Runway Complex	TBD—Reconfiguration studies are in progress
Washington Dulles	New Runway	2005
Salt Lake City	Runway Extension	TBD—Planning will begin around 2010
Tampa	Runway	TBD—Planning will being around 2013

In addition, four communities (Chicago, Las Vegas, Atlanta and San Francisco) have planning or environmental studies underway to examine how their metropolitan area will accommodate future demand for aviation.

Metro Area	Study	Sponsor	Purpose
Chicago	New Airport	State of Illinois	EIS/Master Plan covering development for the Inaugural Airport is on hold.
Las Vegas	New Airport	Clark County	EIS Notice of Intent published in Sept. 2006.
Atlanta	Regional	City of Atlanta	Explore options for how commercial aviation demand can be met in the Atlanta metropolitan area. The study will be coordinated with all levels of local/state government and will take 2 years to complete.
San Francisco	Regional	San Francisco Metro Transportation Commission	A study is being undertaken to examine aviation demand in the San Francisco Metropolitan Area.

AIP program planning will continue to reflect a special emphasis on increasing capacity and improving the airport arrival efficiency rate.

Controller Staffing

We know that controller staffing and how it affects delays are issues of concern to this Committee. The FAA *is* its workforce, and we consider controller staffing issues to be of the utmost importance to maintaining the safest aviation system in the world. To deal with the long-predicted retirement eligibility of today's generation of controllers, the FAA began a large-scale recruitment and selection process to rebuild the controller workforce. By 1992, the controller workforce was once again fully staffed. However, the realities were that, because of the concentrated, post-strike period of hiring, the FAA would have to once again begin a major recruitment effort as these controllers began to age out of the system. The vast numbers of controllers hired in the 1980s were long-predicted to retire once they reached retirement eligibility after 25 years of service.

To deal with this, the FAA initially developed a 10-year controller workforce staffing plan in 2004, which we refine each year. In 2007, the anticipated retirement wave of controllers began, and we project that retirements will continue to hit record numbers in 2008 and 2009. Our strategic hiring plan takes into account both projected retirements as well as expected attrition in new hires. From 2008–2017, we plan to hire approximately 17,000 new air traffic controllers.

To achieve these ambitious goals, the FAA has been recruiting aggressively through a variety of traditional and non-traditional outlets. In an effort to diversify our workforce, we are actively recruiting more women and minorities, as well as disabled veterans. And, in October 2007, the FAA chose an additional nine colleges and universities to be part of the Air Traffic Collegiate Training Initiative (AT–CTI) program, which brings the number of schools currently in the program to 23. We plan to continue to offer the opportunity to other schools to apply to the program.

We have also been offering a recruitment bonus of up to $20,000 for qualified new hires and offering retention incentives to retirement-eligible controllers on a case-by-case basis. Retention bonuses are typically 25 percent of an individual's salary with a cap of $25,000. Controllers may also be eligible for relocation and reassignment bonuses for certain key facilities. Thus far, 44 retention bonuses have been accepted, and another 26 are pending consideration.

Thus far, we have increased our controller workforce by a net gain of 256 in FY 2007, and we are on target to increase it an additional 256, to an end of year target of 15,130 for FY 2008. The President's budget for FY 2009 calls for a further net increase of over 300 controllers. Given the current airline reductions and current staffing statistics, we believe our staffing goals and plans are on target.

NextGen

In addition to ensuring sufficient controller staffing, we need to put the right tools into our controllers' hands. Our long-term plan to address congestion and delays is the Next Generation Air Transportation System (NextGen). We appreciate this Committee's strong support for the NextGen effort. NextGen will transform the aviation system and how we control air traffic. We must be able to handle the demands of the future for aviation travel—projected to be one billion passengers by 2015—particularly in areas (such as New York/New Jersey) where capacity cannot be expanded.

As you know, NextGen is a steady, deliberate, and highly collaborative undertaking, which focuses on leveraging our latest technologies, such as satellite-based navigation, surveillance and network-centric systems. It is designed to be flexible to take advantage of even newer and better technologies as they become available. We want to make sure that our air transportation system can accommodate innovations without becoming entrenched in technology that is new today but obsolete tomorrow.

The FAA is hard at work bringing new technology and techniques on-line to unsnarl air traffic delays, and we appreciate the funding Congress has appropriated for these purposes. In recognition of these critical enhancements, the President's FY 2009 Budget Request would more than triple the investment in NextGen technology—providing $688 million for key research and technology to help meet the Nation's rapidly growing demand for air travel, including the transformation from radar-based to satellite-based air traffic systems.

The FAA will begin rolling out several elements of the NextGen system this summer. This rollout will include the national debut of Automatic Dependent Surveillance-Broadcast (ADS–B) technology, the cornerstone of NextGen. We are particularly proud that the ADS–B team, which includes the FAA, along with its industry, government, and university partners, recently won the Robert J. Collier Trophy, one of the most prestigious awards in aviation. The award is awarded annually by the National Aeronautic Association "for the greatest achievement in aeronautics or astronautics in America, with respect to improving the performance, efficiency, and

safety of air or space vehicles, the value of which has been thoroughly demonstrated by actual use during the preceding year." It recognizes the development team that worked for more than a decade to create the pioneering systems to improve efficiency and safety in the national airspace.

The FAA has chosen Miami as the key site for the installation and testing of Traffic Information Services-Broadcast (TIS–B) and Flight Information Services-Broadcast (FIS–B). These broadcast services are the transmission of weather and traffic information to the cockpit of properly equipped aircraft. In order to provide the services in roughly the southern half of the state, the contractor, ITT will install and test eleven ground stations in this area, including five at airports (Lakeland Linder Regional, Dade-Collier, Florida Keys Marathon Airport, Boca Raton Airport, and Sebastian Municipal).

The ITT installed equipment is currently undergoing a Service Acceptance Test (SAT) which began in May. In November 2008, the agency expects to commission (the FAA calls this an In-Service Decision or ISD) these broadcast services (TIS–B and FIS–B). Following the successful completion of ISD, the FAA can exercise an option in the ITT contract to deploy the services nationwide

The transition to ADS–B technology will allow the Nation's air traffic control system to change from one that relies on radar technology to a system that uses precise location data from a global satellite network. Over the next few years, the FAA will also install and test ADS-B for use in Air Traffic Control Separation Services. The key sites for this initiative are Louisville, Philadelphia, the Gulf of Mexico, and Juneau. The FAA plans to commission the ADS–B services in September 2010 and complete a nationwide rollout by 2013.

NY/NJ/PHL Airspace Redesign

As mentioned above, one-third of all domestic and one-sixth of all international air traffic pass through New York airspace. Improvements in this region have effects throughout the system. Likewise, a bad storm or other delays in this region cascades throughout the system. In order to address these issues, the FAA is in the process of implementing the New York/New Jersey/Philadelphia Airspace Redesign.

The old, inefficient airspace routes and procedures pieced together over the past several decades were overdue to be reconfigured to make them more efficient and less complicated. In addition to more jet routes with increased and better access, the Airspace Redesign includes improved use of available runways, fanned headings for departures and parallel arrivals, and more flexibility to manage delays in severe weather. We project that under the Airspace Redesign, delays will be cut by 200,000 hours annually. This is the single greatest improvement to address congestion we see in the near future for the New York/New Jersey metropolitan area.

We also project that this will save $248 million annually in operating costs for airlines. Additionally, the increased flexibility during severe weather is projected to save another $37 million annually. Finally, the environmental advantages include reduced carbon dioxide emissions of a projected 430 million pounds per year, and the residents affected by aviation noise will be reduced by more than 600,000. These are impressive gains.

Reconfiguring the airspace will enable the FAA to take several direct actions to take advantage of improved aircraft performance and emerging ATC technologies. Leveraging these technologies, the FAA can implement new and modified ATC procedures, including dispersal headings, multiple departure gates and simplified arrival procedures by 2011. The FAA will also use these technologies to employ noise mitigation measures, such as use of Continuous Descent Approaches (CDA), and raising arrival altitudes.

Implementation of the Airspace Redesign Project will be able to make use of procedures like Area Navigation (RNAV) and Required Navigation Performance (RNP), which collectively result in improved safety, access, predictability, and operational efficiency, as well as reduced environmental impacts. RNAV operations remove the requirement for a direct link between aircraft navigation and a ground-based navigational aid (*i.e.,* flying only from radar beacon to radar beacon), thereby allowing aircraft greater access to better routes and permitting flexibility of point-to-point operations. By using more precise routes for take-offs and landings, RNAV enables reductions in fuel burn and emissions and increases in efficiency.

RNP is RNAV with the addition of an onboard monitoring and alerting function. This onboard capability enhances the pilot's situational awareness providing greater access to airports in challenging terrain. RNP takes advantage of an airplane's onboard navigation capability to fly a more precise flight path into an airport. It increases access during marginal weather, thereby reducing diversions to alternate airports. While not all of these benefits may apply to every community affected by

the Airspace Redesign Project, RNAV and RNP may prove useful in helping to reduce overall noise and aggregate emissions.

The Airspace Redesign Project is very large and complex and the implementation will take several years. There will be four stages of the implementation, distinguished by the degree of airspace realignment and facility changes required to support each of the overlying operational enhancements. Implementation is estimated to take at least 5 years, with each stage taking approximately 12–18 months to complete. The FAA is presently finalizing a detailed implementation plan that will cover all elements of this project's implementation and we anticipate completion of stage 1 later this year. We have also begun additional operation validation of some of the key elements of stage 2.

Additional DOT Efforts to Reduce Congestion

In addition to the capacity enhancements, operational improvements, and ongoing efforts in the NextGen arena that have already been discussed, the Department is constantly searching for new ways to reduce congestion and improve customer satisfaction. Given the record delays last summer, in July 2007, Secretary Peters formed an internal New York Air Congestion Working Group and tasked them with developing an action plan to reduce congestion and delays at airports in the New York City region and improve customer satisfaction. The working group developed a plan, which, among other things, included establishing a New York Aviation Rulemaking Committee (ARC), holding scheduling reduction meetings, implementing operational improvements, and enhancing customer satisfaction. ARC participants included, among others, the airlines and the Port Authority of New York and New Jersey. Since forming the Working Group, the Department has taken a number of actions to reduce congestion and increase customer satisfaction, including:

- Completion by the end of this summer of 17 key operational improvements proposed by the ARC;
- Establishing an executive-level Director position at the FAA to head the New York Area Program Integration Office;
- Amending the Airports Rates and Charges Policy, allowing airports to manage congestion at the local level;
- Publishing a final rule on denied boarding compensation;
- Creating a Tarmac Delay Task Force;
- Publishing a final rule to enhance delay data reporting;
- Publishing an Advance Notice of Proposed Rulemaking to enhance consumer protections, including tarmac delay contingency plans, requiring responses to consumer complaints, and requiring publication of consumer data; and
- Creating a chronically delayed flight enforcement regime to pursue unrealistic scheduling.

The Department has also set forth significant rulemaking proposals aimed directly at reducing congestion in the system. As mentioned, one-third of all U.S. air traffic passes through New York airspace. This concentration of traffic has prompted the Department to take special action in the New York area. Recently, the Department published notices of proposed rules intended to manage congestion and introduce competition at LaGuardia Airport (LaGuardia), John F. Kennedy International Airport (JFK), and Newark Liberty International Airport (Newark). We believe these proposals will ultimately provide travelers with more reliable service while maintaining competition among the many carriers in a vibrant New York market.

As you know, the three New York airports are all operating under a cap. Caps solve the problem of congestion because they simply freeze capacity and stop additional flights from flooding the system. Airlines are often enthusiastic in their support of caps at an airport they already serve. When a cap is established, incumbent airlines are protected because they typically maintain their market share and the potential for new competition is diminished. The incumbent airlines' support for such a policy makes sense, because limited competition makes them more profitable and protects them from new entrants that might want to compete by offering lower fares. This limitation on capacity and competition naturally leads to fare increases at an airport, because it creates a scarce commodity, and passengers pay a premium for that commodity.

Unfortunately, straight caps without some mechanism to ensure an efficient allocation of scarce slot resources is economically inefficient and stifles competition—leading to reduced service and higher fares for consumers. Granting slots without market-based mechanisms creates a system where incumbent airlines fight to maintain large shares of the airport traffic and to limit the ability of low-cost carriers

to compete. The 1996 DOT report *Low Cost Airline Service Revolution* details this anticompetitive culture at capped or dominated airports. The report identifies slot hoarding as one of the key characteristics of such a culture. Federal regulations require airlines to use their slots at least 80 percent of the time in order to retain possession of them. However, by splitting up larger flights into smaller ones ("downgauging") or by setting up a rotating schedule, airlines have unnecessarily taken up more slots than they would require to competitively serve their customers. Slot hoarding prevents new entrants from taking available slots and increases airplane throughput without increasing passenger throughput, adding greatly to congestion. The report maintains that the high fares charged at these dominated airports create incentives for an airline to use anticompetitive measures to discourage new entrants.

Using the historical backdrop of slots as a guide, we believe that integration of a market-based system into the proposal for slot caps is necessary to protect consumers and a competitive market. Estimates from the DOT's 1996 report valued savings from new entry competition at 35 percent for round-trip flights and 40 percent for one-way flights. A case-specific study on the effect of Southwest Airlines noted that with the opening of just one route between Oakland International Airport and Ontario International Airport in Los Angeles, fares dropped 60 percent and traffic tripled, increasing both passenger throughput as well as savings for consumers. Even nearby airports not directly offered service experienced a decrease in fare costs of up to one-third. Southwest is just one example of low-cost carriers whose entry into the market drove down prices and increased passenger throughput at previously dominated airports.

This is why caps alone are not the best solution for improving travel options for passengers and why caps must be combined with some mechanism to preserve competitive market forces to benefit aviation consumers or the airlines. When we consider economic regulatory issues, the Department has a statutory obligation to place maximum reliance on competitive market forces and on actual and potential competition. We know, however, that caps hinder the ability of air carriers to initiate or expand service at capacity constrained airports. Therefore, when seeking a solution to the aviation congestion issues that we currently face in the New York area, the Department must act to both promote competition by permitting access to new entrants, and to recognize the long-term investments in airports made by existing carriers.

Keeping in mind the need to reduce congestion while simultaneously promoting competition, we have set forth proposals for the New York area airports that we believe would reduce congestion the smartest way—by using market incentives to assist in the efficient allocation of airspace. Opponents of market incentives have suggested that only caps will reduce congestion. We do not agree. We believe market incentives will encourage more efficient use of available airspace and should result in a greater throughput than under a system using pure caps. Consequently, we expect fewer delays per passenger. For example, to the extent that airlines choose to absorb costs associated with our proposed market incentives by "up-gauging" to larger aircraft, passenger throughput will increase, effectively reducing congestion for a greater percentage of the traveling public.

Although market-based mechanisms are the most effective way to allocate scarce resources—like slots—we have taken a very conservative approach to introducing these mechanisms with this proposal. The vast majority of hourly operations at the airport, as much as 90 percent or more, would be "grandfathered" and leased to the existing operators for non-monetary consideration. The market-based aspect of our proposal involves auctioning off leases for only a limited number of the remaining slots and treats domestic and foreign carriers equally.

We are firmly committed to the idea that any long-term solution to mitigate congestion in the Nation's airspace must include a market-based mechanism. Caps alone have proven to be insufficient, and perpetuating the kinds of delays we experienced in the Summer of 2007 is not tolerable.

Conclusion

Chairman Rockefeller, Senator Hutchison, Members of the Subcommittee, this concludes my prepared remarks on behalf of myself and Mr. Duvall. We look forward to answering any of your questions.

Senator ROCKEFELLER. Well, that was—well, I have this note in front of me which just counteracts you, Mr. Krakowski. It says that Mr. Duvall is not going to give testimony.

Mr. KRAKOWSKI. Question-and-answer is what I said, sir.

Senator ROCKEFELLER. OK.
Mr. KRAKOWSKI. Yes.
Senator ROCKEFELLER. Would you like to give testimony?
Mr. DUVALL. I'm happy for the other colleagues to go first.
Senator ROCKEFELLER. All right.
In that case, our next person is Susan Fleming, who's a Director at the Government Accountability Office.

STATEMENT OF SUSAN FLEMING, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FLEMING. Good morning, Mr. Chairman, Vice Chairman Stevens. Thank you for the opportunity to discuss the Federal Government's efforts to reduce aviation congestion and delays for this summer.

Increasingly, the U.S. aviation system is plagued by flight delays and cancellations. In 2007, more than one in four flights arrived late or were canceled, making it one of the worst years for delays.

Delays and cancellations, as you know, are particularly evident in the New York region. To avoid a repeat of last summer's problems, DOT and FAA have worked together with airlines and airports to develop and implement several initiatives to reduce congestion and delay for this summer.

My testimony today has three parts: trends in the extent of delay and its principal sources, status of Federal Government actions to reduce delay, and the extent to which these actions may reduce delays for the summer.

First, since 1998 the total number of flight delays and cancellations nationwide has increased 62 percent, while the number of operations has increased about 38 percent. The numbers are even worse for New York. Specifically, since 1998 the number of delays and cancellations in New York has more than doubled, while the number of operations has increased by just 57 percent.

The sources of delay across the system and in New York are varied, but, unfortunately, DOT's data does not provide a complete picture. For example, in 2007, late-arriving aircraft accounted for 38 percent of delays nationwide. However, this category indicates little about what caused the aircraft to arrive late, such as severe weather or equipment problems.

I'll now turn to my second topic: status of initiatives and policies. Because of the particular problems in the New York area, DOT and FAA are implementing several actions intended to reduce delays at New York airports for this summer and beyond. Some of these are already in effect, such as 11 of the 17 short-term initiatives designed to improve capacity at the airport or system level and the hourly schedule caps on operations at the New York area airports. The other actions are being developed or have just been issued and therefore are unlikely to be in effect this summer. FAA is currently soliciting public comments on the proposed rule to establish slot auctions at JFK and Newark.

Moving on to my last point, collectively DOT and FAA's capacity-enhancing initiatives and demand management policies are likely to have a limited effect on reducing delays this summer compared to last year. For example, the benefit of the 17 initiatives, which

range from efforts to reduce excessive spacing on final approach before landing to new procedures for handling air traffic during severe weather conditions, is generally expected to come from the initiatives' combined incremental improvements over time and in certain situations. The demand management policies, especially the caps, will have a more immediate, but limited, effect on delays, since the caps were set at a level which were generally designed to avoid future delays and not reduce delays from the 2007 levels. More uncertain are the Department's proposals to auction slots at these airports and to allow congestion pricing at all airports.

The Department has not demonstrated how these actions will reduce delay, and, given the widespread opposition to these policies, may distract from necessary efforts to build capacity in the region.

Finally, other interrelated factors, such as the financial state of the industry, increasing jet fuel prices, and the effect of higher fares on passengers, could lead to fewer delays in 2008, but the effect of these factors on aviation congestion and delays are uncertain.

In closing, DOT and FAA are to be commended for working with stakeholders to develop initiatives that will enhance capacity in the New York region. It is vital that these be completed and that DOT and the stakeholders continue to work together to identify and implement other initiatives to help reduce congestion.

Mr. Chairman, this concludes my statement. I'd be pleased to answer any questions you or Members of the Subcommittee might have.

[The prepared statement of Ms. Fleming follows:]

PREPARED STATEMENT OF SUSAN FLEMING, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify before you today on the Federal Government's efforts to reduce aviation congestion and delays for this summer's travel season. In recent years, flight delays and cancellations have plagued the U.S. aviation system. According to the Department of Transportation (DOT), more than one in four flights either arrived late or were canceled in 2007, affecting approximately 163 million passengers and making it one of the worst years for delays in the last decade. A recent report by the Senate Joint Economic Committee found that collectively, passengers were delayed 320 million hours in 2007 and estimated that domestic flight delays last year cost as much as $41 billion to the U.S. economy.[1] Delays were particularly evident at certain airports, especially those in the New York region. For the past 10 years, the three principal New York metropolitan commercial passenger airports—Newark Liberty International (Newark), John F. Kennedy International (JFK), and LaGuardia—have often ranked at or near the bottom of DOT's lists of airport on-time arrivals and departures. Since one-third of aircraft in the national airspace system move through the New York area at some point during a typical day, delays in this region can have a disproportionate impact on delays experienced throughout the rest of the system.

Consumer complaints and media coverage of airline service problems, combined with congressional hearings on these issues, have recently put flight delays in the spotlight. Most aviation industry experts believe that substantial gains in reducing aviation congestion and delays can be achieved in the long term through investment in airport infrastructure, Next Generation Air Transportation System (NextGen) technologies,[2] and/or more efficient pricing of the Nation's aviation infrastructure.

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[1] Senate Joint Economic Committee, *Your Flight Has Been Delayed Again: Flight Delays Cost Passengers, Airlines and the U.S. Economy Billions.* (Washington, D.C.: May 2008).

[2] NextGen represents a transformation to a new air traffic control system that will use satellite-based technologies and new procedures to handle the increasing volume of air traffic while further improving safety and security.

