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Aviation Group Client Update

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DOT INSPECTOR GENERAL ISSUES AUDIT REPORT ON IMPACTS OF THE TARMAC DELAY RULE.

On October 26, 2016, the DOT IG issued a report with its findings of an audit conducted on the effects of the Tarmac Delay Rule on Airline Cancellations and Delays.

Background. The audit came about as part of the DOT's efforts to reduce the number of lengthy tarmac delays - passengers remaining onboard an aircraft on the tarmac for extended periods of time. After a series of instances where passengers were left seating in an airplane for lengthy tarmac delays, the DOT developed the Tarmac Delay Rule (TDR) that took effect on April 29, 2010. The TDR held airlines liable for fines of up to $27,500 per passenger for incidents of domestic flights spending longer than 3 hours on the tarmac. After the TDR was implemented, delays longer than 3 hours fell sharply. However, that decrease was soon short lived when it was determined by the Government Accountability Office (GAO) that the TDR increased flight cancellations rates for about a 3-year time span (May 2010 – April 2013). Thereafter, it was found that the TDR did not increase cancellation rates, and cancellation rates behaved as if the TDR had never been imposed—at least through December 2014.

Analysis. Analysis of the TDR's impact was ordered by Congress, pursuant to the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012, to assess the impact of DOT's rules on carriers' decisions to delay or cancel flights. In conducting the audit, the Department had three main objectives: (1) assess the effect of the TDR on flight cancellations, (2) assess the effect of the TDR on flight delays, and (3) evaluate the OST-commissioned analysis of the TDR's impacts. The Department examined two types of flight delays—tarmac and gate delays—and found that while TDR was associated with a reduction in tarmac delays, it displayed no obvious association with changes in gate delays.

During its audit, the IG discovered that the analysis of tarmac delay effects had a few shortcomings that impacted its reliability as a basis for making possible policy decisions. Some of the flaws included potential bias resulting from considering, solely, the cancellation impacts on flights experiencing lengthy tarmac delays after the TDR's implementation or failure of the analysis to account for the impacts of factors other than the TDR, such as weather and congestion, in determining the TDR's effects on cancellations. The Department stated that following that approach ruled out the possibility that air carriers may be avoiding long tarmac delays by proactively cancelling flights when facing conditions that might later produce them—a behavior that could in part explain the marked decline in lengthy tarmac delays.

The Department also found that flights that frequently experienced longer tarmac delays prior to the rule's implementation had larger cancellation rate increases than other flights after the rule went into effect.

On the brighter side, the Department found that the TDR has in fact been associated with reductions in lengthy tarmac delays and such reductions have been maintained through December 2014 – the time period covered in this audit. The Department also found that longer tarmac delays fell in greater proportion than shorter ones.

If you have any questions or would like further information, please contact Shelley Ewalt.

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