

S. HRG. 110-698

**A REVIEW OF THE AIRSPACE REDESIGN PROJECT
AND FLIGHT SCHEDULING PRACTICES AT THE
PHILADELPHIA AIRPORT**

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS

SECOND SESSION

SPECIAL HEARING

APRIL 25, 2008—PHILADELPHIA, PA

Printed for the use of the Committee on Appropriations



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>

U.S. GOVERNMENT PRINTING OFFICE

44-742 PDF

WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON APPROPRIATIONS

ROBERT C. BYRD, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii	THAD COCHRAN, Mississippi
PATRICK J. LEAHY, Vermont	TED STEVENS, Alaska
TOM HARKIN, Iowa	ARLEN SPECTER, Pennsylvania
BARBARA A. MIKULSKI, Maryland	PETE V. DOMENICI, New Mexico
HERB KOHL, Wisconsin	CHRISTOPHER S. BOND, Missouri
PATTY MURRAY, Washington	MITCH McCONNELL, Kentucky
BYRON L. DORGAN, North Dakota	RICHARD C. SHELBY, Alabama
DIANNE FEINSTEIN, California	JUDD GREGG, New Hampshire
RICHARD J. DURBIN, Illinois	ROBERT F. BENNETT, Utah
TIM JOHNSON, South Dakota	LARRY CRAIG, Idaho
MARY L. LANDRIEU, Louisiana	KAY BAILEY HUTCHISON, Texas
JACK REED, Rhode Island	SAM BROWNBAC, Kansas
FRANK R. LAUTENBERG, New Jersey	WAYNE ALLARD, Colorado
BEN NELSON, Nebraska	LAMAR ALEXANDER, Tennessee

CHARLES KIEFFER, *Staff Director*
BRUCE EVANS, *Minority Staff Director*

SUBCOMMITTEE ON TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT,
AND RELATED AGENCIES

PATTY MURRAY, Washington, *Chairman*

ROBERT C. BYRD, West Virginia	CHRISTOPHER S. BOND, Missouri
BARBARA A. MIKULSKI, Maryland	RICHARD C. SHELBY, Alabama
HERB KOHL, Wisconsin	ARLEN SPECTER, Pennsylvania
RICHARD J. DURBIN, Illinois	ROBERT F. BENNETT, Utah
BYRON L. DORGAN, North Dakota	KAY BAILEY HUTCHISON, Texas
PATRICK J. LEAHY, Vermont	SAM BROWNBAC, Kansas
TOM HARKIN, Iowa	TED STEVENS, Alaska
DIANNE FEINSTEIN, California	PETE V. DOMENICI, New Mexico
TIM JOHNSON, South Dakota	LAMAR ALEXANDER, Tennessee
FRANK R. LAUTENBERG, New Jersey	WAYNE ALLARD, Colorado
	THAD COCHRAN, Mississippi (<i>ex officio</i>)

Professional Staff

PETER ROGOFF
WILLIAM SIMPSON
MEAGHAN L. MCCARTHY
RACHEL MILBERG
JON KAMARCK (*Minority*)
MATTHEW MCCARDLE (*Minority*)
ELLEN BEARES (*Minority*)