However, to avoid a repeat of last summer's delays, DOT and its operating agency, the Federal Aviation Administration (FAA), have worked with the aviation industry since the fall of 2007 in an effort to develop and implement several near-term actions to reduce delays for the summer 2008 travel season.

My testimony today addresses: (1) the trends in the extent and principal sources of flight delays and cancellations over the last 10 years, (2) the status of Federal Government actions to reduce flight delays and cancellations by the summer of 2008, and (3) the extent to which these actions may reduce delays and cancellations for the summer 2008 travel season. To determine trends in the extent and sources of delays, we analyzed DOT data on airline on-time performance, including sources of delays, by airport and for the entire airspace system, for 1998 to 2007.[3] To assess the reliability of the data, we interviewed agency officials about data quality control procedures, reviewed relevant documentation, and electronically tested the data to identify obvious problems with completeness or accuracy. We determined that the data were sufficiently reliable for the purposes of this report. We also reviewed relevant documents and reports and interviewed DOT and FAA officials, airport operators in Boston, New York, and Chicago, major commercial airlines, and aviation industry experts and associations on the status and potential impact of the Federal Government's actions to reduce delays. Although its scope covers the national airspace system as a whole, our work especially focuses on the New York region because of the New York area airports' persistent problems with flight delays and cancellations and the Federal Government's actions focused on reducing delays in this region. We conducted our work from December 2007 to July 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the study to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our study objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

DOT data show that flight delays and cancellations have generally increased over the last decade, but the data provide an incomplete picture of the full extent and sources of delays. Since 1998, the number of airline flight delays and cancellations has increased about 62 percent nationwide, while the number of scheduled operations has increased about 38 percent, according to DOT data.[4] While flight delays occur throughout the entire national airspace system, the flight delay trends in New York area are even more pronounced. For example, since 1998, the number of flight delays and cancellations in the New York region has increased about 111 percent, while the number of operations has increased about 57 percent. Although DOT data provide information on trends in flight delays and cancellations, they do not show the full extent of delays and cancellations. For example, DOT data do not reflect passengers' experiences with missed connections resulting from delayed or oversold flights, because DOT tracks flight delays, not passenger delays. Additionally, DOT data provide some information on the source of delays, but they do not provide a complete picture. For example, according to DOT data, 38 percent of delays in 2007 were assigned to the late arriving aircraft category, which means that the previous flight using the same aircraft arrived late, and caused the subsequent flight to depart late. However, this category does not provide the original source of delay for the late arriving aircraft, such as a severe weather condition. In the New York region, the data for 2007 show that national aviation system delays—a category that encompasses a broad set of circumstances, which are all attributed to FAA's ability to manage traffic at the airport or airspace level—accounted for nearly 58 percent of all New York delays, as compared to approximately 28 percent systemwide. This disparity reflects the New York area's greater level of congestion as compared to the rest of the country.

To address delay and cancellation problems beginning in summer 2008, DOT and FAA are implementing several actions intended to reduce delays that we have categorized as capacity-enhancing initiatives and demand management policies. Capacity-enhancing initiatives are intended to increase the efficiency of existing capacity by reducing delays and maximizing the number of takeoffs and landings at an air-

[3] 14 C.F.R. § 234.4, "Reporting on on-time performance," requires domestic air carriers that account for at least 1 percent of domestic scheduled passenger revenues to submit scheduled domestic flight performance data to DOT. See 14 C.F.R. §§ 234.2, 234.3. The number of reporting carriers has varied from 10 in 1998 to 20 in 2007. According to DOT, the data represent about 70 percent of all scheduled departures while servicing about 90 percent of all domestic passengers.

[4] DOT defines a delay as any flight that departs from or arrives at a gate 15 minutes or more after its scheduled gate departure or arrival time as shown in the airline's reservation system.

port, while demand management policies influence demand through administrative measures or economic incentives. Under capacity-enhancing initiatives, FAA has implemented 11 of its 17 short-term initiatives designed to better use existing capacity at the airport or system level; begun working to improve coordination with the Department of Defense (DOD) for the use of military airspace; initiated the first phase of the New York, New Jersey, and Philadelphia metropolitan area airspace redesign (New York-New Jersey-Philadelphia Airspace Redesign); and appointed a New York Airspace "Czar" to coordinate regional airspace issues and projects. DOT and FAA have also initiated several demand management policies—most notably, imposing new hourly schedule caps on operations at Newark and JFK, which join already existing caps at LaGuardia. Other demand management policies are either still in draft form or have just been issued, and therefore, are unlikely to be in effect by this summer. These policies include an amendment to the 1996 Policy Regarding the Establishment of Airport Rates and Charges (Rates and Charges policy)—which, among other things, clarifies the ability of airport operators to establish a two-part landing fee structure based on operations and aircraft weight—and proposed rules on "slot auctions" that would lease the majority of New York area airport operations (slots) to incumbent airlines and then would help to develop a market for those slots by annually auctioning a limited number of slot leases.[5]

Collectively, DOT's and FAA's capacity-enhancing initiatives and demand management policies will likely have a limited effect on reducing delays this summer compared to last year. DOT's and FAA's capacity-enhancing initiatives have the potential to reduce delays by improving the efficiency of existing capacity, but the effect will likely be fairly small. For example, the benefit of the 17 operational and procedural initiatives—which range from efforts to reduce excessive spacing on final approach before landing to new procedures for handling air traffic during severe weather conditions—is generally anticipated to come from the initiatives' combined incremental improvements over time and in certain situations. DOT and FAA have not analyzed the potential near-term delay reduction benefit of the other capacity-enhancing initiatives, but airlines, airport operators, and aviation associations and experts that we spoke with expect these initiatives to have a fairly small impact on reducing delays for this summer. DOT's demand management policies—specifically, the hourly schedule caps at LaGuardia, JFK, and Newark—may have a more immediate, but still a limited, effect on reducing delays because the caps at Newark and LaGuardia were set at a level that was generally intended to avoid any worsening of delays over 2007 levels and the caps at JFK were set to get a 15 percent reduction in average departure delays over 2007 levels. For example, Newark's cap of 81 hourly operations was set at a level to avoid delays beyond those experienced in 2007 but is not estimated to reduce delays from 2007 levels. Finally, other interrelated factors besides government actions, such as the financial state of the aviation industry, increasing jet fuel prices, and the downturn in the economy, could lead to fewer delays in 2008, but the effects of these factors on aviation congestion and delays are uncertain. DOT and FAA provided technical comments on the statement which were incorporated as appropriate.

Background

The national airspace system is a complex, interconnected, and interdependent network of systems, procedures, facilities, aircraft, and people that must work together to ensure safe and efficient operations. DOT, FAA, airlines, and airports all affect the efficiency of national airspace system operations. DOT works with FAA to set policy and operating standards for all aircrafts and airports. As the agency responsible for managing the air traffic control system, FAA has the lead role in developing technological and other solutions to airspace issues. FAA also provides funding to airports. The funding that major airports receive from FAA to make improvements at the airports is conditioned on open and nondiscriminatory access to the airlines and other users,[6] and the airlines are free to schedule operations at any time throughout the day, except at airports that are subject to limits on scheduled operations. The airlines can also affect the efficiency of the airspace system by the number and types of aircraft that they choose to operate.

As we have previously reported, measuring the capacity of the airspace system and achieving its most efficient use are both difficult challenges because they depend on a number of interrelated factors.[7] The capacity of the aviation system is

[5] A slot equates to one takeoff or landing at the airport.

[6] According to 49 U.S.C. § 47107, an airport that has received Federal funding is required to be available for public use on reasonable conditions and without unjust discrimination.

[7] GAO, *Air Traffic Control: Role of FAA's Modernization Program in Reducing Delays and Congestion,* GAO–01–725T (Washington, D.C.: May 10, 2001), and *National Airspace System:*

not a simple measurable element—in addition to being related to airports' infrastructure, capacity is affected at any given time by such factors as weather conditions and airline flight schedules. For example, because some airports have parallel runways that are too close together for simultaneous operations in bad weather, the number of aircraft that can take off and land is reduced when weather conditions worsen. Achieving the most efficient use of the national airspace system is contingent on a number of factors, among them the procedures that FAA uses to manage traffic, how well FAA's air traffic control equipment performs, the proficiency of the controllers to efficiently use these procedures and equipment to manage traffic, and how much users are charged for the use of the airspace and airports.

FAA has had a long history of attempting to address congestion by managing demand through administrative controls. FAA began establishing limits on the number of takeoffs and landings at five airports—Chicago O'Hare International, Newark, JFK, LaGuardia, and Washington Reagan National—in 1968. The High Density Rule, as it was known, instituted limits, or caps, on the number of takeoff and landings of the incumbent airlines serving each of the these airports.[8] DOT lifted the restrictions at Newark in 1970, and in 2000, with the passage of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), caps on operations were to be eliminated at Chicago O'Hare by July 2002, and at LaGuardia and JFK by January 2007.[9] AIR–21 also immediately exempted certain types of aircraft from the caps, a change that resulted in unanticipated increases in demand, especially at LaGuardia. In 2000, airlines took advantage of AIR–21's small regional jet exemptions and rapidly initiated a large number of new flights to and from LaGuardia. FAA chose to impose a moratorium on additional flights at LaGuardia in November 2000 to limit delays and reduced flights at LaGuardia to a level consistent with the airport's capacity under optimal weather conditions. On the basis of this experience and FAA's inability to adopt a final congestion management rule for LaGuardia,[10] FAA issued a December 2006 order to maintain the cap of 75 hourly scheduled operations at LaGuardia until a final rule can be adopted. Chicago O'Hare also experienced increased operations after its caps were eliminated, prompting FAA to again limit operations at the airport beginning in spring 2004 through a series of voluntary agreements and ending with a new rule in late summer 2006. These caps on Chicago O'Hare's operations are effective through October 2008, which coincides with the scheduled opening of the airport's new runway in November 2008.

In response to the near-record delays in summer 2007, which followed the expiration of the High Density Rule for the New York airports and increasing volumes of domestic air traffic, DOT convened a special aviation rulemaking committee (New York ARC) in the fall of 2007 specifically to address delays and other airline service issues in the New York metropolitan area. The New York ARC, which consisted of stakeholders representing government, airlines, airports, general aviation users, and aviation consumers, was tasked with identifying available options for changing current policy and assessing the potential impacts of those changes on airlines, airports, and the traveling public. The New York ARC had three specific objectives: (1) to reduce congestion, (2) to allocate efficiently the scarce capacity of New York area airports, and (3) to minimize the disruption associated with implementing any of the suggested improvements. The New York ARC issued its findings and options for reducing congestion to the Secretary of Transportation in December 2007.[11] One of the Committee's working groups assessed 77 operational improvement initiatives for the New York area and identified key items to focus on within the list of 77, such as reducing excess spacing on final approach when landing.

Long-Term Capacity Planning Needed Despite Recent Reduction in Flight Delays, GAO–02–185 (Washington, D.C.: Dec. 14, 2001).

[8] 33 Fed. Reg. 17896 (Dec. 3, 1968), 14 C.F.R. part 93, subpart K.

[9] The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), Pub. L. No. 106–181, Section 231, 114 Stat. 108, Apr. 5, 2000.

[10] Since the High Density Rule at LaGuardia was set to expire on January 1, 2007, in August 2006, FAA published a notice of proposed rulemaking proposing the continuation of the cap on hourly operations at the airport as well as a new method for allocating capacity. See 71 Fed. Reg. 51360 (August 29, 2006). The industry's response to the proposed new allocation method was universally negative, and FAA was unable to complete its rulemaking in time for the expiration of the High Density Rule.

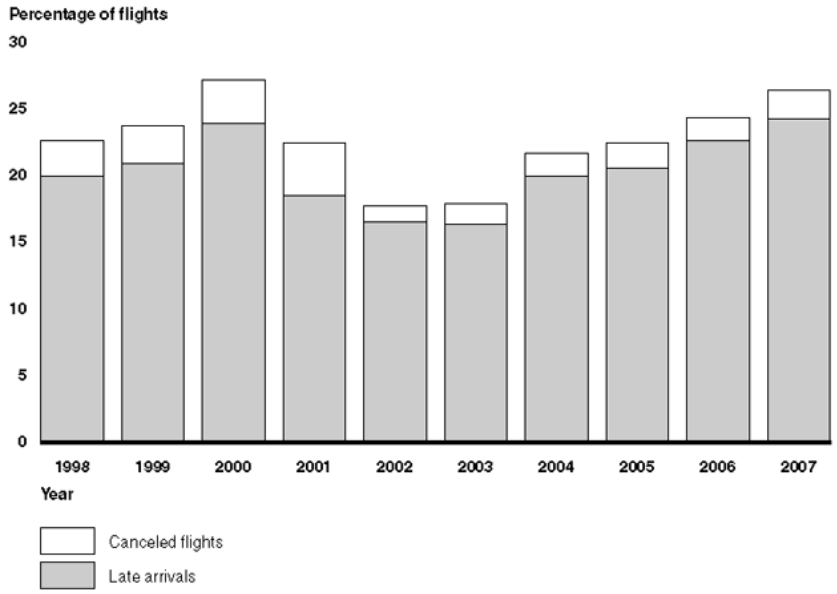
[11] Aviation Rulemaking Committee, "New York Aviation Committee Report," December 2007, available at *http://www.dot.gov/affairs/FinalARCReport.pdf*.

Data Show That Delays and Cancellations Are Increasing, But Provide an Incomplete Picture of the Extent and Sources of Delays

Nationwide, according to DOT data the annual number of domestic airline flight delays and cancellations has increased about 62 percent (from 1.2 million to 2.0 million), while the annual number of scheduled flights has increased about 38 percent (from 5.4 million to 7.5 million) since 1998. In the New York area, the trend is even more pronounced, as the number of domestic flight delays and cancellations at the three main commercial airports has increased about 111 percent, while the number of domestic operations has increased about 57 percent since 1998.

DOT statistics indicate that 2007 was the second worst year on record for U.S. airlines' on-time performance, and the trends in the percentage of flight delays and cancellations appear to be worsening.[12] As shown in figure 1, about 20 percent of flights in the system were delayed and nearly 3 percent were canceled in 1998, compared to about 24 and 2 percent in 2007, respectively.[13] The data also show that flight delays and cancellations have been steadily increasing since 2002, although the percentage of cancellations in 2007 is still lower than it was from 1998 through 2001. However, cancellations have become more problematic in recent years as the airline industry is now operating with fewer empty seats on flights. As a result, passengers on canceled flights must wait longer to be rebooked, and in some cases may be forced to spend the night before resuming travel the next day.

Figure 1: Trends in Percentage of Late Arriving and Canceled Flights—Systemwide (1998-2007)



Source: DOT.

Flights delays are also becoming longer. According to DOT data, the average length of a flight delay increased from more than 49 minutes in 1998 to almost 56

[12] As of December 2007, 18 U.S. airlines with at least 1 percent of total domestic scheduled service passenger revenues reported on-time performance data each month to DOT's Bureau of Transportation Statistics; two additional airlines voluntarily reported this information. A flight is counted as on time if it departed or arrived within 15 minutes of its scheduled gate departure or arrival times as shown in the airlines reservation system. All canceled and diverted flights count against the airlines' on-time performance. According to DOT, the on-time performance rate of 72.6 percent in 2000 was the worst rate for any year since 1995, when DOT began collecting comparable data.

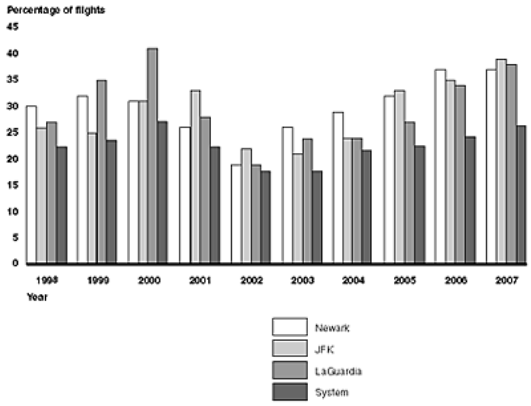
[13] In addition, a small percentage of domestic flights are diverted and land somewhere other than the scheduled destination. Diversions accounted for 0.23 percent of all flights in 2007, according to DOT data.

minutes in 2007, an increase of nearly 14 percent throughout the system. Despite this relatively small increase in average flight delay length, far more flights were affected by long delays in 2007 than in 1998. For example, the number of flights delayed by 180 minutes or more increased from 25,726 flights in 1998 to 64,040 flights in 2007, or about 150 percent. In addition, DOT's data indicate that the number of flights in which an aircraft has departed the gate, but remained for an hour or more on the ground awaiting departure, has increased over 151 percent since 1998.[14]

Because the entire airspace system is highly interdependent, delays at one airport may lead to delays rippling across the system and throughout the day. This delay propagation appears to be increasing and leading to more delays in the system overall. For example, researchers at George Mason University's Center for Air Transportation Systems have found that 46 percent of delays in the system in 2007 were caused by flight delays occurring earlier in the day. Flight delays in the New York metropolitan region also appear to have a disproportionate impact on delays experienced throughout the rest of the airspace system. During a typical day, approximately one-third of the aircrafts in the national airspace system move through the New York airspace. According to preliminary research conducted by the MITRE Corporation for FAA, an average of 40 percent of the flight delays in the system are from delays that originate in the New York metropolitan area.[15]

Compared to the rest of the country, where flight delays and cancellations have been steadily increasing, the magnitude and upward trend of the problem in the New York region is greater than the rest of the airspace system. For example, over a third of all flights in the New York metropolitan region in 2007 were delayed or canceled, according to DOT statistics.[16] Figure 2 shows that the percentage of late arriving and canceled flights at each of the three major New York area airports was considerably higher than the systemwide averages. Since 2003, the percentage of late arriving and canceled flights has been increasing faster in the New York area than in the rest of the system.

Figure 2: Annual Percentage of Late Arrivals and Cancellations at New York Airports compared to the Entire Airspace System (1998-2007)



Source: GAO analysis of DOT data.

Note: In this figure, the percentage of delays and cancellations has been combined. The system data include the three New York area airports.

[14] Effective October 1, 2008, DOT will require airlines to report additional data elements to provide consumers with a more accurate portrayal of arrival and tarmac delays. Currently, airlines report only the scheduled departure and arrival times and no actual times for canceled flights, which do not provide a complete picture of tarmac delays for flights that are canceled, diverted, or experience gate returns. Under the new rule, airlines will be required to report actual gate departure, total time away from the gate, and the longest single period away from the gate to close gaps in DOT's data. See 73 Fed. Reg. 29426 (May 21, 2008) for the final rule.

[15] According to the MITRE Corporation, the 40 percent figure was calculated using DOT data from January and July 2007 and FAA data from July 2007.

[16] Additionally, flight delays and cancellations have been problematic at other major airports, including Chicago O'Hare International Airport and Boston Logan International Airport, among others. For example, according to DOT data, in 2007, 36 percent of flights were either delayed or canceled at Chicago O'Hare, while 31 percent of flights were either delayed or canceled at Boston Logan.

Since 1998, the New York area's three major airports have often been among the airports with the lowest on-time performance records. In 2007, DOT reported that LaGuardia, Newark, and JFK had the lowest on-time performance rates among major domestic airports, followed by Chicago O'Hare International Airport, Philadelphia International Airport, and Boston Logan International Airport. Table 1 shows the ranking of major airports by the lowest on-time arrival performance in 2007.

Table 1.—Ranking of Major Airports by Lowest On-Time Arrival Performance (2007)

Ranking	Airport	Percentage on Time
1	LaGuardia	58.48
2	Newark	59.45
3	JFK	62.84
4	Chicago O'Hare International	65.88
5	Philadelphia International	66.54
6	Boston Logan International	69.68
7	San Francisco International	69.75
8	Miami International	70.99
9	Charlotte Douglas International	71.30
10	Seattle-Tacoma International	71.43
	All major airports average	73.03

Source: DOT.
Note: "Major airports," as defined by DOT, consists of the 32 airports serving 1 percent or more of the airline industry's domestic scheduled service passengers.

While DOT data show that the trends in delays and cancellations are getting worse, current on-time performance data do not capture the full extent of delays and cancellations or the extent to which passengers' average travel times have increased in recent years. For example, airlines have, in many cases, opted to lengthen scheduled flight times to enhance on-time results, particularly along heavily congested and frequently delayed routes. DOT data do not account for the increased average flight times that are masked by these schedule changes. Also, available DOT data may not necessarily reflect passengers' experience of delay because DOT tracks flights, not passengers. Passengers can experience delays to their trips because of missed connections resulting from delayed or oversold flights or lengthy delays due to flight cancellations—elements that are not measured in current statistics. According to a recent study by George Mason University, roughly one in four passengers experienced a passenger trip delay in 2007 and the average duration of delay experienced by these passengers was 1 hour 54 minutes, an increase of 24 minutes over 2006.[17] In addition, the study found that the average delay for passengers on canceled flights was 11 hours in 2007. Passenger delays are affected by record-level airline load factors (percentage of seats occupied on aircraft), which result in fewer available empty seats on subsequent flights for those passengers who experience canceled flights. According to DOT's Air Consumer Report, flight problems involving cancellations, delays, or missed connections were the number one consumer complaint in 2007.

