



MEMORANDUM

TO: Government Affairs Steering Group
Government Affairs Committee

FROM: ACI-NA Government Affairs

DATE: April 16, 2008

SUBJECT: 1) DOT Announces Final Rule Regarding Denied Boarding Compensation; Issues New Air Traffic Measure to Help Reduce Summer Delays and Supplemental NPRM for LaGuardia
2) House T&I Hearing on “Clean Water Restoration Act”
3) House Homeland Security Subcommittee Hearing on Western Hemisphere Travel Initiative
4) Chairman Byrd Discusses His Intention to Fund Infrastructure in the Upcoming FY 2008 War Supplemental Appropriations Bill

GA MEMO NO: 2008-31

1) DOT Announces Final Rule Regarding Denied Boarding Compensation; Issues New Air Traffic Measure to Help Reduce Summer Delays and Supplemental Notice of Proposed Rulemaking for LaGuardia

Earlier today, the Department of Transportation (DOT) issued its final rule amending Part 250 compensation available to passengers who are involuntarily denied boarding

The Department’s final rule increases compensation from \$200 to \$400 for passengers who are rerouted within two hours (four hours internationally) and from \$400 to \$800 for passengers who are not rerouted within that time frame. Additionally, the rule expands these measures to passengers flying on smaller aircraft by amending the seating capacity exception from “60 seats or more” to “30 seats or more.” The new rule is expected to be published in the Federal Register on Friday, April 18 and will go into effect 30 days thereafter.

ACI-NA advocated for these enhancements in its January 22 filed comments with the Department. The increase in compensation will help recognize the inconvenience, lost time and lost opportunities that passengers experience when delayed or bumped. In addition, passengers flying on regional jets, which exclusively serve more than two-thirds of communities with scheduled airline service, will now be provided the same consumer protection as passengers flying on larger planes.

Copies of the rule can be obtained at:

<http://airconsumer.ost.dot.gov/rules/DBC%20Final%20Rule%202008-4-8.pdf>

Additionally, today the Department announced new air traffic measures designed to help reduce summer delays, including a new routing alternative that provides an “escape route” into Canadian airspace from the New York metropolitan area so airlines can avoid severe weather conditions. The FAA will also open a second westbound route for aircraft, reducing westbound delays from the New York area.

Finally, the Department also announced today a Supplemental NPRM (SNPRM) for New York-LaGuardia. Under the SNPRM, the Department is proposing two market-based options that would require slots to be made available through an auction process.

Under the first option, all air carriers would be given up to 20 slots a day for the 10 year life of the rule. Meanwhile, over the next five years, 8 percent of the additional slots currently used by an airline would be made available to any carrier via an auction. An additional 2 percent of the slots would be retired. Proceeds from the auction would be invested in new congestion reduction and capacity improvement initiatives in the New York region.

The second option also gives airlines permanent access to up to 20 slots a day for a 10 year period. Beyond those flights, 20 percent of the slots currently used by the airlines would be made available over the next five years to all airlines through an auction. Under this option, the carriers would retain the net proceeds of the auction.

Copies of the SNPRM can be obtained at:

http://www.federalregister.gov/OFRUpload/OFRData/2008-08308_PI.pdf

ACI-NA is currently reviewing the proposal. Should you have any comments on the SNPRM, please let us know.

2) House Transportation Hearing on H.R. 2421, “Clean Water Restoration Act”

This afternoon, the House Transportation and Infrastructure Committee held a hearing on H.R. 2421, the “*Clean Water Restoration Act*.” The legislation, introduced by House T&I Chairman James Oberstar (D-MN) would expand authority of the original Clean Water Act by replacing “navigable waters of the United States” with “waters of the United States.” Senator Russ Feingold (D-WI) has introduced companion legislation,

S. 1870, which awaits further consideration in the Senate Environment and Public Works Committee.

As you may recall from previous memos and environmental seminars, this legislation, as currently written, could affect airports (and many other industries) that have water in or near their facilities, especially in regards to the permitting process. Since H.R. 2421 was introduced, ACI-NA has been carefully monitoring this issue and will continue to do so to ensure that the airport perspective is fully represented.