Administrative Support

TERI CURTIN

CONTENTS

	Page
Opening Statement of Senator Arlen Specter	1
Statement of Robert A. Sturgell, Acting Administrator, Federal Aviation Administration, Department of Transportation	3
Steve Kelley, Program Manager, Airport Redesign Project	3
Mary McCarthy, Office of the Chief Counsel, Federal Aviation Administration	3
Prepared Statement of Robert A. Sturgell	4
Congestion and Delays—Understanding the Problem	4
Airspace Redesign Overview	5
Airspace Redesign Project Implementation	5
Complementary Solutions—Enhancing Capacity	6
Complementary Solutions—NextGen	7
Complementary Solutions—New York ARC	7
Environmental Stewardship	8
Statement of David James Gribbin, General Counsel, Department of Transportation	9
Prepared Statement	11
The Problem	11
DOT Actions	12
Addressing the Problem and Not the Symptom	15
Prepared Statement of Senator Frank R. Lautenberg	20
Operations During Peak Hours	21
Statement of Hon. Michael Nutter, Mayor, City of Philadelphia, Philadelphia, PA	27
Prepared Statement	30
Introductory Remarks	30
Airport Update	30
New York/New Jersey/Philadelphia FAA Airspace Redesign	30
Flight Scheduling Practices	31
Aviation Delays	35
Prepared Statement of Bryan R. Lentz, Pennsylvania State Representative	44
Statement of Representative Joe Sestak, U.S. House of Representatives, Pennsylvania, Seventh District	45
Statement of John J. Whelan, Vice Chairman, Delaware County Council	48
Prepared Statement	50
Statement of Patrick Forrey, President, National Air Traffic Controllers Association	52
Don Chapman, National Air Traffic Controller Association's Facility Representative	52
Prepared Statement of Patrick Forrey	55
Air Traffic Issues of Concern to the Philadelphia Metropolitan Area	55
De-Combination of Philadelphia Tower and TRACON	56
Dispersal Headings	57
Airline Over-scheduling	58
Air Traffic Controller Staffing and the Effect of the Imposed Work Rules	59
Statement of Stephen S. Aichele, Chairman, Saul Ewing, Representing the Philadelphia CEO Council for Growth	61
Prepared Statement of Mark Schweiker, President and CEO, Greater Philadelphia Chamber of Commerce; Chairman of the CEO Council for Growth	63
Statement of John Meenan, Executive Vice President and Chief Operations Officer, Air Transport Association of America	65
Prepared Statement	68

A REVIEW OF THE AIRSPACE REDESIGN PROJECT AND FLIGHT SCHEDULING PRACTICES AT THE PHILADELPHIA AIRPORT

FRIDAY, APRIL 25, 2008

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND HOUSING
AND URBAN DEVELOPMENT, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Philadelphia, PA.

The subcommittee met at 3:50 p.m., at the National Constitution Center, 525 Arch Street, Independence Mall, Kirby Auditorium, Philadelphia, Pennsylvania, Hon. Arlen Specter presiding.

Present: Senator Specter.

OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Good afternoon, ladies and gentlemen. It's 3:50, the scheduled time for this hearing on the Philadelphia International Airport. At the outset, I thank the chairperson and the ranking member of the Transportation Subcommittee of Appropriations, Senator Murray and Senator Bond, for authorizing the hearing.

I am a member of the subcommittee, and of course, of the full Appropriations Committee. I regret the necessity of having to delay the hearing, but I appreciate your accommodating my schedule, it was a matter of necessity.

The Philadelphia Airport is a very vital part of this region, southeastern Pennsylvania, really, to the middle part of the State, much of New Jersey, the State of Delaware—very, very important to the commerce of the city, the private activities of so many passengers.

It serves some 29 airlines, providing 700 daily departures to more than 100 domestic and international cities, and has a \$14 billion impact on the region.

Philadelphia ranks 9th in the Nation and 10th in the world in the number of flights that it handles. Regrettably, 2007, Philadelphia ranked 29 out of the 32 major domestic airports in terms of on-time departures, with slightly less than a 70 percent on-time flight rating, and 28 out of 32, in terms of on-time arrivals, with only 66.5 percent of flights arriving on time.

The subject matter of today's hearings will take up the overflights over Delaware County, which have understandably created grave concern by the residents of that area, who have been impacted by the noise. The commitment has been made by the FAA,

that on the overflights from 9 a.m. to 11 a.m. and 2 p.m. to 7 p.m., that there would be no overflights unless there were more than 10 planes backed up.

According to air traffic controllers, planes are sent over Delaware County as a first option, even when no other planes are waiting to take off, meaning that the overflights are being used as primary routes, not reliever routes, as the FAA earlier had indicated.

We have had extensive correspondence with Acting Administrator Sturgell, who has been very cooperative in responding to the questions which we have had. We have had meetings with both Mr. Sturgell, and Mr. Kelley—(Air Controller Chief), on these issues—and have emphasized the need to have more done on this issue. And we're going to explore that on the public record here today. And we have Acting Administrator Robert Sturgell, and Mr. Gribbin, the General Counsel of the Department of Transportation.

With respect to the overcrowding, the situation appears to me to be enormously serious—it's like a restaurant with 100 seats and has 175 bookings, so what would you expect? People come for a 7:45 reservation.

The testimony of the President of the National Air Traffic Controllers Association, Patrick Forrey, on September 7, 2007, commented that Philadelphia is able to handle 12 or 13 departing aircraft per quarter hour, under optimal conditions, yet 15 flights are scheduled to depart from 9:45 a.m. to 10 a.m., another 15 from 10:00 to 10:15, and 17 from 10:15 to 10:30. So that, in the course of a 45-minute timeframe, you have 47 flights scheduled to depart. I think I've been on those most of the time.