DOT Data Provide an Incomplete Picture of the Sources of Delays

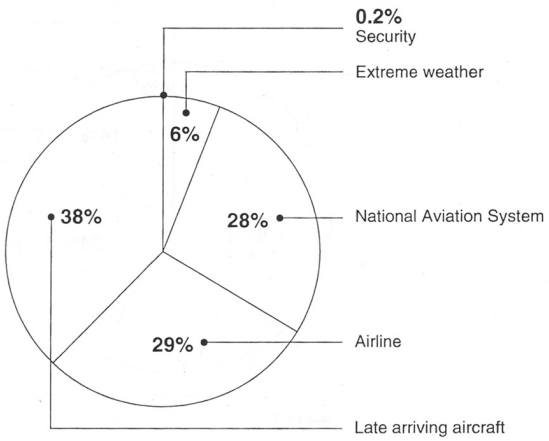
The data collected by DOT on the sources of delays provide information about where delays occur and what causes them, but the data are incomplete. The primary purposes for collecting these causal data are to inform the traveling public and categorize delays and cancellations so that the parties most capable of addressing the causes of delays and cancellations can take corrective action. Since 2003, airlines have reported the cause of delay to DOT in one of five broad categories: late arriving aircraft, airline, national aviation system, extreme weather, and security.

[17] George Mason University's passenger trip statistics are estimates based on DOT data and other sources, and represent the average amount of trip delay expected by passengers on a large sample of flights. See Lance Sherry and George Donahue, "U.S. Passenger Trip Delay Report," Center for Air Transportation Systems Research, George Mason University, April 2008, available at *http://catsr.ite.gmu.edu*.

- *Late arriving aircraft* means a previous flight using the same aircraft arrived late, causing the subsequent flight to depart late. In 2007, approximately 38 percent of delays were assigned to this category.
- *Airline* delays include any delay or cancellation that was within the control of the airlines, such as aircraft cleaning, baggage loading, crew issues, or maintenance. Roughly 29 percent of the delays in 2007 were attributed to airline delays.
- *National aviation system* delays and cancellations refer to a broad set of circumstances affecting airport operations, heavy traffic volume, and air traffic control. This category also includes any nonextreme weather condition that slows the operation of the system, such as wind or fog, but does not prevent flying. The national aviation system accounted for about 28 percent of delays in 2007.
- *Extreme weather* includes serious weather conditions that prevent the operation of a flight. Examples of this kind of weather include tornadoes, snow storms, and hurricanes. In 2007, nearly 6 percent of delays were assigned to extreme weather.[18]
- *Security* accounted for less than 1 percent of delays in 2007. Examples of security delays include evacuation of an airport, reboarding due to a security breach, and long lines at the passenger screening areas.

Since 2003, despite the increasing number of delays, there have been no significant changes in the trends of these sources of delay. Figure 3 shows the DOT-reported sources of delay in 2007.

Figure 3: DOT-Reported Sources of Delay—System, 2007



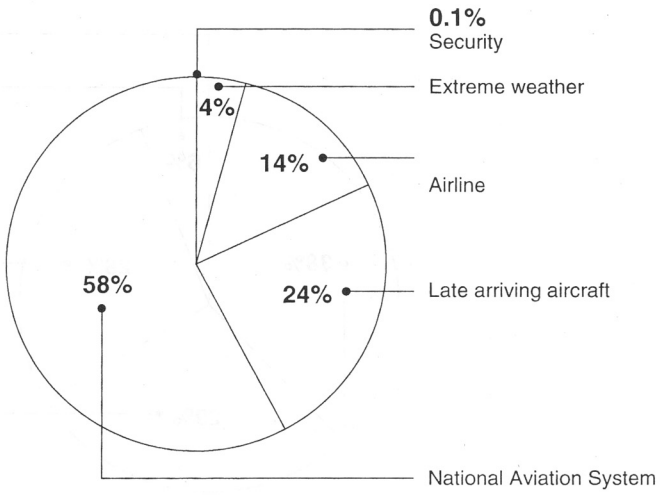
Source: DOT.
Note: Total may not add up to 100 percent due to rounding.

The distribution of delay by source is very different in New York than for the country as a whole and reflects the New York area's greater level of congestion. For example, national aviation system delays account for nearly 58 percent of all delays in New York as compared to approximately 28 percent for the country as a whole in 2007 (see fig. 4). As noted earlier, the three major New York area airports have experienced more than a 50 percent increase in traffic levels since 1998, while runway capacity at these airports has not changed. As a result, FAA must resort to a complement of traffic management initiatives, such as ground delay or flow con-

[18] Weather delays are captured in several categories, and according to DOT, a true picture of total weather-related delays requires several steps. First, DOT combines the extreme weather delays with weather delays from the aviation system category. Second, DOT performs a calculation to determine the weather-related delays included in the late arriving aircraft category. Airlines do not report the causes of the late arriving aircraft, but DOT makes an allocation using the proportion of weather-related delays and total flights in the other categories. Adding the weather-related delays to the extreme weather and aviation system weather categories results in weather's share of all flight delays. DOT estimates that about 44 percent of flights were delayed by weather in 2007.

trol programs, which are used to restrict the flow of traffic and, accordingly, lead to delays.[19]

Figure 4: DOT-Reported Sources of Delay—Average of the Three New York Area Airports, 2007



Source: DOT.
Note: Total may not add up to 100 percent due to rounding.

For several reasons, the data provide an incomplete picture of the underlying causes of delays. First, the DOT-reported categories are too broad to provide meaningful information on the root causes of delays. For example, delays attributed to the airlines could consist of causes such as a late crew, aircraft maintenance, or baggage loading, but these more specific causes are not captured in DOT data,[20] Second, the largest source of systemwide delay—late arriving aircraft, which represents 38 percent of the total delay sources (as fig. 3 shows)—masks the original source of delay. For example, the original source of delay for a late arriving aircraft may be the result of other sources—such as a severe weather condition, the airline, security, or the national airspace system—or a combination of one or more of these sources. Finally, the data do not capture what many economists believe is the fundamental cause of much of the flight delay—a mismatch between the demand for and capacity to provide aviation services. While the data provide airlines' view of the reason that particular flight segments were delayed, DOT does not report data on the extent to which flights are simply overscheduled in particular places at particular times relative to the capacity of the airports and air traffic control system to provide aviation services. The DOT Inspector General analyzed airline schedules at 15 airports and found that 6 of the airports had flights scheduled either at or over maximum airport capacity at peak hours of the day during the summer of 2007.[21] When this is the case, assigning the cause of delay to one of the five DOT categories masks that the fundamental cause is this mismatch of demand for and supply of these services.

[19] FAA has traditionally used ground delay programs to control air traffic volume to airports where the projected traffic demand is expected to exceed the airport's capacity for a lengthy period of time. Under a ground delay program, FAA decreases the rate of incoming flights into an airport by holding a set of flights destined for that airport on the ground. According to FAA, the most common reason for the implementation of a ground stop or ground delay program is adverse weather.

[20] GAO is currently conducting an analysis of crew scheduling problems and the extent to which they may lead to delayed or canceled flights.

[21] DOT Inspector General. *Status Report on Actions Underway to Address Flight Delays and Improve Airline Customer Service.* CC–2008–058. (Washington, D.C.: Apr. 9, 2008).

DOT and FAA Are Implementing Actions Intended to Reduce Delays

DOT and FAA are implementing several actions intended to reduce flight delays beginning in summer 2008.[22] Due to the high proportion of delays at the three major New York area airports and their effect on the rest of the airspace system, many of these actions are specifically designed to address congestion in the New York area. For purposes of our discussion, we grouped the various actions into one of two categories—capacity-enhancing initiatives and demand management policies—both of which are intended to reduce flight delays. Capacity-enhancing initiatives are intended to increase the efficiency of existing capacity by reducing delay and maximizing the number of takeoffs and landings at an airport. By contrast, demand management policies influence demand through administrative measures or economic incentives. Some of these capacity-enhancing initiatives and demand management policies will be fully or partially implemented by summer 2008, but others will not be completed or even initiated until later this year or beyond.

DOT and FAA have announced multiple capacity-enhancing initiatives designed to reduce delays in the New York region for this summer and beyond. In general, adding substantial new airspace system capacity is costly and time consuming.[23] Thus, in March 2007, DOT and FAA convened a workgroup that identified 17 short-term initiatives that better utilize existing capacity at the airport or system level through procedural and other changes in airport and airspace operations and could be completed by summer 2008. Eleven of the 17 short-term initiatives have been completed, and FAA plans to implement the remaining initiatives, which require more planning and coordination, by September 2008.[24] See Appendix I for a list of the 17 short-term initiatives and their status. The initiatives range from new procedures and reroutes for handling air traffic during severe weather conditions to efforts to reduce excessive spacing on final approach before landing, and to an airspace flow program that allows New York departures to move more freely while delays are redistributed to airports within the region. In addition to the 17 short-term initiatives, other capacity-enhancing initiatives are under way. These include improving coordination with DOD for airlines' use of military airspace and redesigning the airspace around the New York, New Jersey and Philadelphia metropolitan area.[25] FAA is in the process of drafting letters of agreement that would help establish more formal processes for communicating with DOD for the release of specific portions of military airspace on an as-needed basis. In December 2007, FAA initiated the first phase of the planned 5-year implementation of the airspace redesign, with new departure headings at Newark and Philadelphia airports.[26] In April 2008, FAA appointed a New York Airspace "Czar"—whose official title is Director for the New York Area Program Integration Office—to coordinate regional airspace issues and projects. Table 2 lists the capacity-enhancing initiatives and their status. More detailed information on the actions—including descriptions, geographic focus, and status—can be found in Appendix II.

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[22] Other efforts are currently under way to improve the air travel experience for customers. For example, airlines and airport operators are working to develop plans to better coordinate procedures for responding to extended tarmac delays, and DOT formed a task force to explore these issues. Also, a new bumping rule was announced in April 2008. See 73 Fed. Reg. 21026 (April 18, 2008). The rule is not designed to reduce cancellations or delays, but rather, requires airlines to double the maximum compensation to those who are involuntarily bumped from their flight.

[23] For example, NextGen improvements to the air traffic control system are estimated to cost $25 billion and will not be completed until 2025. Adding runway capacity at airports is also expensive and time consuming—for example, the third runway at Seattle-Tacoma International Airport is estimated to cost $1.1 billion–$1.2 billion and is scheduled to take at least 16 years to complete.

[24] In addition to the short-term initiatives, FAA is working to implement the list of 77 initiatives adopted by the New York ARC. This list includes most of the 17 short-term initiatives. FAA reported that to date, 17 of the 77 initiatives have been completed, 30 are expected to be completed by the end of Fiscal Year 2008, and 40 should be completed by the end of Fiscal Year 2009. FAA noted that the remaining initiatives are longer term or are being analyzed for feasibility and establishing priorities.

[25] GAO is currently conducting a review of the New York/New Jersey/Philadelphia Metropolitan area airspace redesign and plans to issue a report in July 2008. According to FAA, the purpose of the airspace redesign is to increase the efficiency and reliability of the airspace structure and air traffic control system, thereby accommodating growth while enhancing safety and reducing delays in air travel. Thus, the airspace redesign is intended to increase the efficiency and reliability of the air traffic system, and is included as a capacity-enhancing initiative for the purpose of this discussion.

[26] FAA will increase the number of departure headings air traffic controllers can assign to aircraft during takeoffs, and adjust the routes air traffic controllers can assign aircraft during their final approach to an airport.

Table 2.—Capacity-Enhancing Initiatives and Their Status

Capacity-enhancing initiatives

Action	Status
17 short-term initiatives	11 of 17 initiatives completed
Coordination for use of military airspace	In progress
New York/New Jersey/Philadelphia airspace redesign	Initiated, estimated completion 2012
New York Airspace Czar	Appointed

Source: GAO analysis of DOT and FAA actions.

DOT and FAA have also introduced demand management policies—most notably, hourly schedule caps on takeoffs and landings at the three major New York area airports—to its pool of delay reduction efforts. DOT and FAA believe that caps on scheduled operations are necessary at some airports where available capacity cannot meet demand. The caps are currently in place to limit scheduled operations at all three major New York area airports, with hourly scheduled operations capped at 81 at both JFK and Newark, and at 75 at LaGuardia. The most recent caps at JFK and Newark are scheduled to be in place until October 2009.[27] At LaGuardia, a December 2006 order maintained caps that had been in place since November 2000.[28] The institution of caps, however, does not necessarily mean that total operations at each of the three airports will decrease. For example, at JFK, the total number of daily scheduled operations will increase by 50 flights per day over summer 2007 levels, when no caps were in place, but scheduled operations will be spaced more evenly throughout the day in an attempt to minimize peak period congestion.

Two other demand management policies under way include an amendment to the Rates and Charges policy and proposed rules to establish slot auctions at all three New York area airports. The amendment to the Rates and Charges policy clarifies that airport operators may establish a two-part landing fee structure, consisting of both an operation charge and an aircraft weight-based charge, and include rule changes that would expand the costs congested airports could recoup through airfield charges.[29] The proposed slot auctions for the three New York area airports would lease the majority of operations (takeoffs and landings, or slots) to incumbent operators and help develop a market by annually auctioning off leases for a limited number of slots during the first 5 years of the rule.[30]

These two demand management policies are being developed, but it is unlikely that they will be in effect by this summer. DOT and FAA just recently announced the final Rates and Charges policy amendment, so it is unlikely the policy will have an impact this summer. Furthermore, existing use and lease agreements between airlines and airport operators could prevent any changes to rates and charges for many years, until existing lease agreements expire. DOT and FAA are currently reviewing comments for the proposed rule to establish slot auctions at LaGuardia and will be collecting comments on the proposed rule to establish slot auctions at JFK

[27] See 73 Fed. Reg. 3510 (January 18, 2008) for the final order on the caps at JFK and 73 Fed. Reg. 8737 (February 14, 2008) for an amendment correcting technical errors in this order. See 73 Fed. Reg. 29550 (May 21, 2008) for the final order on the Newark caps.

[28] 65 Fed. Reg. 69126 (Nov.15, 2000). This was extended through December 31, 2006. 70 Fed. Reg. 36998 (June 27, 2005). 71 Fed. Reg. 248 (Dec. 27, 2006).

[29] A final amendment to the Rates and Charges policy was issued on July 8, 2008, but as of July 11, 2008, it has not been published in the *Federal Register*. The proposed amendment can be found at 73 Fed. Reg. 3310 (January 17, 2008). The amendment to the Rates and Charges policy adopts a definition for a congested airport that contains two categories of congested airports, one relating to existing congestion and the other to future congestion. In the amendment, DOT defines a congested airport first as an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States and at an airport listed in table 1 of the FAA's Airport Capacity Benchmark Report 2004, in accordance with 49 U.S.C. § 47175. Second, DOT will consider an airport congested in the future if it is forecasted to meet a defined threshold level of congestion in the Future Airport Capacity Task 2 study, with the exception of those airports congested for the first time in 2025. DOT and FAA assert that airports already have the authority to adopt a two-part landing fee and the Rates and Charges policy clarifies this authority.

[30] See 73 Fed. Reg. 20846 (April 17, 2008) for the supplemental rulemaking on slot auctions at LaGuardia. See 73 Fed. Reg. 29625 (May 21, 2008) for the notice for proposed rulemaking on slot auctions at JFK and Newark.

and Newark until July 21, 2008; thus it is unlikely the final rules will be issued during the summer. Table 3 lists the demand management policies and their status. More detailed information on the actions—including descriptions, geographic focus, and status—can be found in Appendix II.

Table 3.—Demand Management Policies and Their Status

Demand management policies	
Action	Status
Order limiting scheduled operations at JFK	Caps in effect since March 30, 2008
Order limiting scheduled operations at Newark	Caps in effect since June 20, 2008
Orders limiting scheduled operations at LaGuardia	Caps in effect since December 2006
Rulemaking on slot auctions—LaGuardia	DOT and FAA are reviewing comments
Rulemaking on slot auctions—Newark, JFK	DOT and FAA are seeking comments
Amendment to Rates and Charges policy	Final policy issued July 8, 2008

Source: GAO analysis of DOT and FAA actions.

DOT's and FAA's Actions May Help Reduce Delays, but the Extent of Delay Reduction in Summer 2008 Will Likely Be Limited

DOT's and FAA's capacity-enhancing initiatives have the potential to reduce congestion and thereby avoid delays, according to FAA and stakeholders we consulted, but the effect will likely be limited for the summer 2008 traveling season. DOT's and FAA's demand management policies—in particular, caps on scheduled operations at all three New York area airports—are expected to have some delay avoidance impact in the near term. DOT and FAA set the caps at Newark and LaGuardia at a level intended to avoid an increase in delays above that experienced in 2007 and set the caps at JFK to generate a 15 percent reduction in average departure delays over 2007 levels. The projected impact of the various actions undertaken by DOT and FAA is also expected to be muted because several will not be in place until next year or beyond. Finally, other mitigating economic factors could lead to fewer operations in 2008, which might also lead to fewer delays.

Although DOT and FAA have not analyzed the potential near-term benefit of the capacity-enhancing initiatives, FAA officials and stakeholders that we spoke with anticipate that the capacity-enhancing initiatives will generally have a positive, but fairly small, impact on reducing delays in the near term. For example, while FAA has not analyzed the estimated impact of the 17 short-term initiatives, aviation stakeholders, including airport operators, airlines, and aviation industry associations, believe that these initiatives will have a positive impact in summer of 2008. However, most think the initiatives—when taken together—will result only in incremental improvements and in certain situations and alone will not provide sufficient near-term gains to accommodate the peak hour schedules at the New York area airports' current or forecast levels of demand. Furthermore, given that the final plan for coordinating the use of military airspace is still under development, the potential impact of this effort remains unknown. However, airlines agree that increasing use of military airspace through advanced coordination holds promise, and the release of military airspace over recent holiday weekends has been beneficial.[31] Finally, although the impact of the newly appointed aviation czar is also unknown, some airlines and New York airport operators have supported the appointment of a czar, but also expressed concern that the czar, who is currently lacking a dedicated budget or staff, will not have sufficient authority to direct and coordinate delay reduction efforts across FAA and DOT offices.

Of the capacity-enhancing initiatives, FAA has estimated the potential future delay reduction benefits of one—the New York/New Jersey/Philadelphia Airspace Redesign. FAA estimates that the airspace redesign will result in a 20 percent reduction in national airspace system delays for the New York/New Jersey/Philadelphia study area airports as compared to taking no action. According to FAA, estimated delay reduction will vary by airport and will be achieved only once the redesign has been fully implemented. The airspace redesign, scheduled to be completed

[31] FAA can currently use sections of military airspace on an as-needed basis and has had advanced coordination with DOD for use of military airspace over the Christmas and Thanksgiving travel season in 2007 and again over the Memorial Day and Fourth of July weekends in 2008. The current efforts under way are to further establish processes and procedures for advance coordination on a more regular basis.

in 2012, is highly controversial because residents living in affected areas have raised concerns about potential increases in aircraft noise and other environmental effects.

Demand management policies, which do not require long-term investments, will likely have a more immediate but similarly limited effect on relieving congestion and reducing delays. Because of increasing congestion at JFK and Newark, in the fall of 2007, FAA used models to analyze the airlines' proposed 2008 summer schedules and determine potential future delays at these airports and the effect of caps.[32] The proposed summer schedules submitted by the airlines for these airports would have constituted substantial scheduling increases over summer 2007. On the basis of these proposed schedules, DOT and FAA set the caps at JFK at a level that is projected to decrease average departure delays by 15 percent over 2007 levels. However, the caps at LaGuardia and Newark are set at a level to avoid an increase in delays over 2007 levels. For example, at Newark, FAA estimates about a 23 percent reduction in the average delay per operation relative to a situation with no cap. Newark's caps were designed to ensure that delays did not get significantly worse in 2008 based on the airlines' proposed summer schedules and the potential for increased operations diverted from JFK. Thus, the caps at Newark are not expected to bring a delay reduction benefit as compared to delays experienced in 2007. At LaGuardia, which already had caps in 2007, FAA estimated that the long-term implementation of caps would reduce delays by 32 percent as compared to no cap.

Caps at the New York area airports will help the region avoid additional delays in the near term, but there are also policy trade-offs to consider. In general, FAA, airlines, and aviation experts have stated that when available capacity cannot meet demand, managing operations at the airport level is necessary to reduce congestion and limit delays in the short run. FAA noted that imposing caps is an effective, but not efficient, way to reduce delays. Airlines generally support caps as a short-term solution for addressing congestion at the New York airports because of the worsening delays at these airports. FAA stated that some airlines may support caps at airports they already serve because caps generally protect incumbent airlines and limit competition from airlines that are interested in beginning service at these airports (or new entrants). However, some airport operators strongly oppose flight caps because they state that caps could constrain the economic growth of the surrounding region. In addition, some airport operators and aviation experts are concerned that using caps as a long-term solution can mask the need for capacity enhancements and shift the focus away from important long-term solutions that may provide a more lasting solution to the delay problem.