This issue is a top priority for Chairman Oberstar and he has made no secret about his intention to move to mark-up and the House floor as soon as possible. However, H.R. 2421 has attracted some opposition, especially from the construction and farming industries. Today's hearing reflected the ongoing controversy surrounding this bill, as both industry groups and Members of the Committee, such as Ranking Member John Mica (R-FL), believe the definition change is far too broad. Whether or not the bill will be amended to bring about more support is unclear at this time, but Chairman Oberstar did note that his legislation is a "proposal" and that he is open to all viewpoints so as to produce the best bill possible.

As this is being written, the 5th and final witness panel has begun its testimony before the Committee. So far, there has been no discussion regarding H.R. 2421's impact on airports or aviation. Should any witness or Member mention airports or aviation, ACI-NA will be sure to provide you with an update.

3) House Homeland Security Subcommittee Hearing on Western Hemisphere Travel Initiative (WHTI)

Also today, the House Homeland Security Subcommittee on Border, Maritime and Global Counter-terrorism held a hearing entitled, "Moving Beyond the First Five Years: Ensuring Successful Implementation of the Western Hemisphere Travel Initiative (WHTI)." The hearing primarily focused on the implementation of WHTI at land and sea ports of entry.

Mandated by the Intelligence Reform and Terrorism Prevention Act (IRTPA), the WHTI requires travelers to verify citizenship and identity through proper documentation upon entering the United States. The legislation created a substantial backlog of passport applications as it was applied to airports in January of 2007. In light of this experience, Congress passed legislation to delay implementation of WHTI to land and sea points of entry to June 1, 2009.

Chairman Bennie Thompson (D-MS) indicated that he supports the program's goals, but he is "concerned about the manner in which WHTI has been implemented to date. As Americans rushed to get passports to comply with the new WHTI rules for air travel last year, demand overwhelmed the State Department's capacity to issue passports." He also stated, "The Departments of Homeland Security and State must

ensure that Americans have ready access to WHTI-compliant documents, including passports, PASS cards, and enhanced drivers' licenses. The Departments must also conduct a robust education and outreach effort so that Americans know and understand the new rules." Before concluding, the Chairman indicated that the Committee would closely monitor WHTI and other programs to ensure that they are implemented correctly and cause no confusion or consternation amongst the public.

Kathleen Kraninger, Deputy Assistant Secretary for Policy for the Department of Homeland Security, stated that there has been "a compliance rate of 99 percent for citizens of the United States, Canada, and Bermuda, and there has been no interruption to air transportation attributable to WHTI implementation." Also, Kraninger expressed her confidence that land and sea requirements for WHTI would be implemented by June 1, 2009.

Subcommittee Chairwoman Loretta Sanchez (D-CA) countered that Administration officials should work, "to ensure that acceptable documents and trusted traveler programs are streamlined so that the public and border officer officers alike have a clear understanding of the requirements and are still able to travel efficiently."

To read the full testimony of the witnesses, as well as Chairman Thompson's opening statement, please click on the links below.

- [Statement - Chairman Thompson](#)
- [Testimony Kraninger, Jacksta](#)
- [Testimony Kephart](#)
- [Testimony Luce](#)
- [Testimony - Phillips](#)
- [Testimony Staeben](#)

4) Chairman Byrd Discusses His Intention to Fund Infrastructure in the Upcoming FY 2008 War Supplemental Appropriations Bill

During today's Senate Appropriations Committee Hearing on the FY 2008 War Supplemental Appropriations bill, Chairman Robert Byrd (D-WV) spoke of his intention to include domestic infrastructure funding in this package. While the Chairman did not indicate specifically how much domestic infrastructure spending he wants to include, he spoke passionately about the need to prime the pump on our economy and decrease the growing unemployment rate via investment at home. To read Chairman Byrd's full statement, please click here: [Chairman Byrd Opening Statement at Hearing on FY08 Supplemental Request](#)

This is contrary to the President's position that the bill should only include war-related funding and if anything else is added, it would be met with a veto.

ACI-NA Government Affairs staff has met with a number of Appropriations Committee staff recently to reiterate the importance of infrastructure spending, especially as it relates to airports. We will continue to advocate for airport funding in this Supplemental as well as in the regular FY 2009 DHS and TTHUD Appropriations bills which will begin to take shape in the near future.

Please contact ACI-NA's Scott Weaver (sweaver@aci-na.org) or Paul Eubanks (peubanks@aci-na.org) with any additional questions or concerns.