According to Mr. Forrey's testimony, 19 aircraft were scheduled to depart from 5:45 p.m. to 6 p.m., 18 from 6:00 to 6:15, 17 from 6:15 to 6:30.

Now, we want to really say what the overall picture looks like, and in our discussions—which, I appreciate, again, with Administrator Sturgell, and others, and we had a hearing before the full subcommittee in Washington last week, where some of these matters were aired—it may be that the Department of Transportation needs additional authority from Congress.

Additional authority from Congress to give them the power to limit the number of flights which can come in and which can take off. And my sense of the Congress is that we would be willing to do that, because it is a very serious national problem—Philadelphia is only one part of it, but a very serious part of it, because of the size of our city.

We appreciate the witnesses coming in today, and we will begin with the Honorable Robert A. Sturgell, Acting Administrator of the Federal Aviation Administration.

Mr. Sturgell, we're going to limit your time to 5 minutes, we have quite an array of witnesses, and will enable us to have more time for dialogue, questions and answers. Thank you for joining us and the floor is yours.

**STATEMENT OF ROBERT A. STURGELL, ACTING ADMINISTRATOR,
FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

ACCOMPANIED BY:

STEVE KELLEY, PROGRAM MANAGER, AIRPORT REDESIGN PROJECT

MARY McCARTHY, OFFICE OF THE CHIEF COUNSEL, FEDERAL AVIATION ADMINISTRATION

Mr. STURGELL. Senator Specter, thank you for inviting me and my colleague, D.J. Gribbin, the Department's General Counsel, to discuss these issues today.

The New York-New Jersey-Philadelphia Airspace Redesign Project is vital to the safety and efficiency of our national airspace system. As you indicated, in 2007 we did see record flight delays across the country—the system is stretched to the limit.

Against this backdrop, the Redesign Project is a crucial piece of the solution—both near-term and long-term. We estimate that by 2011, when Airspace Redesign is fully implemented and complete, we'll see a 20 percent reduction in delay. It's expected to reduce annual operating costs by \$248 million, and severe weather delay costs by another \$37 million. In the New York-New Jersey-Philadelphia region alone, this could yield economic benefits to air carriers, passengers, and local businesses, of \$7 to \$9 billion.

We're not just doing this on our own. For the past 10 years, and at a cost of \$53 million in appropriated funds, we've been studying and evaluating the airspace—for the pilots, for the airlines, for our controllers, and ultimately for the traveling public.

And we have done our best to involve the public—the public that lives by this airport, and the public that uses this airport. With the input from the surrounding community, the airport operators, the carriers, the local businesses, the traveling public, I think we've been able to structure the airspace redesigns, so that we can balance the savings in time, money and delay reduction, with the environmental impact.

I recognize and appreciate that this is a sensitive issue, which is why we've made extensive efforts over the past years to involve all of the affected communities. We've held over 120 public meetings throughout the region, published newsletters, considered the comments, and maintained a dedicated website with all of the relevant information.

I want to emphasize that, not only did we conduct this public outreach, but we listened to what people had to say. Before we made any final decisions, we considered all of the feedback from the community, and we took it seriously. We went back to the drawing board, to design environmental mitigation measures into airspace redesign.

So, I'd like to put this into context for you. The chart that's being displayed, in grey, you will see the seven departure headings that we originally considered for Philadelphia going out to the west. They were part of what I call a "operationally ideal" plan. If we had our way, and were it only about air traffic, those are the seven headings we proposed, and would use—to give us the maximum flexibility to handle the traffic.

This second map shows the noise impact that would have occurred if—and I stress, if—we had implemented those seven headings without community—

Senator SPECTER. Would you please bring the chart and set it right between the, in front of the flags?

Mr. STURGELL. You bet.

So, the yellow, orange, and red-colored areas show the noise increases, while the purple-colored areas show noise decreases. Again, this is the noise level we would have seen if we hadn't been acting on the comments and concerns of the community. I want to make it very clear that this map does not show what the FAA ultimately decided to implement.

The second heading chart that you'll see, after community input, this is, in fact, what we are actually implementing. We're only going to implement three of those departure headings, as a direct result of the community input we've received. And then the noise map from those three headings. Once again, the yellow areas show an increase in noise, the purple areas, a decrease. As you can see, the areas affected by increased noise are substantially smaller, and we even have areas that currently hear airport noise showing an ultimate decrease in noise.