The proposed slot auction rules for the three major New York area airports are currently out for comment and will not be implemented by this summer, but even if they were in place, they would not directly reduce delays. DOT and FAA intend the slot auctions to help create a market for slots in the New York area that allows new entrants better access to the airports and encourage airlines currently holding slots to place a greater value on the use of their slots. By itself, a slot auction will not reduce delays. But DOT and FAA believe that by helping to reveal the economic value of slots, the policy may help to develop a more robust secondary market for slots, which will, in turn, lead to greater efficiency in their allocation and use. DOT and FAA believe that doing so may increase the size of aircraft used at the airports and thereby increase the number of passengers served. The proposed rules for the three New York area airports include different slot auction options. Only one of the two options for LaGuardia would have a direct delay reduction impact. Specifically, this option would require approximately 18 slots to be retired over 5 years, and would result in an estimated 1 minute of delay reduction for each takeoff and landing at the airport.[33] One slot auction proposal for Newark and JFK would reallocate 10 percent of eligible capacity via annual auctions over 5 years, and FAA would retain the net auction proceeds for use on unspecified capacity improvements in the New York area. The second slot auction option at JFK would reallocate 20 percent of eligible slots over 5 years, and the net auction proceeds would be granted to the carrier whose previously held slots were auctioned. Under this option, carriers whose slots are returned for auction would not be allowed to bid on their own slots. Some airline officials and airport operators stated that airlines have made substan-

[32] FAA worked with the MITRE Corporation to develop models and capacity analyses to set capacity limits at each of the three major New York area airports. Since the expected delay reduction impact of a cap is dependent upon the level at which a cap is set, when setting a cap, policymakers face a tradeoff between how much delay they are willing to accept and the number of operations the airlines are allowed. For example, higher constraint levels allow more operations during good weather, but may significantly increase delays during inclement weather.

[33] The second option for the LaGuardia slot auction does not retire any slots. As a result, this option does not result in a direct delay improvement.

tial investments at these airports that would be diminished if they lose operating rights. Airlines and New York airport operators strongly oppose the proposed slot auctions because they do not think that FAA has the legal authority to implement these auctions.

The potential impact of the Rates and Charges policy—a policy that is unlikely to be implemented by this summer because the final notice was only announced on July 8, 2008—was not analyzed by DOT and FAA. However, DOT and FAA assert that, if implemented, the amendment to the Rates and Charges policy may help to reduce congestion, and thus delay, by encouraging airlines to use larger aircraft and schedule fewer operations during peak usage hours. Some airport operators support this policy because it provides them with more flexibility in setting landing fees and another option for addressing delays, but the extent to which airports can or will implement the policy is unknown. Some airlines, airport operators, and aviation experts assert that an airport's implementation of a two-part landing fee under the Rates and Charges policy may not reduce delays because the policy requires these fees to remain revenue neutral.[34] In other words, for congested airports, the policy will not enable the differential between peak and off-peak prices to be large enough to change airline behavior while adhering to revenue neutrality. Some airlines and airport operators opposed the amendment because they think that it could discriminate against airlines whose fleets include mostly small aircraft because the amendment creates a fee differential for small to medium-sized aircraft while having a negligible effect on larger aircraft. Airlines and certain airport operators also expressed concern that under such a policy, service to small cities would be dropped because carriers would favor using larger aircraft to serve larger cities. Several airlines stated that the Rates and Charges policy does not address the bigger problem of lack of capacity in the airspace system.

Finally, other interrelated factors beyond government initiatives, such as the financial state of the aviation industry, increasing jet fuel prices, and the downturn in the economy, may also result in fewer delays during 2008, but their impact is uncertain. The Air Transport Association expects a 1 percent reduction in the number of passengers for the summer 2008 travel season as compared to the 2007 summer travel season, and many airlines are planning more substantial reductions in capacity and schedules for the fall and winter 2008 seasons. Economic conditions, rising fuel costs, and airline initiated capacity cuts could affect demand for air travel or available capacity in the coming months. These factors also reduce congestion and, accordingly, delays and could make it difficult to determine how much of the delay reductions, if any, might be attributed to the capacity-enhancing initiatives or demand management policies planned for summer 2008.

In closing, DOT and FAA should be commended for taking steps to reduce mounting flight delays and cancellations for the 2008 summer travel season. However, delays and cancellations this summer could still be significant given the likely limited impact of DOT's and FAA's actions. Capacity-enhancing initiatives can provide some limited benefit in the near term, but they do not fundamentally expand capacity. Demand management policies, especially those that artificially restrict demand—like schedule caps—may limit increases in delays, but should not be viewed as a meaningful or enduring solution to addressing the fundamental imbalances between the underlying demand for and supply of airspace capacity. The growing air traffic congestion and delay problem that we face in this country is the result of many factors, including airline practices, inadequate investment in airport and air traffic control infrastructure, and how aviation infrastructure is priced. Addressing this problem involves difficult choices, which affect the interests of passengers, airlines, airports, and local economies. If not addressed, congestion problems will intensify as the growth in demand is expected to increase over the next 10 years.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Subcommittee may have.

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[34] The amendment to the Rates and Charges policy states that the revenue generated from the two-part landing fee structure is not to exceed the allowable costs of the airfield. In other words, any airport that implements the two-part landing fee would be required to structure the fees such that the total revenue raised is no more than the level of revenue that would have been raised under a simple weight-based landing fee. That is, the landing fee structure must be "revenue neutral."

Appendix I: New York Short-Term Initiatives

17 Short-Term Initiatives to Enhance Capacity in the New York Area

Action	Description	Status
1. John F. Kennedy International Airport (JFK)—Port Authority of New York and New Jersey (PANYNJ) Daily Planning Teleconferences	Daily planning teleconferences to provide a common situational awareness for customers—such as airlines, airport operators, the military, and general aviation—on the planned daily operations at JFK.	Completed
2. Simultaneous Approaches to Runways 31L/R at JFK	Simultaneous runway approaches to 31L/R will allow approximately 4 to 6 more aircraft to land on this runway configuration when weather conditions are classified as instrument meteorological conditions (IMC).	Completed
3. Accessing J134/J149 from Eliot Intersection (for use during Severe Weather Avoidance Programs)	When thunderstorms affect the west departure routes, aircraft will be rerouted using the Eliot departure fix. Benefits have not been identified, but are available for use as weather events dictate.	Completed
4. Pass Back Departure Restrictions–700 mile restriction	Pass back restrictions were removed on October 11, 2007, beyond 700 miles for traffic destined for the New York airports. Departure restrictions to airports often lead to delays as controllers have to wait to release aircraft. Eliminating this airport restriction and allowing en route controllers to build in the spacing improves airport efficiency.	Completed
5. Excessive Spacing on Final Approach	Briefings and trainings at major facilities are planned to speed implementation of changes associated with the "proximity event" category. Intent is to help educate controllers that reducing excessive spacing between aircraft on final approach can help reduce delay and should not be considered an error, because it does not pose a safety risk.	In progress
6. Conditional Holding Patterns	Under certain conditions, control of the holding pattern airspace will transfer from the New York Air Route Traffic Control Center (ZNY) to the New York TRACON (N90). This allows aircraft to transition out of the holding pattern using terminal separation standards (3 miles) as opposed to the en route separation standards (5 miles).[a]	In progress
7. NY Area Severe Weather Avoidance Procedure Action Team Items—Route Availability Planning Tool (RAPT)	When affected by thunderstorms, controllers and traffic flow managers will use a weather forecasting technology to identify the availability of departure routes, and provide traffic management specialists with the ability to more quickly open and close routes and to reroute aircraft.	In progress
8. Second J80 Airway	Creating another westbound departure route parallel to J80 has the potential to mitigate westbound delays from JFK.	Completed
9. Resectorizing of New York ARTCC (ZNY) Sector 73	A reallocation of the lower part of sector 73 at the New York Air Route Traffic Control Center will allow the remaining sector to focus on aircraft departing Philadelphia and New York.	Completed

17 Short-Term Initiatives to Enhance Capacity in the New York Area—Continued

Action	Description	Status
10. Moving J79 Boston (Logan Airport [BOS] Arrivals to the East)	Move current BOS arrivals via J79 to the east and reduce congestion at the MERIT departure fix.	In progress
11. Moving Overflights in ZNY34	Moving crossing traffic, or overflights, out of the way of New York departures, allowing for unrestricted climbs to requested altitude, and reducing delay by decreasing miles in trail for New York departures.	In progress
12. Airspace Flow Program (AFP) for New York Departures	Apply AFP technology to manage departures from the NY airports, such that NY airport departures would be allowed to freely flow and delayed flights would be redistributed to other peripheral airports.	In progress
13. Severe Weather Avoidance Procedure (SWAP) Escape Routes	SWAP escape routes in Canadian airspace are used and coordinated daily with Canada's civil air navigation services provider (NAV CANADA). Used mostly during the summer because of thunderstorms and winds in the United States.	Completed
14. Deconflict Newark Airport (EWR) Arrivals Over SHAFF Intersection	Allows for more efficient arrivals from the north into Newark by moving or eliminating crossing traffic. No added capacity benefits are expected. Do expect to get some added operational efficiency for aircraft while in the en route portion of flight.	Completed
15. Simultaneous Visual Approaches to Runway 4L at EWR	A procedure that allows for simultaneous arrivals on runways 4L and 4R, when weather permits.	Completed
16. Caribbean Tactical Reroutes to EWR	Traffic management procedure to allow EWR arrival aircraft to fly at higher altitudes and in a less circuitous route. No added capacity benefits are expected.	Completed
17. EWR Runways 4R/29 Waiver	Procedures currently allow for these runway configurations to be used in Visual Meteorological Conditions (VMC). Waiver has been signed to allow arrivals to land on Runway 29 while landing on Runway 4R.	Completed

[a]Terminal Radar Approach Control (TRACON) is an FAA air traffic control facility which uses radar and two way radio communication to provide separation of air traffic within a specific geographic area in the vicinity of one or more large airports.
Source: GAO analysis based on DOT and FAA actions.

Appendix II: Status and Reported Benefits of Capacity-Enhancing Initiatives and Demand Management Policies

Capacity-Enhancing Initiatives

Action	Description	Focus	Status	Reported delay reduction benefit [a]
17 short-term initiatives	The New York Aviation Rulemaking Committee (ARC) recommended a list of 77 items for consideration and implementation in the New York area. From these, FAA identified 17 short-term initiatives for immediate action.	NY region	Eleven of the 17 short-term initiatives are currently complete. The others are planned for completion by the end of Fiscal Year 2008.	Not analyzed but likely to be small.
Coordination with the Department of Defense (DOD) for use of military airspace	FAA is working with DOD to explore the current use of special use airspace, develop proposals for increased civil use of military airspace, and evaluate letters of agreement that provide operational direction for the shared uses of special use airspace	East Coast	FAA's efforts to standardize use of military airspace with DOD are ongoing and the outcome is uncertain.	Final plan unknown, therefore benefit unknown.
New York/New Jersey/Philadelphia (NY/NJ/PHL) Airspace Redesign	The Airspace Redesign of the NY/NJ/PHL metropolitan area involves changes to airspace configurations and air traffic management procedures. The selected alternative (Integrated Airspace Alternative with Integrated Control Complex) integrates the entire airspace with a common automation platform. Air traffic controllers can reduce aircraft separation rules from 5 to 3 nautical miles over a larger geographical area than the current airspace structure allows	NY region	Implementation began on December 19, 2007, with the introduction of additional departure headings at Philadelphia International and Newark International airports. FAA has stated that it does not believe there will be additional changes implemented until fall 2008. Final implementation by 2012.	When the redesign is fully implemented in 2012, FAA estimated a 20 percent reduction in national airspace system delay in the study area as compared to taking no action. Estimated arrival and departure delay reduction varies between airports.
New York Airspace Czar	ARC participants agreed that appointing a New York aviation czar to coordinate regional airspace issues and all projects and initiatives addressing problems of congestion and delays in New York would be beneficial. As a result, the Director of the New York Integration Office position was created	NY region	Marie Kennington-Gardiner has been appointed Director of the New York Integration Office.	Unknown.
Demand Management Policies				
Order limiting scheduled operations at John F. Kennedy International airport	In January 2008, FAA issued an order setting a cap on the number of hourly operations at JFK. The order took effect March 30, 2008, and will expire October 24, 2009	NY region	Operations are capped at 81 per hour.	FAA estimates that caps would reduce average departure delays by 5.5 minutes, or 15 percent. The number of departure delays of 60 minutes or more would decrease 31 percent. Based on proposed summer 2008 schedules, estimated delays could have increased by up to 150 percent.

Capacity-Enhancing Initiatives—Continued

Action	Description	Focus	Status	Reported delay reduction benefit [a]
Order limiting scheduled operations at Newark International airport	In March 2008, FAA proposed an order to cap flights at Newark. The final order was issued on May 21, 2008, and takes effect on June 20, 2008, and expires October 24, 2009	NY region	Scheduled operations capped at 81 per hour by summer 2008.	Slight reduction in arrival delays offset by slight increase in departure delays with no estimated net change in average delay between 2007 and 2008. The purpose is to keep delays from worsening at Newark in 2008 because of caps at. Based on proposed summer 2008 schedules, estimated arrival delays would increase by as much 50 percent in 2008 without the limits.
Orders limiting scheduled operations at LaGuardia (LGA)	In December 2006, FAA published a temporary order maintaining the same caps and exemptions in place since November 2000. In April 2008, FAA also published an order limiting unscheduled operations to 3 per hour	NY region	Scheduled operations will be capped at 75 per hour during summer 2008.	FAA estimates 32 percent reduction in average delay as compared to no cap. As the caps were already in place, no new benefit is expected in summer 2008.
Supplemental rulemaking on slot auctions at LGA	In April 2008, FAA issued a supplemental rulemaking to lease the majority of slots at the airport to the incumbent operators and to develop a market by annually auctioning off leases for a limited number of slots during the first 5 years of the rule. Two options to annually auction these slots were proposed	NY region	Comment period ended June 16, 2008. DOT is reviewing comments.	Will depend on the option selected. Option 1 (slot retirement of 1.5 slots per year) estimated to result in 1 minute of average delay reduction. Option 2 does not retire slots. DOT believes the proposal will help reveal the economic value of slots, and may increase the size of aircraft used at the airports, and thereby increase the number of passengers served.
Proposed rulemaking on slot auctions at JFK and Newark	In May 2008, FAA issued a notice of proposed rulemaking to assign to existing operators the majority of slots at Newark and JFK, and create a market by annually auctioning off a limited number of slots in each of the first 5 years	NY region	In comment period until July 21, 2008.	FAA states that the immediate impact will be to prevent a return to, or worsening of, the conditions and delay experienced during summer 2007. By itself, a slot auction will not reduce delays. However, DOT believes the proposal will help reveal the economic value of slots, and may increase the size of aircraft used at the airports, and thereby increase the number of passengers served.

Capacity-Enhancing Initiatives—Continued

Action	Description	Focus	Status	Reported delay reduction benefit[a]
Amendment to the Airport Rates and Charges policy	Announced in July 2008, the policy clarifies the ability of airport operators to establish a two-part landing fee structure consisting of both an operation charge and a weight-based charge, giving airports the flexibility to vary charges based on the time of day and the volume of traffic. It also permits the operator of a congested airport to charge users a portion of the cost of airfield projects under construction and expands the authority of an operator of a congested airport to include in the airfield fees of congested airports a portion of the airfield fees of other underutilized airports owned and operated by the same proprietor	U.S.	Final policy issued July 8, 2008.	Not assessed, it is unknown to what extent airports can or will implement this policy or the airlines' response if it is implemented.

Source: GAO analysis based on DOT and FAA actions.
[a]For some actions, DOT has stated additional benefits unrelated to delay reduction.

Senator ROCKEFELLER. Thank you, Ms. Fleming.

And now, Mr. Meenan.

STATEMENT OF JOHN M. MEENAN, EXECUTIVE VICE PRESIDENT AND COO, AIR TRANSPORT ASSOCIATION OF AMERICA, INC.

Mr. MEENAN. Mr. Chairman, thank you very much.

To briefly summarize my written statement, I wanted to make just a few quick points about the state of aviation and the delay/congestion situation we're dealing with. And I have to tell you, it's not very good news.

The airline industry, as you know, is literally being decimated by the current fuel price situation. We are looking at a loss in the range of $10 billion this year. We've already lost 31,000 jobs in the industry. We're parking hundreds of airplanes every day. We're facing air service cuts across the country that are going to undermine local economies and the Nation's economy at the same time.

We anticipate that we are likely to lose the equivalent of one of our largest airlines in the United States because of reductions in service. And with the fuel bill up $20 billion just since last year, we're now pushing a $62-billion figure for our annual fuel bill.

It's easy to understand why we're so focused on improving air traffic management. Every minute, every second saved in transit is fuel savings that amount to huge potential returns to the bottom line.

Redesign of our badly outdated airspace system combined with improved operations will significantly improve system agility. Smarter, more efficient aircraft departures, routings, and landing sequences will all help us to eliminate and reduce fuel burn.

When it comes to dealing with delays, the East Coast airspace, centered in New York, is a critical place to focus. Although New York has only 12 percent of operations, systemwide, it has 45 percent of the flight delays. There's no question that the ripple effect from New York will be significant throughout the country, and, handled correctly, relief in the New York airspace will help unglue the rest of the system.

So, you might ask yourself what the Department of Transportation is doing with the ever-increasing congestion to make sure that passengers, shippers, and airlines can get where they want to go on time. The answer is: not much. Instead of moving forward with capacity enhancements and airspace redesign with every available resource and with all deliberate speed, the DOT is, incredibly, pushing congestion pricing and slot auctions, completely unproven textbook experiments that some graduate student might love to pursue, but not one that anyone in the aviation world believes in.

In the next few months, DOT seems intent on leaving a legacy of failed, but extremely costly, experiments that do nothing to reduce congestion and flight delays in New York or anywhere else. Auctions and congestion pricing rob the airlines of years of strategic investment and planning. And, as we make clear in our written statement, congestion pricing and slot auctions are unlawful, unfair, and incredibly costly to passengers and airlines at a critical time in the industry's meltdown—current meltdown.

We believe that these proposals have been tried and they will fail. Our prescription, however, is simple. We need to stop talking about ideology and experiments, and start leaving a legacy that will help, not hurt, the country. We need to devote the resources necessary, right now, to implement New York airspace redesign and related initiatives. We need to work with the Port Authority and the air traffic controllers to implement the near-term capacity enhancements identified last year by the New York ARC. We need to work with the Department of Defense and Congress, if necessary, to open up new airways. We need to accelerate the development and implementation of technologies that bring NextGen Air Transportation System online, and we need to deploy the worldwide scheduling guidelines, where necessary.

More broadly, with regard to fuel prices, we must move aggressively, in our view, to address both supply and demand issues, and, as this Committee has heard previously, to address the unhealthy level of speculation currently going on in the fuel market.

That concludes my statement. I'd be happy to respond to questions.

[The prepared statement of Mr. Meenan follows:]

PREPARED STATEMENT OF JOHN M. MEENAN, EXECUTIVE VICE PRESIDENT AND COO, AIR TRANSPORT ASSOCIATION OF AMERICA, INC.

Introduction

We are well into the summer travel season now and it is apparent that many of the conditions that led to record delays in 2007, particularly in the New York region, are present today and at times cause material delays in the National Airspace System. For this reason, the Air Transport Association (ATA) continues to urge the Federal Aviation Administration (FAA) to focus its resources on accelerating deploy-

ment of the technologies and measures that will bring meaningful improvement to airspace capacity and efficiency, especially in New York.

The real solution to congestion lies in FAA pushing ahead with the tools it does have. Instead of trying to manipulate airline scheduling through artificial means, FAA (and DOT) should manage the airspace and the air traffic control system more effectively and efficiently: implement airspace redesign and related initiatives; work with the Department of Defense and Congress, as necessary, to open up new airways on a permanent basis; accelerate development and implementation of the technologies that will bring us NextGen; and work with the Port Authority of New York and New Jersey, Philadelphia International Airport and the airlines to implement the numerous near-term capacity enhancement measures that were identified by the New York Aviation Rulemaking Committee last year. Where operations have been capped, DOT should adopt fully the *Worldwide Scheduling Guidelines,* which contain a well-established and accepted slot allocation process, and establish a vibrant and transparent secondary slot market.

ATA member airlines, which carry more than 90 percent of domestic passenger and cargo traffic, reflect the changing and diverse nature of commercial aviation today. Our membership includes the leading network passenger and low-cost carriers, and both large and small cargo carriers.[1] The significance of this point is that our membership is unified in its opposition to the Department of Transportation (DOT)[2] proposed congestion management proposals.

ATA also is aligned with the airport community, including the Port Authority of New York and New Jersey, in opposing the DOT auction proposal. Perhaps an even rarer state of affairs.

DOT proposals to "manage" congestion in New York airspace—slot auctions and congestion pricing—reflect a manifestly poor policy judgment about how to address delays in the New York area. It is a poor policy choice because these proposals conceal the root problem underlying delays.

Congestion and delays in New York result from several factors, but the primary, driving factor is DOT failure to supply the airspace and air traffic management infrastructure this *country* needs. The commerce of the United States—indeed of the world—drives airline scheduling and by seeking to curb artificially the demand for airspace and air traffic services, DOT proposals harm U.S. commerce and the national economy, the local economy of New York City, and the competitiveness of U.S. airlines in the global aviation marketplace. Simply put, these proposals are a confession of failure.

Equally important, DOT lacks statutory authority for its congestion management proposals. The fees associated with the proposed auctions are new user fees that Congress has prohibited.[3] Furthermore, when Congress wants to grant an agency authority to conduct auctions, it knows how to do so. It has not done so here. Indeed, DOT has acknowledged on more than one occasion that it does not have authority to mandate congestion management measures.[4] This leads inexorably to the question of why does DOT continue to waste valuable taxpayer dollars pursing unlawful measures that will not work?

Finally, DOT has lost sight of the ancient maxim, *primum non nocere,* "first, do no harm." The U.S. airline industry is reeling from oil shock like no other U.S. industry and faces an uncertain future. We project that U.S. airlines will spend roughly $61 billion on jet fuel in 2008, *$20 billion more than in 2007.* Consequently, U.S. airlines will lose $7–$13 billion in 2008. Already, eight U.S. airlines have ceased operating since the end of 2007 and two other airlines are operating under Chapter 11 protection. Instead of experimenting with illegal and ill-conceived plans to sup-

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[1] ATA is the principal trade and service organization of the U.S. scheduled airline industry. The members of the association are: ABX Air, Inc.; AirTran Airways; Alaska Airlines, Inc.; American Airlines, Inc.; ASTAR Air Cargo, Inc.; Atlas Air, Inc.; Continental Airlines, Inc.; Delta Air Lines, Inc.; Evergreen International Airlines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue Airways Corp.; Midwest Airlines; Northwest Airlines, Inc.; Southwest Airlines Co.; United Airlines, Inc.; UPS Airlines; and U.S. Airways, Inc. Associate members are: Air Canada; Air Jamaica; and Mexicana.

[2] References to DOT include the Federal Aviation Administration (FAA).

[3] "[N]one of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act . . ." 2008 DOT Appropriations Act, Pub. L. 110–161, 121 Stat. 2379, and prior annual appropriations acts.

[4] For example: "In the [2006 LGA] NPRM, the FAA stated that it did not have the authority to reallocate Operating Authorizations via a market-based mechanism. . . . The FAA continues to believe that it cannot rely on a market-based allocation method under a purely regulatory approach, which is why it explicitly sought legislation on this matter." *Supplemental Notice of Proposed Rulemaking,* 73 Fed. Reg. 20852 (April 17, 2008). *See* Section III, for further discussion of this point.

press demand for air transportation services, the Department should assess what it can do to relieve the industry of unnecessary costs and regulatory burdens.

Congress can help, too, by addressing some of the pressures driving oil prices to ever-increasing new highs. We believe legislation that brings transparency to the oil futures markets and restores reasonable regulatory measures to prevent excessive speculation by purely financial interests, as opposed to those who use petroleum products, will have an immediate beneficial impact. In addition, we strongly support efforts to increase our domestic supply of crude oil and refined products. ATA supports domestic exploration and environmentally sound expansion of energy production here at home. In the long run, energy supply must be enhanced. That is why we also support expanding other sources of domestic energy supplies, including nuclear, wind, solar, coal, biofuels and other sources. Both problems—excessive, unregulated speculation and energy supply—must be fixed.

DOT Congestion Management Proposals Ignore Reality

DOT Congestion Management Proposals

DOT has proposed two measures to "manage" congestion in the New York region. The first proposal would modify the joint FAA/DOT formal policy on airport rates and charges to permit—indeed encourage—airports to increase the costs they charge to airlines for operating during congested time periods. Because airport charges must, as a matter of law, be cost-based, *DOT has proposed measures that would allow airports to artificially increase the costs that can be passed on to airlines.*

The second proposal is an experiment to auction slots at each of the three primary New York City airports. Each year for the next 5 years, FAA will confiscate slots from carriers and then auction them off to the highest bidder.[5] In 10 years, all slots would automatically terminate and revert back to the FAA, leaving carriers without any idea of their ability to operate their schedules. This feature is absolutely inconsistent with encouraging carriers to invest in the operations, facilities, aircraft and employees necessary to compete at these airports.

As discussed in the *DOT Auction and Congestion Pricing Proposals Are Unlawful* section that follows, both of these proposals are legally deficient and, for that reason, cannot be implemented. However, they are also the outcome of poor policy judgments because they ignore operational reality.

Weather, Not Air Carrier Schedules, Causes Delay

In the FAA's own words:

> Bad weather causes 70 percent of all delays. The situation is worse during the summer: unlike winter storms, which take time to develop and move slowly, summer storms can form quickly, stretch for hundreds of miles and travel rapidly over large portions of the country, grounding flights and sending chain-reaction delays throughout the Nation's airspace system. *FAA Fact Sheet,* May 22, 2008.[6]

Little can or need be added to this revealing statement. When it comes to airline delays, the chief culprit is weather. It is obvious, of course, that the impact of bad weather is greatest where air traffic is heaviest, such as in the New York region. But that is not justification for DOT experimental proposals, especially when other contributing factors—discussed below—are considered.

New York Airspace Has Significant Non-Air Carrier Jet Traffic That Contributes to Congestion

We have testified on several occasions that business jet operations are a significant contributor to congestion and delays in the New York region. We pointed out last September, for example, that air carrier and air taxi (primarily regional airline) operations combined accounted for just 53 percent of the New York City activity based on July 2007 data.[7] In the future, this number is likely to decrease further given the schedule reductions airlines have announced.[8]

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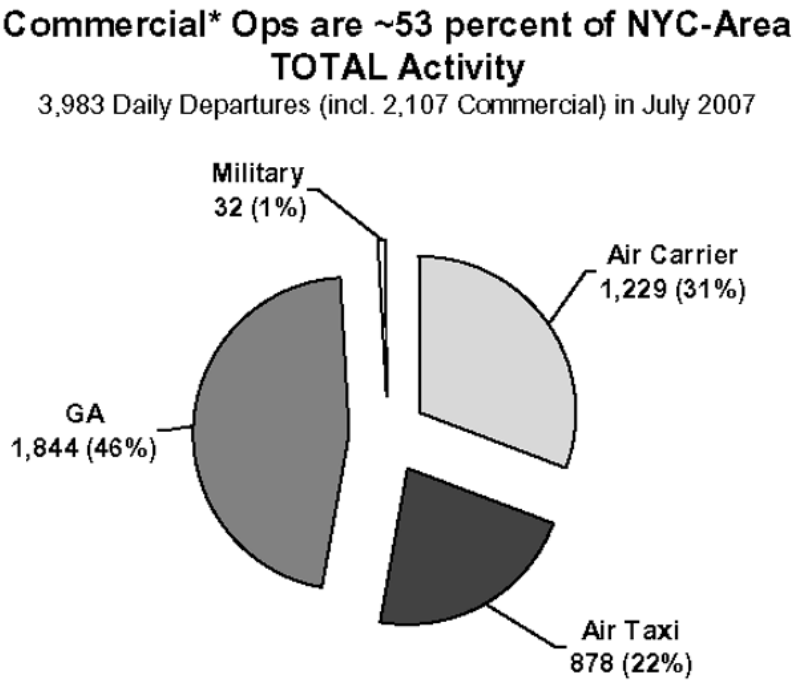
[5] DOT proposes two options for how the proceeds will used. Under Option 1, DOT claims the proceeds will be used to mitigate congestion in the New York region; under Option 2, the proceeds would be paid to the air carriers from whom the slots were taken. But under Option 2, more slots would be confiscated—20 percent instead of 10 percent.

[6] *http://www.faa.gov/news/fact_sheets/news_*story.cfm?newsId=10227.

[7] The multiple factors affecting congestion and delays are addressed at length in our written statement before the House Aviation Subcommittee on the subject of *Airline Delays and Consumer Issues,* September 26, 2007, available at *http://www.airlines.org/government/testimony/ATA+Testimony+-+Airline+Delays+and+Consumer+Issues.htm.*

[8] *See* pp. [44–45] below.



Source: Federal Aviation Administration (FAA) OPSNET *Air Carrier + Air Taxi.

Remarkably, this fundamental fact is ignored by DOT demand management proposals. In light of recent findings by the DOT Inspector General, this oversight is puzzling and should be a serious concern to this Committee.

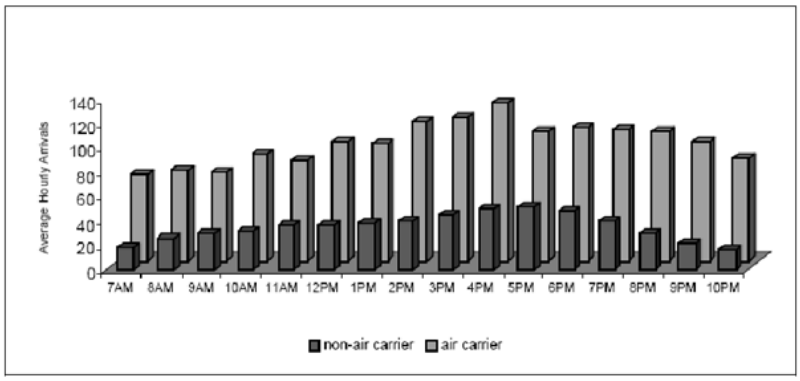
In March 2008, the DOT Inspector General released a report on use of the National Airspace System (NAS).[9] In his report, the Inspector General found that "business jets' NAS usage is considerable," with "[n]on-air carrier jets accounting for 12 percent of tower and 13 percent of terminal area control services in 2005."[10] The Inspector General added: "To put this in perspective, . . . business jets' tower and terminal area control services in FY 2005 was about one-third of air carrier jets."[11]

Regarding the New York City region, the Inspector General noted:

> The New York TRACON facility handles three large primary airports, [footnote omitted] primarily serving air carriers, and 12 outlying towered airports, primarily serving non-air carriers. *Non-air carriers accounted for 20 percent to 30 percent of the peak level of instrument approach operations at the New York TRACON.* (emphasis added).
>
> [B]oth air carriers and non-air carriers were competing for terminal area control services during the same busy, congested time periods. For example, at the New York TRACON, non-air carriers exhibited the same time of day peaking in demand for terminal services as did air carriers (see figure 5).[12]

[9] Report No. CR–2008–28, March 3, 2008.
[10] *Id.* at 10, 11.
[11] *Id.* at 12.
[12] *Id.* at 13–14.

Figure 5. New York Terminal Control Area – FY 2005
Instrument Approach Operations by Hour of Day
(Includes Outlying Airports)



Source: OIG Analysis of FAA Data.

Likewise, the Inspector General found that non-air carrier use of the New York Terminal Control Area peaks during the afternoon hours and contributes to congestion.[13]

These findings by the Inspector General further highlight a significant policy deficiency of DOT congestion management proposals: DOT has ignored the very serious and significant contribution to delays and congestion in New York airspace from business jet and high-performance general aviation operations. DOT auction and congestion pricing proposals cannot succeed if they ignore these operations.

The obvious related point, of course, is that by ignoring non-air carrier jet operations in New York airspace, the proposals—particularly the auction proposals—shift the entire cost of reducing congestion and delays (financial and operational) onto air carriers and their passengers and shipping customers. Rather than seeking a fair and balanced solution, DOT's proposals amount to yet another subsidy for business jet owners and other non-air carrier jet operators. Such a burden on commercial air carriers and their customers is patently unfair.

DOT Aucton and Congestion Pricing Proposals Are Unlawful

The FAA's own clear and unqualified words in 2006 condemn its current auction and congestion pricing proposals:

> [A] legislative proposal to Congress . . . will seek authority to utilize market-based mechanisms at LaGuardia in the future. Such legislation would be necessary to employ market-based approaches such as auctions or congestion pricing at LaGuardia because the FAA currently does not have the statutory authority to assess market-clearing charges for a landing or departure authorization. If Congress approves the use of market-based mechanisms as we plan to propose, a new rulemaking would be necessary to implement such measures at LaGuardia. FAA Notice of Proposed Rulemaking—*Congestion Management Rule for LaGuardia Airport,* 71 Fed. Reg. 51360, 51362 (Aug. 29, 2006).

FAA could not have been more direct: We do not have the authority to impose so-called "market-based approaches," so we will ask Congress to give us that authority. True to its word, the administration's FAA reauthorization bill included provisions to give FAA authority to implement market mechanisms to allocate slots. But, as we all know, that bill has not passed yet. Consequently, by its own admission, FAA lacks statutory authority for the auction and congestion pricing rulemakings.

That should be the end of the story, but it is not. FAA now attempts to qualify its 2006 admission by stating that it analyzed the issue of statutory authority too narrowly. While still acknowledging that it lacks *regulatory* authority to impose market-based mechanisms because of the annual appropriations prohibition against

[13] *Id.* at 13.

promulgating or collecting new user fees,[14] it claims it has now determined, conveniently, that it can work around that limitation by exercising *procurement and transaction authority*[15] to auction slots at the three primary New York area airports. That view of the law is incorrect for several reasons, which are discussed at length in ATA comments in response to the FAA supplemental notice of proposed rulemaking (the "SNPRM").[16]

Briefly, the FAA does not have authority to auction slots using its procurement and transaction authority because:

- It cannot do indirectly what it is prohibited from doing directly. The "transaction authority" that the FAA argues is independent of its regulatory authority (which it cites as the basis for auctioning and leasing slots) is, in fact, linked to its regulatory authority because the FAA may engage in transactions only if they are "necessary to carry out the functions of the Administrator and the Administration." Thus, in this instance, the "function of the Administrator" being exercised is the function of managing the navigable airspace, which is a regulatory function required by 49 U.S.C. § 40103(b) ("The Administrator *shall* . . . assign by regulation or order the use of the airspace . . ."). But, as even the FAA acknowledges, the appropriations prohibition on new user fees discussed previously prevents it from using its regulatory authority for market mechanisms. Therefore, FAA cannot use its *transaction* authority to implement a prohibited *regulatory* action.
- 49 U.S.C. § 40103(b), on which FAA relies to promulgate the auction rules, provides specific but limited authority for the FAA to regulate the airspace to ensure the safety of aircraft and the efficient use of airspace and to prescribe *air traffic regulations* on the flight of aircraft. This language does not remotely suggest that the FAA is authorized to auction off the right to conduct operations in navigable airspace. When Congress wants an agency to conduct such an auction, it is explicit. Congress knows how to authorize auctions when it chooses to do so, as it did in great detail and at great length when it authorized the Federal Communications Commission to conduct spectrum auctions. 47 U.S.C. § 309(j). It has not done so here.
- Auctioning slots effectively amounts to the imposition of a tax designed to discourage airlines from using the navigable airspace at congested airports during peak periods. Since only Congress can levy taxes, the FAA cannot impose charges that amount to a tax unless Congress has clearly expressed its intention to delegate such authority to the agency and articulated intelligible guidelines for making the assessments. 49 U.S.C. § 40103(b) cannot be read as constituting such a delegation.
- The slots that FAA would create under the SNPRM, which FAA describes as "reservations of airspace," are not "property" in the hands of the FAA that the agency can dispose of using its property-management authority under 49 U.S.C. §§ 106(l)(6) and 106(n) and 49 U.S.C. § 40110(a). Those provisions apply to the acquisition and disposition of the FAA's real and personal property. A slot—in essence a license or permission to use navigable airspace—is the product of *regulatory* action by FAA in capping hourly operations at an airport. The resulting permission to use what has become constrained navigable airspace is not real or personal "property" of the FAA—just as other licenses or permits issued by governmental authorities are not "property" of the issuing agency.[17] The awkwardness of the FAA proposed lease form for slots underscores the fiction of characterizing slots as property of the FAA that it can dispose of by lease.
- Because the auction price for slots would not be cost-based, it would violate the requirements of the Independent Offices Appropriations Act (the "IOAA"), 31 U.S.C. § 9701, which allows agencies to charge recipients of special governmental services for the *cost to the agency* of providing those services. Here, the cost to the FAA would be its actual costs incurred to allocate slots by auction.

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[14] *See,* for example, Pub. L. 109–115 and Pub. L. 110–161.

[15] "[T]he FAA's authority is not limited to regulatory action. The agency has independent authority to dispose of property (footnote omitted), and regulatory action is not required prior to the lease of property." 73 Fed. Reg. 20852.

[16] *See* Comments of Air Transport Association of America, Inc., June 16, 2008, Docket No. FAA–2006–25709.

[17] In contrast to the FAA, which creates the slots by regulatory action but has no property interest in them, airlines to which slots are issued do have a property interest in slots. That property interest is recognized by third parties (including lenders to whom slots may be pledged as collateral) and by the FAA itself (which allows slots to be bought and sold in a secondary market).

The slot auction prices that are contemplated under the SNPRM, however, would not be related to those costs as they would result from a bidding process.

- The FAA has no authority to determine how auction proceeds would be used. Nothing in the Transportation Code or the IOAA authorizes the FAA to retain the auction proceeds and expend them on "congestion management in the New York City area," as the agency proposes to do under SNPRM Option 1. Instead, the auction proceeds under that option (assuming a market-based auction were otherwise lawful) would have to be deposited into the general fund of the U.S. Treasury pursuant to the Miscellaneous Receipts Statute, 31 U.S.C. § 3302(b). The FAA's expenditure of auction proceeds without a congressional appropriation also could violate the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1).
- Likewise, SNPRM Option 2 (where the original slot holder would be allowed to keep the proceeds net of the FAA's auction-related expenses) is not authorized. Option 2 amounts to the forced sale of slots by unwilling sellers, rather than a transfer from the FAA to a carrier. There is no transfer from the FAA to a carrier, required by the FAA transaction authority construct under 49 U.S.C. §§ 106(l)(6) and 106(n). Nor could the FAA rely on the IOAA as authority for Option 2 because the auction proceeds, which are being retained by the original slot holder, do not constitute a charge made to recoup the cost of special services being provided by the agency.

Likewise, the proposed rates and charges policy change is illegal. Airports are bound by the principle of "revenue neutrality," which means that the total fees and charges collected from airlines must approximate an airport's cost of providing facilities and services. To the extent the policy change purports to allow airports to violate this principle, it is illegal. Moreover, each of the three individual policy changes DOT proposes is legally deficient. Taken as a whole, the congestion pricing proposal, if adopted, is unlawful and will only inject uncertainty for both airlines and airports regarding airport charges, thereby causing controversy and disputes. Such controversies undermine the DOT policy promoting negotiated agreements between airlines and airports because airports will be able to unilaterally impose conditions that otherwise would be subject to negotiation. Airport proprietary powers are limited, and it is our view that airports are preempted by Federal law from seeking to affect airline routes and services by means of unilaterally imposed pricing schemes.[18]

Auctions and Congestion Pricing Will Not Reduce Congestion or Delays and Are Fraught with Problems

At the most fundamental level, auctions and congestion pricing have nothing to do with reducing congestion or delays. They are simply a means of allocating limited airport access. Capping operations, as the FAA has done at the three New York area airports, is the mechanism that reduces delays by limiting the number of operations. This fundamental point cannot be overstated. The DOT proposals do not address, and will not impact, congestion or delays.

Auctions

No airport or government agency auctions access to airports. DOT seeks to break new ground by its auction proposal. But auctioning airport access is fraught with technical and operational problems and will not work.

The DOT auction proposal requires DOT to design, implement and maintain a slot auction mechanism that accommodates the complexities and interdependencies of airline schedules. Airline schedules at one airport are highly interdependent with schedules and operations at other airports across an airline's system and across the entire day, and limitations imposed by slot holdings at other airports, as well as operating limitations (voluntary curfews, connecting schedules), add layers of complexity. The ability to submit and accept package bids (bids conditioned on winning matched pairs of slots at different airports or sets of slots at the same airport) likely will be a critical factor in an auction system. There is little experience in any context, and none in the airline system context, to serve as a model for developing and operating an efficient auction mechanism that deals with these levels of complexities. It is not clear at all that DOT is capable of developing such a complex auction system on its own or with outside assistance.

Notwithstanding these complexities, DOT anticipates that it will be able to issue a request for proposals, select an auction design vendor, resolve numerous out-

[18] "a State . . . or political authority of at least 2 states may not enact or enforce a law, regulation, or other provision having the force and effect of a law related to a price, route, or service of an air carrier." 49 U.S.C. § 41713(b)(1).

standing questions about the auction process and determine the auction design, rules and procedures, obtain and test the auction software, train FAA and carrier personnel, and then implement an auction by December 2008—in less than 6 months. DOT aspirations are wholly unrealistic and should be cause for concern.

Congestion Pricing

Congestion pricing has proven to be an utter failure wherever it has been tried. A 2005 survey of the literature addressing congestion pricing along with an analysis of peak pricing schemes in Boston, New York and London concluded that institutional barriers prevent peak pricing from being used effectively in the airport context.[19] At several airports, including Toronto and London Stansted, congestion pricing programs (perhaps better described as peak-hour charges) simply have been ineffective in reducing demand for airport access. Congestion during peak hours remains a problem and there is a waiting list for access and/or more slots.