PREPARED STATEMENT

I want to reiterate that we recognize the sensitivity of these issues, and the delicate balance that must be struck. How do you relieve congestion delays without causing too great of an environmental impact? The FAA believes that we achieve the balance of interests with this redesign project, and we've done it by listening to, and hearing the input from the interested stakeholders.

Senator, this concludes my prepared remarks, I'd be happy to answer any questions you have.

Senator SPECTER. Thank you very much, Mr. Sturgell.

[The statement follows:]

PREPARED STATEMENT OF ROBERT A. STURGELL

Senator Specter and Senator Casey: Thank you for inviting me to appear here today to discuss the Federal Aviation Administration's (FAA) New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign (Airspace Redesign Project), a project that is vital to the safety and efficiency of our national airspace system (NAS). My colleague, D.J. Gribbin, the General Counsel of the U.S. Department of Transportation, is also here to discuss airline flight scheduling practices at Philadelphia International Airport (PHL).

CONGESTION AND DELAYS—UNDERSTANDING THE PROBLEM

Growing congestion and delays in our aviation system are a serious threat to the U.S. economy and our quality of life. Successfully addressing this threat will require us to embrace new solutions and acknowledge that pursuit of status quo policies will do little, if anything, to reverse the substantial decline in system performance that we have experienced in recent years. While we are enjoying a record level of safety, we are at a critical point with congestion and delays.

To give you some perspective, let me draw a national and regional framework. According to FAA Air Traffic Operations Network (OPSNET) data, in 2007, there were 46,495,785 total air traffic control center operations in the United States. 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.

During this same time period, we saw record delays in flights across the country. For calendar year 2007, delays were up approximately 10 percent nationwide, com-

pared with calendar year 2006. Eighteen of our Nation's largest airports, including PHL, have returned to their highest pre-9/11 commercial passenger levels. Throughout all of this, the FAA's primary goal is one of safety, separating aircraft in the airspace so that they can navigate safely. In an airspace that is already operating at, or even beyond, capacity, any disruption, be it weather or equipment difficulties, requires the FAA to institute measures that can often translate into delays. From May 1–August 31, 2007 alone, we saw a total of 210,443 delays totaling 9,808,347 minutes throughout the system. Of those, 77.6 percent occurred in the NY/NJ/PHL region. OPSNET data indicates that 72 percent of delays were caused by weather, while 14 percent were caused by volume, with the remaining delays were due to other causes (e.g., equipment outages, runway construction, etc.). Our aviation system is stretched to the limit.

As we seek solutions to the problem of congestion and delays, we must recognize that aviation is one of the most complex industries in the world, consisting of an extremely intricate web of infrastructure, technology, and people. The FAA is addressing the congestion and delays problem in a variety of ways, with new technologies and procedures immediately, and in the long-term with the Next Generation Air Transportation System (NextGen), which 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. The Airspace Redesign Project is a crucial piece of the solution to the congestion and delays problem.

AIRSPACE REDESIGN OVERVIEW

The Airspace Redesign Project is the culmination of over 9 years of study and evaluation by the FAA to address congestion and delays at some of our Nation's busiest airports. The complexity of the airspace in the NY/NJ/PHL area and its importance to the Nation cannot be overstated. There are 5 major airports (John F. Kennedy International Airport, LaGuardia Airport, Newark Liberty International Airport, Teterboro Airport, and Philadelphia International Airport) and 16 other airports in the region that were studied as part of the Airspace Redesign Project. There are approximately 15 other commercial service, general aviation, reliever, or military airports that are located in the region, but were not individually studied as part of the Airspace Redesign Project. From an air traffic control (ATC) perspective, the sky can look like an anthill over each major airport, with hundreds of planes in transit, arriving, or departing at any given moment. For example, only a few miles separates the streams of arrivals at Newark and La Guardia, southbound La Guardia departures are "climbed over" Newark arrivals, and the approach path to La Guardia can depend in part on runway use at Kennedy; this represents only a fraction of the activity. This interdependency means that Philadelphia International Airport (PHL) departures are frequently delayed because of volume in New York. As noted above, one-third of the Nation's flights and one-sixth of the world's flights either starts or traverses the airspace, making an already intricately choreographed system even more complex.