At other locations, including the Cayman Islands and Haiti, so-called congestion charges are merely excess charges to raise revenue. Although characterized as congestion charges, demand at these airports does not exceed capacity and there is no congestion problem.

From a policy perspective, congestion pricing will not work in the airline context because, unlike toll roads where commuters have a choice of routes (secondary surface roads, primary surface arteries or interstate highways), typically no choice exists for airlines and their customers. Passengers will continue to demand flights at particular times and in particular markets, and airlines will respond with schedules to meet that demand.

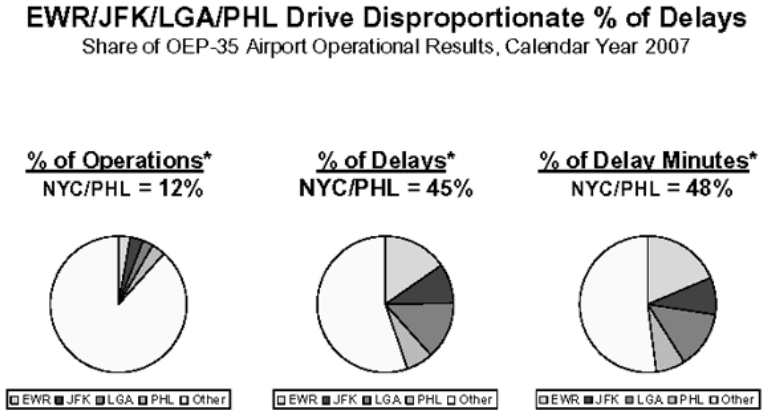
Also, unlike the roadway and variably priced electricity examples, where the driver or electricity customer pay the fee directly, congestion fees would be imposed on airlines and not the consumer who drives airline scheduling. This means the ultimate consumer is shielded, either partially or completely, from the congestion fee, thereby making it ineffectual at changing consumer behavior.

Finally, congestion fees ignore the investment by airlines in routes, equipment, facilities and personnel. Those investments, in most cases, have been substantial and, for this reason, airlines will be unwilling and/or unable to alter their service patterns in response to congestion fees. Airlines will be forced to try to pass them on to consumers, which will be difficult in the industry's highly competitive environment, or to simply absorb them, an alternative that cannot be sustained in today's cost environment.

FAA Has the Tools: Airspace Redesign, NextGen and the ARC Capacity Enhancing Measures

As we have said before, the solution to delays lies not in suppressing demand, but in expanding capacity to satisfy that demand, thereby fostering the health of not just the airline industry, but the entire U.S. economy. All stakeholders, but especially FAA, must be relentless in their efforts to enhance capacity. It is well documented that delays in New York impact the entire National Airspace System. Accordingly, FAA should devote whatever resources are necessary to enhance capacity and operational efficiency in the New York area.

[19] Joshua L. Schank, "Solving airside airport congestion: Why peak runway pricing is not working," *Journal of Air Transport Management* 11 (2005) 417–425.



*Share of OEP 35 total.
Source: ATA analysis of FAA OPSNET.

One measure that we recommended last September, and that we continue to press, is accelerating implementation of the New York/New Jersey/Philadelphia airspace redesign project. This project will enhance both capacity and the efficiency of operations in the Northeast, while reducing the overall number of people exposed to aircraft noise. It is a win-win. Although FAA is moving forward on this project, more can be done to accelerate its implementation, and this committee can assist that effort by keeping the FAA focused on achieving results.

Another measure that we recommended was the appointment of a single person to be responsible for managing and implementing all of the capacity enhancement measures in the New York region—a "New York Czar." Marie Kennington-Gardiner was appointed recently as Director of the New York Program Integration Office. Although this position was not given the authority and reporting seniority we had anticipated, we look forward to working closely with her to affect positive change in New York. This committee can assist this process by holding the FAA accountable for establishing clear objectives and metrics to measure performance to those objectives, and by requiring regular reports.

Getting to NextGen, the FAA Next Generation Air Traffic Management System, is of critical importance. It is a massive undertaking with many moving parts, and FAA must avoid the failures of past large-scale development and acquisition projects. All of the agencies that have a role in this effort, but particularly the FAA as lead agency, must stay focused and devote the resources necessary to get it done as quickly as possible. Again, oversight by this committee will assist this effort.

Last fall, ATA participated on the DOT New York Aviation Rulemaking Committee, and was instrumental in helping to develop a list of 77 delay reduction initiatives for the New York area airports. As of this date, FAA lists 17 measures as having been completed and 14 more in process. We and our members will work with the FAA to assist these efforts and push for their early completion, and we look forward to working with this committee to assure the success of these efforts.

In addition to the critical measures noted above, ATA has urged the FAA to move forward as quickly as possible on the following recommendations:

- Ensure real-time access to military airspace.
- Repair its relationship with the controller workforce.
- Increase the controller workforce at any/all New York area facilities in order to achieve maximum operational efficiency.
- Take advantage of new RNP routes in the West Atlantic and leverage new automation tools that reroute flights around weather.
- Use Airspace Flow Programs to filter business jets out of congested chokepoints during peak periods—especially afternoon peaks.
- Utilize multiple runways, including converging runway operations where appropriate.
- Assign scheduled operations a higher priority than other system users.

- Improve surface management systems (traffic flows between runways and gates)—in particular continue accelerated deployment of ASDE–X.
- Eliminate miles-in-trail departure restrictions to airports greater than 500 miles away.
- Expand use of low-altitude arrival and departure routes ("capping" and "tunneling").
- Realign/relocate arrival, departure and overflight routes to avoid conflicts that drive inefficient routings.

Now, More than Ever, Do No Harm

Last September, we were optimistic that the industry finally had turned the corner from the deep, post-9/11 downturn. We stated then:

> It is safe to say that the U.S. airline industry is in a recovery period from the extreme downturn experienced between 2001 and 2005, when the industry sustained over $35 billion in net losses. In 2006 the industry earned $3 billion net profit, and we project a $5 billion net profit for 2007. Airline employment is on the rise, as is capital spending, which is good news for airlines and their shareholders, employees and the many local economies that depend on a healthy airline industry to drive commercial activity, jobs and tourism.[20]

Unfortunately, our optimism for a continued recovery has been crushed under the weight of skyrocketing fuel prices that could not have been predicted. Today, just 9 months later, the U.S. airline industry faces losses that will rival, if not exceed, the losses from the 2001–2005 period. The meteoric rise in jet fuel prices—to prices never imagined in anyone's worst nightmare business case—is driving the industry to the brink of imploding. The numbers tell the story:

- Crude oil hit an all-time high of $145.66 per barrel on Friday, July 11, 2008—a 97 percent increase over 1 year ago.
- Several analysts predict that oil will hit $150 per barrel in July, and some are predicting even higher prices by year-end.
- From January 1, 2008 through July 8, 2008:
  - Crude oil spot prices averaged $112.29 per barrel, compared to $61.94 during the same period in 2007.
  - Jet fuel prices averaged $139.52 per barrel, versus $81.94 during the same period in 2007.
  - Jet fuel prices averaged $27.23 per barrel more than crude oil and $17.70 per barrel more than gasoline.
- *Year-over-year, jet fuel prices have risen 70 percent; in contrast, air fares have increased just 7 percent.*
- *The portion of an airline ticket needed to pay for fuel is now more than 40 percent,* up from 15 percent in 2000.
- U.S. airlines effectively pay 57 percent more for fuel than European airlines because of the relative weakness of the U.S. dollar and because fuel transactions are denominated in U.S. dollars.

As a result of this situation:

- Scheduled air service has been, or will be, eliminated from 96 communities nationwide.
- Mainline domestic capacity is being slashed. Some examples:
  - Continental will reduce domestic mainline capacity by 11 percent in the fourth quarter.
  - U.S. Airways will reduce domestic mainline capacity by 6 to 8 percent in the fourth quarter 2008, followed by an additional 7 to 9 percent in 2009.
  - United will reduce domestic mainline capacity by 14 percent in the fourth quarter 2008, with additional reductions planned for 2009, and just announced plans to furlough more than 900 pilots.
  - American will reduce domestic mainline capacity by 11 to 12 percent in the fourth quarter of 2008.

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[20] *See: http://www.airlines.org/government/testimony/ATA+Testimony+-+Airline+Delays+and+Consumer+Issues.htm.*

- AirTran has gone from a 20 percent growth plan for 2008 to announcing that it will reduce capacity later this year.
- Northwest will reduce domestic mainline capacity by 7 to 8 percent in the fourth quarter of 2008 and eliminate more than 40 aircraft from its fleet by year-end.

- The industry is rapidly approaching 30,000 job cuts and early-out offers.
- Eight U.S. airlines have gone out of business since the end of 2007 and two more are operating in bankruptcy Chapter 11.
- U.S. airlines are projected to spend $61 billion on fuel this year, $20 billion more than in 2007—an increase equivalent to the compensation and benefits of 267,000 airline workers or the acquisition of 286 new jets.
- *ATA forecasts a full-year industry loss of $7 to $13 billion for 2008,* and absent a dramatic drop in the price of fuel, a multi-billion dollar loss again in 2009. JP Morgan projects an operating loss of $7.2 billion in 2008 and an even higher operating loss in 2009.

Under these circumstances, the government's first reaction should be "do no harm"—avoid adding unnecessary costs and regulatory burdens. Simply put, the industry needs the government to apply a degree of critical analysis to its own actions to determine what needs to be done to ensure public safety and security, what needs to be done to improve operations and efficiency, and then take only those actions that are necessary at this time. Experimenting with demand management in New York is not needed now, regardless of ones views on its merits. Now is not the time to conduct an experiment that will add out-of-pocket expense for airlines and create greater uncertainty about schedules and aircraft utilization.

Furthermore, in light of dramatic schedule changes and service reductions that airlines have announced and which become effective later this year, it is likely that the New York region will see a noticeable improvement in delays. Although the schedule changes will not impact the level of delays this summer, it is likely that delays will be positively impacted next summer. This is another reason DOT should not advance its proposals now.

Conclusion

Instead of advancing illegal and ill-conceived notions intended to suppress demand at a time when airlines are attempting to survive previously unheard of fuel prices—coupled with consumer demand that is falling because of a weak U.S. economy—DOT and the FAA should be focusing on fixing the underlying problem: insufficient airspace capacity in the New York region and an aged and inadequate air traffic control system. Stifling demand will have serious adverse consequences for airlines, consumers and New York area residents who rely on passenger and cargo air transportation services and a vibrant tourism industry. We urge Congress to put a stop to DOT's misguided efforts.

We also urge Congress to move quickly in a bipartisan manner to address the oil price crisis that is quickly overtaking our industry. Congress can rein in excessive, unregulated speculation in the oil futures markets and adopt measures to expand, in an environmentally sound way, our domestic energy supply, both carbon-based and from alternative sources. We urge Congress to act now.

Senator ROCKEFELLER. Thank you very much. I'd just—in comment to that, I don't know anybody who thinks that that's going to happen very quickly, this abundance—increased abundance of fuel—jet fuel or otherwise. And that's what we're wrestling with in Congress now, in probably the most important thing we will do this year in—over the next 2 years. I mean, this is one, if we don't solve it, we'll just decline as a Nation.

Mr. Krakowski, I want to go right back to you. Pretend that you never gave your statement, and talk about, again, this interaction of how you do it.

O'Hare has added a new runway. We had an all-day hearing out there, and we—it was agreed that those original eight runways that were put in place in 1962, when there was only about a couple of thousand people using the place—that they all had to be reconfigured. And if that were to happen, it could do as much as reduce

30 percent of the congestion in the air—in the skies, 36,000 planes at any given moment. And just so this new runway which has been put in does not disturb that reconfiguration process, which still has to take place, at a very large cost.

Mr. KRAKOWSKI. Yes, sir, I'd like to point out that I just spent 33 years of my life flying in and out of that airport, so I'm keenly familiar with it.

If you look at airports like Denver and Dallas-Fort Worth, Atlanta, they, too, are impacted by weather. But, their ability to handle the weather, and, more importantly, their ability to get back on their feet after the weather clears, is dramatically improved because of the runway configuration. That's what we're trying to do at O'Hare. If you look at the end game, where you have six parallel runways as primary runways for arrival and departure there, you're going to have very similar cadence of operation as Atlanta, Dallas, Denver do, which all operate much better than O'Hare does. The crossing runways not only create inefficiencies in the system, but they also challenge safety.

Senator ROCKEFELLER. Answer my question, which wasn't my original question——

Mr. KRAKOWSKI. OK.

Senator ROCKEFELLER.—and that is, will the additional runway interfere with the reconfiguration of the remaining eight that have to work, you know, efficiently, in order to have that airport do its part to clear up inefficiencies?

Mr. KRAKOWSKI. Right. So, that new runway, which will be commissioned in November, will be the first of three additional runways which will——

Senator ROCKEFELLER. So, it's——

Mr. KRAKOWSKI.—be built.

Senator ROCKEFELLER.—part of the total plan.

Mr. KRAKOWSKI. That's correct, sir, yes. And I believe the total plan goes out to 2016 before all the runways are configured. So——

Senator ROCKEFELLER. Right.

Mr. KRAKOWSKI.—this airport's going to be in the——

Senator ROCKEFELLER. Now could you take me back through what I originally asked you, and that is, how these things depend upon—how they ripple to each other, the various centers of congestion, and what is to be done about that? Part of that, obviously, is what you're doing in New York, and this 2,000-to-1,000 system of being able to land, which is a very, very big help. But, explain to me how the—the interaction.

People don't understand that if they're in Atlanta or if they're in New York and they're being delayed, the fault may not be there, it may be in Chicago or some other place. Help me to understand that.

Mr. KRAKOWSKI. Yes, sir. It's always been vexing to the passenger, even, at times, as an airline pilot, like myself, but if you were to look at the live traffic, which you can pull up on the Internet or see on some of the screens, you'll notice that the traffic flows kind of in highways or on streams to the major destinations. No different, really, than a major highway going into a city center. One major delay—thunderstorms or, in the case of a highway, a road accident, construction—begins to put constraints on that

stream. So, you either have to slow the stream down to allow traffic to merge in from other lanes, or work traffic around on side streets. All of that creates a slowing of the system, very much like a metropolitan traffic area, as well, for automobiles.

So, quite frankly, it's almost that simple. When you start to restrict the airspace, you have to meter it in, you have to slow traffic down or make gaps in traffic. If you've got a flight coming from San Francisco to New York, and New York's constrained, yet you have to get an airplane off of O'Hare to get up into that stream, you have to create a gap so that airplane can climb into it. All of that interrelates, so a delay or some weather problems in New York has a ripple effect, sometimes all the way back as far as Denver or even the West Coast, just from those effects, sir.

Senator ROCKEFELLER. If you had a digitalized GPS air traffic control system, what would be the effect of that on diminishing air congestion, even assuming the enormous growth in traffic, passengers, and airlines over the next 10 years?

Mr. KRAKOWSKI. The promise of GPS and NextGen and what we're proposing under that proposal is to be able to actually fly aircraft closer together, so you basically create——

Senator ROCKEFELLER. And land them closer——

Mr. KRAKOWSKI. And land them closer together, and deconflict them, and that's really important. So, where you have airports really close together, like Midway and O'Hare in Chicago or the three big airports in New York or Dallas-Love and Dallas, that new technology will better isolate the interaction of traffic between the airports, and that creates a much better flow, much more fluidity of the traffic. And we're actually going to be experimenting with that with some of the carriers down between Houston and Dallas next year, as well. So, we're working on it.

Senator ROCKEFELLER. Thank you. My time is up.

Senator Stevens?

Senator STEVENS. I understand this next generation will have narrower space between landing aircraft. Now, what happens when you have a weekend like we just had, with all these thunderstorms? You have more planes in the same area, and it increases the problem, doesn't it?

Mr. KRAKOWSKI. Well, where you have the weather affecting it, you can't do much about the immediate area, because no pilot will fly in certain weather. I certainly would not have. But, where I think the real benefit comes from is, once the weather clears or you do have pathways, NextGen will create the ability to flow more traffic through the available airspace, so you should be able to move the traffic faster with the same degree of safety than the current system allows.

Senator STEVENS. Well, I just went home this past weekend and spent about an hour and a half circling around trying to get into Chicago in order to make a connection to go further west. Now, that meant we were at least 2 hours late, and they delayed the plane that we were going to get on. But, by the time we got through, we arrived in Seattle about 3 to 4 hours late. Now, the whole concept of weather, to me, as a pilot, too, is contrary to the concept of closer spacing between planes, in terms of inclement weather. Will you adjust that? Will you adjust for the weather?

Mr. KRAKOWSKI. Where I'm coming from is, if you're landing in bad weather conditions at the airport, you do have to maintain IFR spacing, which I'm sure you're familiar with. Where you really get the benefit is the ability to create more usable airspace under NextGen to work more traffic faster when the weather clears, and hopefully avoid holding delays like you experienced, or minimize the holding delays.

Senator STEVENS. All right. Well, let me come to Ms. Fleming. I've raised this before, but one of the interesting things about being a transcontinental flyer, as I am—probably fly more than any other Senator in history, I think, really, we're so far away. I travel more in my state after I get home than most Senators fly to get home. Now, when you look at this concept, the major delay is not weather, it's available pilots and crew to fly the airplanes. Too often, if we arrive an hour late, we have a problem of finding pilots and finding crew. Have you looked into the question of how the crews and pilots are dispersed throughout the country?

Ms. FLEMING. Yes, sir. In fact, we have some ongoing but preliminary work for you that will be issued, probably at the end of September.

The first point I'd like to raise is that DOT's data, unfortunately, only provide information on the responsible party, so they do provide the original source of delay. To get the information that you're interested in, how often late-arriving crews impacts delays, we had to talk to academics and experts on airlines. We also interviewed 12 airlines. What we found from these folks is that maintenance problems and getting passengers on and off planes is a bigger source of delay than late arriving crews.

One of the best practices that the airlines have for trying to get crews out there is using reserve crews. If there's a problem because of weather, they'll have reserves come in to assume that duty post, or they will actually get the crew to a certain position a day early—again, anticipating bad weather. So, there are some best practices that are out there. But, the more important point is, DOT's data does not provide that information, so we've had to go out to some of the airlines to get it.

Senator STEVENS. Mr. Meenan, I've flown on some planes lately that have less than 50 percent of the seats filled. And I think that's, to a great extent, caused by the problems of the increased cost of flying and also the scheduling of some of these aircraft. Is the industry trying to consolidate flights in order to maximize the seat passenger miles?

Mr. MEENAN. Senator, the industry is trying to sell every seat it possibly can. The load factors we're seeing, in general, are up. They're up in the high 70s, low 80s. So, a flight that's only 50 percent full is a fairly rare occurrence——

Senator STEVENS. Are they consolidating to bring that about? That's what I'm asking.

Mr. MEENAN. Yes. As I mentioned, we are in the process of putting hundreds of airplanes on the ground. That's going to mean fewer seats in the air, in general, which means that customers will be buying, in effect, a smaller number of seats, which should lead to an increase in load factors.

Senator STEVENS. How is the customer going to know that in advance? How am I going to know, when I'm scheduled to leave at 8, that I'm really not going to leave until 11:30?

Mr. MEENAN. We have a number of different processes in place to advise customers, in a real-time way, when flights are, unfortunately, delayed. There are Internet contacts, there are contacts by telephone. Obviously, you're encouraged to check online, as well. But, the fact is that we do have a number of processes to get the word out to people when flights are delayed.

Senator STEVENS. You're implying that the airlines are not intentionally trying to consolidate flights by a delay of one flight into a next one. Is that not going on?

Mr. MEENAN. That—if we—are you talking about what has been referred to as "economic cancellations," where you have——

Senator STEVENS. Yes.

Mr. MEENAN. That, to our knowledge, is not going on. What is happening are intentional alterations to a schedule, advising people in advance that we're simply not going to operate—we used to have five flights a day to Chicago, we're not going to operate five flights in the future, we're only going to sell three. And, as a result, there would be fewer flights, but people will know what those three flights are. We hopefully will see a rise in the level of both fares, which the industry needs, and in the consumption of seats, in the load factors on those airplanes.

Senator STEVENS. To what extent has the current crisis decreased the number of people flying?

Mr. MEENAN. This summer, it has not had much of an impact. As we go into the fall, obviously we're going to be pulling down more aircraft, more airplanes are going to be leaving service, cities are going to face the reductions, and, in some cases, the elimination, of air service. And we think we're probably going to see fewer people flying, perhaps, than we would have in the past, because of the state the economy is in. But fares are going to go up, because there are going to be fewer seats—our costs are going to go down to an extent, by reducing crew, reducing aircraft, reducing fuel, but we're going to be able to, hopefully, sell the service that is out there at a slightly higher fare, which should help the bottom line of the entire industry.

Senator STEVENS. I've exceeded my time. I'd like to ask just one more question, if I might.

Senator ROCKEFELLER. Please.

Senator STEVENS. We discussed, several of us, this morning, the problem of speculation and the letter that's come to all of us from the airline industry. Has your association taken a position of what will be necessary to end that speculation?

Mr. MEENAN. Yes, we have, Senator. We have been very clear that we think that more transparency in the market, more disclosure of what trading is going on, limits on some of the loopholes that exist in the current trading system, and just a general message from Congress and the Government that, "We're watching, we're looking at what's going on in these market—this speculative oil market." There is a proper role for speculation, but we think that the evidence is clear that there is an unhealthy level of speculation going on right now, and that's what we're very eager to work

with Congress, particularly with both the Chairman and Vice Chairman, to address those issues, going forward.

Senator STEVENS. Well, I think you should get tougher. I think it should be criminal for the institutional fund managers to conspire to raise the prices. And the sooner we make it a crime, the sooner they will stop it.

Thank you very much.

Senator ROCKEFELLER. I agree with that.

Senator Klobuchar?

STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you. Thank you very much, Mr. Chairman. And thank you, to our witnesses.

As you know, I'm from Minnesota, which is the home of—right now, of Northwest Airlines, and also the many—I think we're ninth in the country for Fortune 500 countries, so we have a lot of airline travel with our hub. And I'd say, just briefly, that, one, we need to get the FAA reauthorization done, and I appreciated the Chairman's work on this, and also share his frustration that we haven't been able to get that done. We need to do it immediately. When you hear about some of the technologies that are used in other places that we don't have in place yet, it's just wrong.

Second, that we need to ensure that the FAA has hired and retained a sufficient number of air traffic controllers as we look at some of these safety incidents.

And then, third, which Senator Stevens just raised, is this issue of the jet fuel and the effect that it's having on the entire system, and the need to take prompt action.

And I was listening as you—Senator Stevens talked to you, Mr. Meenan, about this issue, and I was thinking, as you have less planes, having had a similar experience this weekend because of a storm, being diverted to Sioux Falls, South Dakota, and then going to Minneapolis and having a lot of the passengers who were connecting through Minneapolis lose their flights—as that—as you have less people flying, because of the expense, you have less flights. And I've noticed that you have increased the load factor, that the—a lot of the flights have been very full. Then, when the flights get delayed because of weather or other reasons, it's harder for people to catch up. Is this correct? Because you have less flights. So, you see an individual passenger being even more delayed. And I'm not faulting anyone. This—it's just a fact, because you have less flights going. Would that be right?

Mr. MEENAN. Senator, that is, in fact, correct. And the bottom line for us is, we believe that an economically vibrant airline system is absolutely essential to the United States' best interests, best interests of consumers, best interests of everybody involved. The problem we've got right now, as I said in my statement, is, the industry has been absolutely decimated. It is beyond belief what is going on today. We've got to address that problem. We've got to get at the speculation, we've got to get at oil supply and demand, other energy issues, to try to increase other energy sources. We need to address these things very seriously and boost this industry, be-

cause it drives so much more of the economy, and we are very concerned with where things are headed right now.

Senator KLOBUCHAR. Well, and back to the speculation issue, we need your help. I appreciate that you've been raising this and have been willing to come forward on this. We need to push some people to act in the Congress. And I know—I think Northwest is sending e-mails or notices to their passengers. Are a lot of the other airlines doing this, as well, to try to get people—frustrated airline passengers, on a grassroots basis? Sounds like a good idea to me.

Mr. MEENAN. Senator, the letter you referred to has gone out, and is going out to virtually every frequent flier in the country. We have, I believe, seen well over a million messages sent to Congress already, and that program is going to continue.

Senator KLOBUCHAR. Well, I appreciate that. And you talked about some of the things that you support on the speculation issue. Do you want to be a little more specific about the—you know, how far you go on the margin requirements or on the—closing some of these loopholes that allow for the offshore trading, and things like that?

Mr. MEENAN. We know that many of those issues are quite controversial, and we know that there's a lot of discussion going on right now. We have made some broad points about closing the Enron loophole, closing the swaps loophole, increasing margin requirements, increasing scrutiny on the market. We think that the details of that are best worked out in conversations with the experts up here and experts in the industry, and we're looking forward to continuing those discussions.

Senator KLOBUCHAR. But, your point is that you don't want to wait, that you want some action——

Mr. MEENAN. It has——

Senator KLOBUCHAR.—now.

Mr. MEENAN. It can't happen soon enough. I mean, we are literally seeing the industry melting down in front of our eyes.

Senator KLOBUCHAR. And I remember the—Doug Steenland, the CEO of Northwest Airlines, telling me that—how much—that the year before, when oil was less expensive, how it—the effect that it had on their profits. But, this year, with the way it is now, it basically eats into the profits of every airline in the country. Is that right? Like, it eliminates them from——

Mr. MEENAN. Our fuel bill is going to be up about $20 billion more than it was last year. No business can sustain the kind of fluctuation in prices that we are dealing with, without totally revamping itself. And that's what we're in the process of seeing.

Senator KLOBUCHAR. OK, thank you.

Some specific questions—and I, again, appreciate it. I think people need to know this, they need to start working on the grassroots level to push this speculation issue, because it's one thing, in addition to the Strategic Petroleum Reserve, that we've done there, that we could do immediately, in addition to long-term plans that we've been talking about in Congress—the specific questions that I had here about the air traffic controllers and what's going on there, Mr. Krakowski, is—you know, the—earlier this year, our Committee evaluated the revelations about Southwest's decision to continue flying aircraft despite safety lapses. At that time, we learned that

some FAA inspectors felt that their concerns regarding safety were regularly dismissed by their direct supervisors. Is it the same kind of culture there with the air traffic controllers? Do you think we need to look at that, if they have concerns about safety?

It sounds as though, you know, Ms. Fleming, with the numbers, we don't quite have a sense of how many near-misses that we have, but we know there are some. Do you think that there are things that can be done to review the safety culture among the air traffic controllers, just as you have been doing with the FAA inspectors?

Mr. KRAKOWSKI. Senator, thank you for that question. Just to remind the Committee, I was Chief Safety Officer for one of the largest airlines for almost 5 years, so it's in my DNA to take care in these areas.

I just hired a new vice president of safety for the Air Traffic Organization, a brigadier general in the Air Force, and also a former airline pilot. He is currently reforming the safety effort within the ATO. We just hired him, about a month ago, to look at issues like the ones that occurred down in Dallas, which were part of the concerns on the whistleblower issue down there, to make sure we don't have any systemic issues. At this point, it looks like it was isolated to the Dallas area with this type of an event, but we actually are moving forward and treating it as a systemic issue, to make sure that we don't have it elsewhere. So, he's focused, like a laser beam on that.

The other thing that we're starting, literally within the next 2 weeks, is—the airlines have had a Safety Action Program, where the employees can report safety issues voluntarily without any fear of retribution from the agency. And there are a lot of protections for the employees around that program. At my airline, I considered that the premier safety program for the company, and I think it really had real, significant benefits for us. We're starting that in Chicago for the controllers. We hope to have that, nationwide, after we get it up and running, within the next 12 to 18 months. I think that's going to be very, very helpful.

Senator KLOBUCHAR. OK.

Mr. KRAKOWSKI. And NATCA's deeply involved in that, by the way. The controllers are partners on that with us.

Senator KLOBUCHAR. And are you doing work to improve the morale and retention? I know there's been some issues there.

Mr. KRAKOWSKI. I'm doing everything I can. You know, what we're trying to do is incentivize controllers, experienced controllers, to move to those locations where I really need them. And there are some places, like St. Louis, others, where I actually have an overstaff. So, it's a good business process to try to move, where you have excesses, into the areas that need them. It's just good business.

Senator KLOBUCHAR. Thank you very much.

Senator ROCKEFELLER. All right.

The—Senator Stevens mentioned, in his opening question, the fact of the dispersion across this country of adequate pilots and technicians and others, flight attendants, et cetera, to be able to make up for some of the problems. Now, that goes against the grain of common sense at the present time, and that is that the—particularly, the legacy airlines are losing enormous amounts of

money. I think all of our views about what their situation could be in these next few weeks—next few years—I noticed that Sturgell—acting FAA Administrator Sturgell, is quoted—said that there will be a "reprieve of 2 years" on—because of cutbacks, in reaction to high fuel costs—that'll give the FAA a reprieve of 2 years on congestion. I don't understand that at all.

But, if you—if the airlines are losing money, and if fewer people are flying right now because of that, and you've seen this 30-percent dropoff over the holidays, that means that the money, in order to put those people out there in some of these rural airlines, isn't going to be there. It's just not going to be there.

All of the delays that I've had—and there have been many—have been due to mechanical problems—not explained, but, nevertheless, mechanics aren't there to fix them. And you have to have a reasonably robust airline situation in order to be able to take care of those problems. And I don't see that happening under the present circumstance. In fact, my worries are quite the contrary, and that is that places like West Virginia and even large urban coastal states, like Arkansas, will suffer, because we are always at the end of the food chain. And if you're at the end of the food chain, there really isn't much you can do about it if people can't afford to have technicians and others on the ground or to have pilots and flight attendants to talk about what Senator Stevens was talking about, and that is, to make up for delays because there are people there.

So, I really don't understand the economics of your argument that this will be a possible thing to do, and that you're trying your best to disperse people to make up for this situation at the same time as you're paying 40 percent of all of your costs for fuel. I want to go on this bill with Senator Stevens on speculators, because I think people who inconvenience the American people like that deserve criminal prosecution, at the very least. Nevertheless, that's not going to solve the problem. It's going to solve part of the problem, but it's not going to solve the availability of jet fuel and gasoline to drivers, and diesel for truckers. It's not going to solve it, because those problems are going to take a number of years, because of our lack of refineries and the time to do all this drilling, to set that all up.

So, how does this work out, that you can solve Senator Stevens's problem when you're in such economic stress?

Mr. MEENAN. Senator, we are not suggesting that the airlines can solve all of these problems. What we are suggesting is that there is a complex array of problems facing the United States. One of them, we believe, is the unhealthy level of speculation in the oil market, which we believe can be addressed by some of the ideas——

Senator ROCKEFELLER. And we agree——

Mr. MEENAN.—that have been put forward.

Senator ROCKEFELLER.—but that's not my question.

Mr. MEENAN. At the same time, the airlines, individually, are doing whatever they can do within their own corporate worlds to adjust both their costs and the service they provide, to try to match up with what we see in the market at this point. So, by taking airplanes out of service, particularly older, high-fuel-consuming aircraft, we're saving money on that side of things. We, unfortunately,

are also having to let go of a number of employees in the process, also essential to save costs——

Senator ROCKEFELLER. Adding on to the problem that——

Mr. MEENAN.—and——

Senator ROCKEFELLER.—I'm discussing.

Mr. MEENAN. In some sense, adding to the problem, but, the net effect will be fewer seats in the market, which, over time, should help raise the price of those seats. Because one of the problems we're suffering from in the United States is that we have conditioned the public to expect that air service will be very cheap. We don't necessarily think that—unfortunately, we have focused so much on price that we have really undermined the industry. We don't have an economically viable airline industry in the United States at this point. And what we're trying to do is re-establish a robust, viable industry that will be able to provide service to large communities, to small communities, to states, as you say, that don't have the level of service that they'd like to see. But, in order to do that, we need to have economically strong airlines. And we don't.

And it's a whole complex of issues that have affected us over decades, at this point, and it's going to take a long time to dig out of the situation that we're in. But, we think the place to start, from our perspective, is at least to try to get at this fuel speculation problem, sooner rather than later, to send the message to the markets, as well, that more supply can be developed, will be developed, and that other energy sources are being pursued. All of that should help to tamp down the unhealthy level of speculation in the market, because, frankly, we don't see demand having changed dramatically in the last year to year and a half in the United States, and yet, price has gone up tremendously.

So, there's a disconnect between supply-and-demand and the price of the product at this point, and we think speculation is part of that problem.

Senator ROCKEFELLER. And I agree with that. I agree with that. I haven't heard your passion about it, the new air traffic control system, digitalized. I'd like to hear it.

Mr. MEENAN. We have a great passion for that, Senator. As you know, ATA has been in the forefront of efforts to push that agenda along. We very much appreciate working with both you and Senator Stevens on it. We are absolutely there. It's essential to fuel savings in the future. It's essential to the traffic we see coming in the next several years. There's no question we want to get that done. But, I will say that, in the current environment, we are distracted. Survival is the first instinct, I think, that we're seeing the airlines focus on at this point, but we are—we are right there on the need for air traffic modernization, and we will not let up on that until it gets done.

Senator ROCKEFELLER. I thank you.

And, Senator Stevens?

Senator STEVENS. I really don't have any further questions.

Senator ROCKEFELLER. Well, think one up, because you're good at it.

Senator STEVENS. No, I'm interested in the future generation, too, but I think we need money before we can do that, and I don't think we can get the money to fight this current fuel crisis and

modernization at the same time. So, it has to be something that's put off. I do think that we ought to find some way right now to reassure the public that the increasing numbers of planes is not going—is not going to strain and stress this current system. I think the current system can handle it for a few years. But, the main thing to do is find some way to deal with this fuel price. That's my comment.

Senator ROCKEFELLER. OK, so be it.

Senator STEVENS. Senator Pryor is here.

Senator ROCKEFELLER. Senator Pryor?

STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Thank you, Mr. Chairman. And thank you for doing this. And thank both of you for your leadership on this.

Mr. Krakowski, let me ask you, if I may, and that is—a little bit of a follow-up on Senator Rockefeller's questions a few moments ago, where he talked about—the perception is—by the flying public, is that a lot of these delays are caused by mechanical issues and crew issues with the airlines. How good are we about keeping up with those statistics, where we can actually pinpoint why we're seeing so many delays today?

Mr. KRAKOWSKI. Yes, the Air Traffic Organization concentrates mostly on the air traffic-related delays due to weather or airport capacity issues, things like that. We typically don't track crew, flight attendant, mechanical issues for the airlines.

Senator PRYOR. And so, as an example, you know, there's been some announcements—and, again, some of this is based on just general perception—that the airlines have gone through staffing cuts in order to become lean and trim down their workforce. And, I think, when you go to that lean-type system, you're just one employee away from not—from having to cancel a flight or having to delay a flight substantially. But, you all do not track that all?

Mr. KRAKOWSKI. No, sir.

Senator PRYOR. Does anyone track that, as far as we know?

Mr. DUVALL. Yes, Senator, the—obviously, the Bureau of Transportation Statistics at the Department collects data on delays in this area. As was noted by GAO, there are some data gaps associated with that, that we're working to fill now. But, I think we've got more granularity today than we've ever had, but GAO's comments are well taken, that we need to keep improving the tracking of the source of the delays.

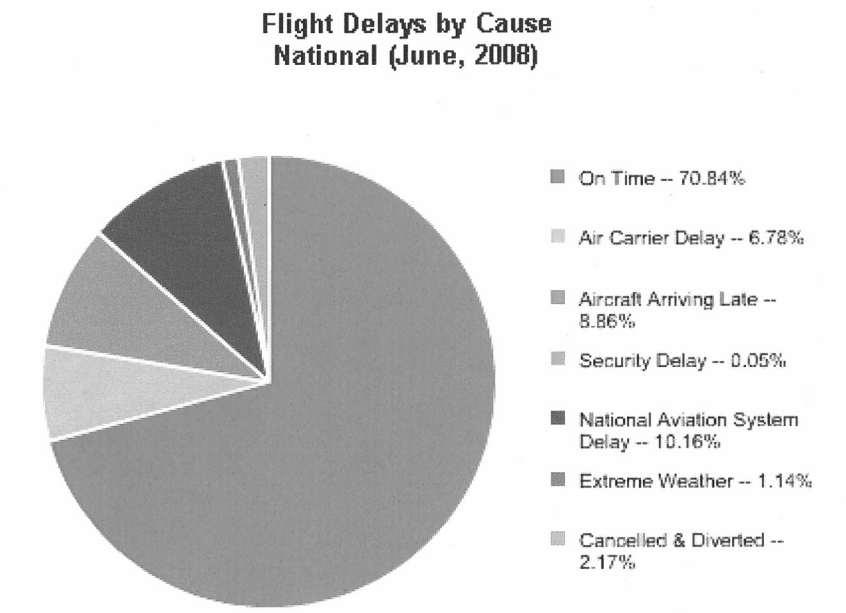
Senator PRYOR. Do you know—do you have those stats handy? I mean, do you have a sense of—in terms of percentages, of what has caused this?

Mr. DUVALL. We can get you that. And they're putting out, basically, monthly data on this that—we can get you the most up-to-date on that. I do not have that handy——

Senator PRYOR. OK. I would like, if you could, to follow up with the Committee on that.

[The information referred to follows:]

U.S. Department of Transportation/Research and Innovative Technology Administration—Bureau of Transportation Statistics



Source: Bureau of Transportation Statistics, Airline Service Quality Performance 234.

A flight is considered delayed when it arrived 15 or more minutes later than the schedule. Delayed minutes are calculated for delayed flights only. When multiple causes are assigned to one delayed flight, each cause is prorated based on delayed minutes it is responsible for. The displayed numbers are rounded and may not add up to the total.

Air Carrier Delay: The cause of the cancellation or delay was due to circumstances within the airline's control (*e.g.,* maintenance or crew problems, aircraft cleaning, baggage loading, fueling. etc.).

Aircraft Arriving Late: A previous flight with same aircraft arrived late. causing the present flight to depart late.

Security Delay: Delays or cancellations caused by evacuation of a terminal or concourse, re-boarding of aircraft because of security breach, inoperative screening equipment and/or long lines in excess of 29 minutes at screening areas.

National Aviation System (NAS) Delay: Delays and cancellations attributable to the national aviation system that refer to a broad set of conditions, such as non-extreme weather conditions, airport operations, heavy traffic volume, and air traffic control.

Extreme Weather: Significant meteorological conditions (actual or forecasted) that, in the judgment of the carrier, delays or prevents the operation of a flight such as tornado, blizzard or hurricane.

Senator PRYOR. And, Mr. Reynolds, let me ask about Essential Air Service. This is something that I've heard Senator Stevens talk about many times—and others on this Committee talk about Essential Air Service and how important it is to rural communities. And what's happened in our state is, basically, we have one Essential Air Service carrier who's announced that they're going to discontinue all their service to our EAS airports. I guess I would like

to hear your thoughts on how we can improve the Essential Air Service program and how we can make sure it's viable into the future, especially given this fuel environment we're in right now.

Mr. DUVALL. Thanks, Senator. Mr. Reynolds is out sick today, so I'm his substitute.

There's no question the EAS program is undergoing serious strain right now and there are a lot of communities that have been impacted. I think our view has been—prior to talking about additional funding, which is always, kind of, where the conversation goes, we need to talk about the structure of the program and really identify what it is that we're trying to achieve. And I think—first and foremost, I think it's access for the most remote communities. And we need to be clear about which of the—you know, who those communities are. Obviously, there are some communities, in our view, that are closer to major airports than others, and, frankly, have better access than others. And I think, given the scarcity of resources under any dollar amount, we need to be clear, kind of, about which communities we want to serve.

I think the other thing is, we need some flexibility in the program to alter aircraft types. The type of aircraft that's been used in the EAS program to date is an increasingly scarce kind of aircraft, 19-seaters. There are more that—those are not frequently made anymore. There's a lot of international competition for those planes. And so, I think the program structure needs to be a little more accommodating to allow, I'd say, more flexible types of services. Obviously, all—on all air service, but obviously smaller planes may be cheaper to acquire. We don't want to be flying planes, you know, with two and three people on, you know, 20-seaters if we could accommodate it with smaller, more effective planes.

I guess the basic view is that there are some fundamental changes about the policy of the program that we'd like to talk to you about. We recognize that there are continued funding pressures, and there's no doubt that the fuel prices are a major source of changing economics in the industry.

Senator PRYOR. First of all——

Ms. FLEMING. Senator, may I——

Senator PRYOR. Yes, go ahead, please.

Ms. FLEMING. I just wanted to let you know that we have a study underway for the House Transportation and Infrastructure Committee that is looking at the Essential Air Service program, but, more broadly, looking for options to make sure that the small and medium communities are connected to the larger transportation network.

Senator PRYOR. OK.

Ms. FLEMING. So, we'd be happy to brief you, if you're interested in that——

Senator PRYOR. Do you know when that study will be——

Ms. FLEMING.—we just got it underway, and are in the very early stages, but, we'd be happy to come up and talk to you about our objectives and time frames.

Senator PRYOR. Yes, we would like for you to do that when it's convenient for you, when it's the appropriate time for it.

Mr. Duvall, one of the things in your answer that concerns me a little bit is, you talk about restructuring, which I understand you

need to evaluate and look at everything, but you talked about how some communities are more rural and more remote than others. And it sounds to me like what you're saying is that the Administration is working on a policy, maybe, where there's a certain number of miles that, if you're away from a larger airport, you just shouldn't qualify for EAS. Is that right?

Mr. DUVALL. Yes, I mean, our budget proposal this year was basically beyond 70 miles the number we put in our budget.

Senator PRYOR. Well, we'll—I think it's very important that we keep EAS viable. And, again, I know it's important to Members of the Committee.

Ms. Fleming, let me ask you, if I may, If fuel prices remain high, which nobody's telling us that they're going down anytime soon, and the number of flights decrease along with the, you know, increased cost of flying, what impact will that have on the airport improvement program and on the passenger facility charges?

Ms. FLEMING. We haven't looked at that in great detail. That's something we could look at for you, but it's not something we've looked at right now.

Senator PRYOR. Well, I mean, it seems to me that if you have fewer passengers and flying fewer miles, you're—it's going to impact those programs. I mean, it's kind of like the Highway Fund——

Ms. FLEMING. Right.

Senator PRYOR.—you know, if people drive less, there's not going to be the revenue——

Ms. FLEMING. You would think so.

Senator PRYOR.—going into the fund. I would like you to keep an eye on that.

And also, I know—again, with highways, you've seen the cost of construction, just, go up a lot in the last few years. I mean, they've gone way beyond what normal inflation would be. Is that also true with the airport construction?

Ms. FLEMING. You're asking me?

Senator PRYOR. Yes.

Ms. FLEMING. Oh.

Senator PRYOR. You——

Ms. FLEMING. I don't know. I don't know the——

Senator PRYOR. Mr. Duvall, do you——

Mr. DUVALL. Yes. The answer is absolutely yes. I mean, the airports are facing financial strains that they have not faced historically, both with construction costs and credit costs. Obviously, credit markets disrupt municipal financing, just like they impact everything else. And so, there's no question that the airports are under serious strain right now.

Senator PRYOR. And, Mr. Duvall, it seems to me that, again, with this high fuel cycle that we're in right now, my guess is, the hub cities and hub airports, by and large, will see a little less traffic, but, you know, roughly the same amount of traffic, but my guess is, you'll see fewer planes flying through the spokes, so to speak. And so, the smaller airports, like the Little Rock Airport or the XNA airport, which is up in northwest Arkansas, they will probably have fewer flights going into the hubs. Is that your prediction?

Mr. DUVALL. You know, I think it's going to be a market-to-market analysis by the carriers. There'll be some growth markets in which it would make economic sense for them to expand service; and obviously the overall demand pressures, though, you know, the price pressures in the industry are such that there will be some network reorientation, as was discussed already. So, obviously the pressures are going to be felt, as was noted, in the smaller and mid-sized communities, but there will be some growth areas of the country in which carriers see great business opportunities and will continue to maintain service there.

Senator PRYOR. That's all I have, Mr. Chairman. Thank you.

Senator ROCKEFELLER. Thank you, Senator Pryor.

A question, to Ms. Fleming and Mr. Krakowski, on LaGuardia, on that general situation. I think, at LaGuardia, that one out of every four flights is delayed at least 1 hour. And so, that's a problem, as everything is up there. American, for reasons which are not entirely clear to me, pulled out and opened up, what, 84 slots? That should help. But, it certainly won't help if others come in and take up those slots, by auction or otherwise. And so, I have two questions to ask you. Is it your plan to keep those 84 slots unfilled, so the efficiency is greater, but then, on the other hand, if American changes its mind and decides to come back in, will they be able to?

Mr. KRAKOWSKI. Actually, on those slot questions, I think Mr. Duvall will——

Mr. DUVALL. Yes. I mean, I——

Mr. KRAKOWSKI.—answer.

Mr. DUVALL.—obviously, American's press release—you know, remains to be seen exactly, kind of, how they're going to implement what they propose, so I think we're in kind of a wait-and-observe period here with the existing slots at LaGuardia. We have—the proposed rulemaking's comment period closed. We received comments from virtually everybody in the industry, and others, on that proposal. The proposal included a mechanism to bring down some capacity—basically, a 2-percent reduction in overall slots. So, there's no question, in our view, that there are continual chronic delay problems at that airport that need to be addressed, and I think, as we go through the finalization of that rulemaking process, we're going to try to address that issue. So——

Senator ROCKEFELLER. Which doesn't answer my question, does it?

Mr. DUVALL. Well, I think the question is—well, I assume the question was, do you think we need to reduce the caps at LaGuardia? Is that——

Senator ROCKEFELLER. Well, American has done that for you.

Mr. DUVALL. Well, American's announcement for later in the year obviously has not yet been fulfilled. It's unclear exactly how they're going to fly. They're not, obviously, obligated, by their press release, to fly. They currently have rights at the airport that we have not proposed to take away.

Senator ROCKEFELLER. No, I understand that. But, if they follow through in what they say they're going to do, are you going to hold those, not to be returned to others or auctioned to others?

Mr. DUVALL. Yes, Senator, I think our—we're going to have to assess, kind of, exactly what they do when they do it. And there's

no question, as you've said, that we have a chronic delay problem at that airport, so we'll need to assess the availability of those slots with the overall desire by the Administration and, I think, sound economic policy to allow competition and entry into that marketplace. We've obviously got a balance of policy interests there, and we'll try to achieve both.

Senator ROCKEFELLER. I sense a substantial difference between you and Mr. Krakowski, on auctioning of slots, and the other two witnesses at the table. I sense it's a rather strong disagreement.

Mr. DUVALL. I don't sense it with Hank, but I don't know about the other two.

Mr. KRAKOWSKI. I just try to operate it, sir.

Senator ROCKEFELLER. OK. All right.

Could you address their obvious hostility to this?

Mr. DUVALL. Yes. I mean, there's—obviously the proposal to take a very small amount of capacity at the three New York area airports was obviously driven by a desire to balance the historical investments that have been made by the carriers at these—at the various facilities with the desire to not pursue a policy of simply capping an airport, and leaving it capped, and prohibiting the ability of new entrants and competition at those airports. Cap—simply capping an airport, without allowing access, will ultimately drive up prices, diminish throughput, and create economic inefficiencies. We proposed, in our rulemaking, basically a balance to recognize, for the first time, basically, a property right in this—in all three facilities, for the incumbent carriers, that they do not have today, in exchange for, as we said, a very small sliver of capacity to be allowed to—to either the carriers, themselves, who had the least interest—who wanted to bid on that, or others who wanted to enter the airport. As an economics matter, locking down the New York area entirely, through government-imposed caps, is a really bad long-run policy, both for New York City and for the Nation's airspace. And so, we tried to balance the interests, as we said, of the incumbent investments and the desire to allow competition, and it's a—we think we struck a good balance; but we're reviewing the comments, and the comments were quite strong, as you can imagine.

Senator ROCKEFELLER. Do you regard the right of a 737 privately-owned general aviation jet to land at a crowded airport anywhere to be on an exact par with a legacy airline's right to do so?

Mr. DUVALL. Yes. I think our view is that—as we expressed, I think, in the reauthorization proposal, that obviously you were a strong leader on, is that the—ultimately, the question of—it should be driven by the costs that these planes are imposing, not necessarily, you know, who's onboard. The ultimate objective is to increase throughput, given available capacity today, and to have charges reflect the true costs of using these facilities.

So, as you point out, flying into a heavily congested airport at peak times is one of the most expensive things to the entire air traffic control system, to our management of aviation in the United States. And currently, charges do not reflect those costs. So, as with any commodity that's underpriced, you're going to get too much of it, relative to existing supply.

Mr. Meenan referred to the textbook. It is a textbook result, when you have a supply-and-demand imbalance, that, basically, if you do not price that supply-and-demand imbalance, the imbalance will persist, absent some other allocation mechanism.

Senator ROCKEFELLER. So, you think that paying for our current analog air traffic control system, where the legacy airlines pay for approximately 92 percent of the cost and general aviation pays for 8 percent, is—would you call that out of balance?

Mr. DUVALL. Yes. As our proposal reflected, we think the costs—the charges need to reflect the true costs, and that the current mechanism is out of balance, yes.

Senator ROCKEFELLER. Your question was accurate, it was lacking in passion, however.

Mr. DUVALL. I'm very passionate about——

Senator ROCKEFELLER. Thank you. My——

[Laughter.]

Ms. FLEMING. Mr.——

Senator ROCKEFELLER.—final question is——

Ms. FLEMING. Mr. Chairman, may I respond——

Senator ROCKEFELLER. Please.

Ms. FLEMING.—to your comment? I don't want to GAO to be on record that we're hostile to the slot auctions. We feel that DOT hasn't fully demonstrated how the auctions will reduce congestion and delays. But, there are more pragmatic questions as to how the auctions will be structured and DOT's legal authority for implementing the auctions.

I'd also like to point out that, as you know, developing an auction system is very, very complex, and it's an iterative process, as we saw with FCC's spectrum auctions.

So, I just wanted to clarify, that we're not necessarily hostile, but we think some things need to be further outlined before DOT proceeds in this manner.

Senator ROCKEFELLER. I appreciate that. I appreciate that.

Final question from me. You had a conference with O'Hare carriers and JFK carriers. Is that correct? You got them all together to discuss, you know, soliciting more schedule reductions in order to improve reliability in the airport. You had—you met with them.

Mr. KRAKOWSKI. We've had conferences, yes.

Senator ROCKEFELLER. You have not had one regarding LaGuardia Airport. Am I overreacting to that, or is that something that you plan to do?

Mr. DUVALL. You—are you referring to the ARC—the rulemaking committee that we have formed?

Senator ROCKEFELLER. Yes.

Mr. DUVALL. Yes. I mean, LaGuardia obviously was discussed at that. The primary focus was JFK and Newark, but LaGuardia clearly came up. And we have had a Notice of Proposed—Supplemental Notice of Proposed Rulemaking on the street for, now, over 3 years. LaGuardia has been a chronic problem, obviously. There have been discussions about LaGuardia, with the airline industry, going on, you know, 25 years now, and those conversations are pretty regular.

Senator ROCKEFELLER. Response, Mr. Meenan?

Mr. MEENAN. Just to be clear, we are very disappointed in the direction the Department has taken. We think there are far better means at its disposal to address the delay situation in New York. As I said in my prepared statement, as well in my oral statement, we think that, particularly at this time, to be experimenting with all of these new concepts at a time when the industry is an absolute nosedive, is just the wrong direction to go. And we intend to do everything we can to vindicate our position in that. We think there are better ways to address it. We have offered those, for well over a year, up in New York. We've been engaged in this debate with the FAA, not for 25 years, but for 40 years, with slots at LaGuardia.

Senator ROCKEFELLER. All right. We have a vote at 11:15. It has not started yet, but it's obviously about to start.

Senator Stevens, do you have—I believe you do have more questions.

Senator STEVENS. Well, I have, just, a general question for all of you. Do you see any provision of existing law that's an impediment to you doing what must be done now to meet this crisis, the energy crisis and the crisis of, really, congestion on airports?

Mr. DUVALL. In terms of—I mean, clearly, as we proposed in the reauthorization, we think a massive modernization of the air traffic control system is——

Senator ROCKEFELLER. Well, that's modernization.

Mr. DUVALL. Yes.

Senator ROCKEFELLER. What—is there any impediment in existing law that says you can't do what you'd like to do right now?

Mr. DUVALL. I think—obviously, our view is that airports generally—and we just announced a rates and charges policy change—need to be considering different charging approaches and expansion approaches, and we think that we have regulatory authority for airlines to pursue that. So, I think, the short answer is: not huge impediments. There are some tweaks and changes, I think, to existing statutes that would be helpful.

One area, I think, that is significant, that has not received enough attention is the time it takes to deliver major capacity projects. And I think, obviously, the Committee bill talked a little bit about environmental processes, but I think we have a fundamental problem, that we cannot deliver, even if we had a massive increase in spending, the types of capacity projects, under the current legal construct, to deliver these projects.

So, I would encourage the Committee to continue looking for ways to give authority to the agency to—and I wouldn't say "streamline," because I think these projects actually deliver substantial environmental benefits. And I think the nexus of new capacity and environmental benefits is one we need to make a lot more clear. But, to deliver projects—if it takes 10 to 15 years to deliver a major runway capacity project, which is what we're looking at today, you will see substantial impacts, obviously, on the economy, felt by that. And I think our view is, we can mitigate these impacts much more effectively today than we could 10 years ago, but it does require some legal changes to those processes.

Senator STEVENS. Well, it would seem to me the system ought to be reviewed right now to find out whether there are excessive

charges imposed upon those providing air transportation. The costs of fuel are rising. I certainly don't see any reason to have an auction that would require people to pay more than they're paying now for the slots they need. But, I'm—I would be interested in finding out what fees and charges are involved in this system, that are collected by local governments, by states, and by the Federal Government, that could be suspended right now to give these people some chance to succeed.

The system is just overburdened by the cost of getting permission from the various entities to use the airways. And we want to suspend the gas tax, we want to suspend various other things. Why shouldn't we suspend some of these costs right now and give the airlines a chance to survive? I'd hate to walk from here to Seattle.

[Laughter.]

Mr. DUVALL. We'd be happy to look at all the existing fees. Obviously, we—the fees are being used to generate revenues for capital investments, and those capital investments are critical to sustaining the existing system. So, as we indicated in our proposal, we think a complete overhaul of that fee structure is needed, and perhaps, in considering that overhaul, we could look at some fees——

Senator STEVENS. An overhaul is one thing. Suspension of them during a crisis is an entirely different thing. I—somehow or other, I have the feeling—and we've talked about it here—legacy airlines are going to be a thing of the past unless they get some relief. That's my judgment. I hope you have the same attitude and will find some way to give them some relief.

Mr. DUVALL. I mean, I—Senator, the impact on fuel prices is obviously difficult to overstate, and it's—the dramatic impact is being felt, obviously, across all sectors, and the aviation sector is being hit as hard as any.

I do think oil supply is fundamental to this, and, you know, in—in response to some of the comments about speculation, it—obviously, in our view, it's not clear that that's the fundamental cause. You look at the exchange-traded commodities, versus the commodities that are not exchange-traded; you've seen substantial rises in both sides. We've seen a commodities boom that's worldwide.

Senator STEVENS. Well, you tell me how one institutional investor ends up with the same piece of paper on oil futures, and tell me that's not collusion.

Mr. DUVALL. I—I mean, I'm not going to comment on that. All I'm going to say is that——

Senator STEVENS. That's speculation. No, I think——

Mr. DUVALL.—we need more oil—we need more energy——

Senator STEVENS.—the Administration's got its head in the sand on speculation. We must find some way to control that speculation.

Thank you.

Senator ROCKEFELLER. And on that note——

[Laughter.]

Senator ROCKEFELLER.—I thank all of you very much for your courtesy. I'm somewhat embarrassed that there was not a greater turnout, but that, in and of itself, Mr. Meenan, is one of the problems that the aviation industry faces.

Mr. MEENAN. Yes.

Senator ROCKEFELLER. There is not enough understanding of the intricacies and the perils involved with aviation in this Congress.

Mr. MEENAN. Yes.

Senator ROCKEFELLER. And this morning, in spite of Senator Stevens being here, and two others, it's a symbolism of absence that disturbs me.

Mr. MEENAN. Senator, thank you.

Senator ROCKEFELLER. I thank you.

And this hearing is adjourned.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

As the summer 2008 travel season approaches, American consumers face many frustrations when it comes to this year's annual family vacation.

I am sympathetic to the challenges faced by the airline industry as it struggles to deal with record oil prices topping $147 per barrel. I am also deeply troubled by the many workers who are losing their jobs and the cities facing service reductions in the wake of rising fuel prices.

However, rising fuel prices have also made the cost of flying prohibitively expensive for many families, as airlines have instituted new charges for everything from beverages served in flight, to fees for checked luggage, to increased prices for seat selection.

In addition to increased charges, many Americans did not have pleasant flying experiences in 2007. Last year was the second worst year on record for airline delays. Domestic flights were delayed 26 percent of the time, and in some instances, consumers spent several hours stranded in airplanes on the tarmac.

As Americans prepare for another season of packed airports and delayed flights, objections from our friends on the other side of the aisle have prevented the passage of legislation that could alleviate many of these headaches.

The FAA Reauthorization bill includes several key provisions aimed at improving the quality of air travel. This important legislation includes additional funding to modernize the air traffic system, several measures to increase safety and incentives to hire and retain more of our valuable air traffic controllers.

The bill also includes a provision I authored along with Senator Snowe requiring airlines to provide adequate, food, water, and medical care to passengers trapped on grounded aircraft. Our Passenger Bill of Rights would also allow passengers to deplane after 3 hours in the absence of a DOT approved airline contingency plan.

In March 2007, a Federal appeals court ruling struck down New York State's Passenger Bill of Rights law, stating it is up to the Congress to set a national Federal standard.

Airline passengers deserve access to food, water, and medical attention when stranded on an aircraft tarmac due to delays. Congress has the ability now to ensure consumers' fundamental rights are protected by enacting the Passenger Bill of Rights.

As we head into another busy travel season, we have a golden opportunity to provide consumers and the airline industry with one less headache this summer by enacting the FAA Reauthorization and the Passenger Bill of Rights.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

I wish to thank Chairman Rockefeller and Ranking Member Hutchinson for scheduling this important hearing. We are in the midst of our summer travel season, and travelers are once again paying for the depressed state of our aviation industry. Similar to last year, flight delays are at all-time highs. Record high fuel prices are also having a devastating impact on the Nation's airlines. Fares have risen, flights have been eliminated and extra charges are being added for everything from baggage to bottled water. Worst of all, several small and mid-sized communities are losing service because of the airlines' desire to cut costs by reducing capacity.

Of course, when an airline decides to reduce capacity, those routes that are eliminated first tend to serve smaller airports in the less populated areas of our country. These service reductions negatively impact these communities, many of which are dependent on air service to lure businesses, visitors and tourists.

Recently, Horizon Airlines announced cutbacks in service to several communities in Oregon. This October, the North Bend and Klamath Falls airports will lose their

Horizon service, leaving residents with fewer options and higher fares. These cuts will also cost jobs in regions of my state that can not easily absorb these impacts. Both airports have some additional commercial service, but with a slowing economy, those who lose their jobs may struggle to find new employment.

Horizon Airlines also tried to change the Essential Air Service Agreement in place to provide service to Pendleton, Oregon. Fortunately, the Department of Transportation rejected Horizon's attempt to alter the agreement and is requiring the carrier to continue to provide service for now. When we have airlines attempting to change their year-old service contracts in a way that does not benefit the local community, we have a significant problem on our hands.

Over this past weekend, Delta Air Lines announced it was going to discontinue service to Salem, Oregon in October. This is despite the City of Salem assembling an impressive consortium of community and business groups' support and investing millions of dollars in the airport to help lure commercial service. That service will be discontinued a year after it began, and Oregon's Capitol will no longer have commercial air service.

I look forward to working with members of this Committee, the full Senate and the Administration to do more to protect essential air services for our smaller communities. While all travelers are feeling the negative effects of the financial woes facing the airlines, the residents of smaller communities will feel the loss of air service more acutely. The complete elimination of commercial air service is a severe blow to any community's economy and future, and I will work with my colleagues to prevent this from occurring in the future.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. INOUYE TO HON. TYLER D. DUVALL

Question. The Administration has proposed auctioning off slots at New York City airports (LaGuardia, John F. Kennedy, and Newark Liberty airports) as part of the Federal Aviation Administration's (FAA) larger effort to reduce congestion and delay at those airports. Can you please explain how slot auctions will help reduce congestion and delay at the New York City airports when caps have already been placed on the total number of slots available at those airports?

Answer. In addition to addressing congestion, the Department also has been tasked with encouraging competition and ensuring the efficient utilization of the national airspace. We issued a rule, that for the first time ever, gives the airlines currently operating at the airports the right to the vast majority of their current operations, but to introduce competition and allow for new entrants, we are proposing to allocate a small number of slots via auction. Auctions allow for new entrants to gain an entry into a capped airport, increasing competition, which has proven to lower fares and give consumers options.

We believe that the introduction of a modest auction mechanism at these capacity-constrained airports will have a positive effect on improving efficiency. For one thing, to the extent that access to the airport is perceived to be a more valuable commodity, carriers may start to serve the market more efficiently by using larger aircraft.

In fact, analysis done by the FAA to support the proposed rulemakings shows it will lead to more efficient allocation of aircraft, including upping the size of the aircraft on some flights (up-gauging), to maximize the value of slots leased through auctions. That can increase passenger "throughput" significantly, especially during weekday peak periods when demand is greatest.

Under the current system, airlines choose to differentially price tickets during the day. They may consider continuing this practice for auctioned slots, to absorb auction costs during peak periods, effectively dispersing some passenger traffic to the less congested periods during mid-day. Another beneficial consequence of the auction mechanism would be to encourage more efficient utilization of the existing airport infrastructure by creating a vibrant secondary market for trading slots among carriers.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. BARBARA BOXER TO HON. TYLER D. DUVALL

Question. DOT opened up military airspace during Thanksgiving 2007 to accommodate the increased air travel, which was deemed a success by your Agency. Will DOT consider opening up military airspace during the summer 2008 travel season?

Answer. The Department has coordinated with the Department of Defense (DOD) for the availability of military airspace on several occasions in the past, including

during the Thanksgiving and Christmas holidays of 2007 and Memorial Day Weekend this past spring. The Department will continue to consider the need for, and the availability of this option.

The Department's Federal Aviation Administration (FAA) is also expanding a program to help airlines avoid delays by adjusting air traffic routes to respond to weather developments. This program allows us to work around weather conditions and keep traffic moving.

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