The goal of the Airspace Redesign Project, then, is to enhance the efficiency and reliability of the airspace structure and the ATC system for pilots, airlines, and the traveling public. The project modernizes the structure of the NY/NJ/PHL air traffic environment in an environmentally responsible manner, while laying a foundation for NextGen. Moreover, it will accommodate growth while enhancing safety and reducing delays by 20 percent in the NY/NJ/PHL Metropolitan Area. From an environmental standpoint, by 2011, this project is expected to reduce noise levels for 619,023 people who currently experience noise at or above 45 dB DNL, and reduce fuel burn and, in turn, emissions by the airlines.

The FAA's experience with the 2005 Florida Airspace Redesign emphasizes how these efforts save time and money, by successfully addressing delays. FAA calculates that in its first year, the redesign has reduced delays, reduced reroutes, and reduced foreign fees attributable to reroutes in the amount of \$22.5 million in direct operating costs (e.g., fuel, crew, and hourly maintenance costs) for traffic inbound to South Florida and \$11.7 million for traffic outbound from South Florida. In the Caribbean, a savings of \$400,000 has been realized due to reduced reroutes and international user fees. The benefits of the Florida Airspace Redesign total almost \$35 million annually.

AIRSPACE REDESIGN PROJECT IMPLEMENTATION

Implementation of the Airspace Redesign Project is estimated to take 5 years, and will progress along four qualitatively different stages. Overall, the project represents an innovative approach to airspace design in the NY/NJ/PHL area. Air traffic rules differ between the "terminal," or "en route," or "center" environments. For example,

“terminal” airspace has 3 nautical mile separation of aircraft criteria, while “en route” airspace uses 5 mile criteria. The project expands the terminal airspace over a larger geographical area than is currently designated, and expands it vertically up to 23,000 feet above mean sea level in some areas. Some airspace sectors that are currently worked in the en route or center environment, upon full implementation of the project, will be worked using terminal rules and terminal equipment. Expanding the terminal airspace permits ATC to use terminal separation rules as well as the more flexible terminal holding rules over this larger area, providing ATC with more flexibility. This “terminalization” of the airspace also permits ATC to incorporate expanded departure gates and to separate arrival and departure flows in the NY/NJ/PHL metropolitan areas, increasing the efficiency of the airspace. Practically speaking, this means that ATC can sequence aircraft further out from the airports, where there is more space to do so. This makes the flow of air traffic more efficient, even when there’s bad weather.

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 FAA has explored and will include several mitigation strategies to reduce the impact of the new routings on the underlying communities. We are instituting several measures in response to the concerns raised at the numerous public meeting that we have had for this project in the Philadelphia area. These measures include a reduction in the number of dispersal headings (33 percent in the east configuration and 50 percent in the west configuration), as well as time of day restrictions to help minimize the impacts on the surrounding residents. To illustrate, one of the mitigation measures is that during nighttime hours, we return to a one heading departure procedure to minimize the impacts while continuing aviation service to the community.

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. As noted above, implementation is estimated to take at least 5 years, with each stage taking approximately 12–18 months to complete.

COMPLEMENTARY SOLUTIONS—ENHANCING CAPACITY

Rest assured, however, that we are not simply relying upon redesigning the airspace to address the congestion in this region. Our preference is to expand capacity in order to meet demand. Philadelphia currently has two projects underway that would address this issue.

On April 29, 2005, the Record of Decision (ROD) for the Runway 17–35 Extension Project was signed. The ROD provided environmental clearance to extend Runway 17–35 by 640 feet to the north and 400 feet to the south to a new length of 6,500 feet. This project will include standard runway safety areas and will maintain the existing ship notification procedure with regard to ships in the Delaware River. The project also includes extension of the parallel taxiways to the east and west of Run-

way 17–35, a new high-speed exit taxiway, a new holding apron, and relocation of 1,000 parking spaces.

The Capacity Enhancement Program (CEP) is a major airfield redevelopment project aimed at enhancing airport capacity in order to accommodate current and future aviation demand in the Philadelphia Metropolitan Area during all weather conditions. It is a more comprehensive, long-term solution. Two on-airport construction alternatives have been determined to be reasonable and feasible and will meet the project purpose and need. Both alternatives are in a parallel configuration with an additional southern runway. Each will provide for the capability of simultaneous aircraft arrivals or departures in bad weather conditions. Both alternatives are being examined as part of the ongoing EIS being prepared by the FAA. A Draft EIS is tentatively scheduled to be released in late Summer 2008.

COMPLEMENTARY SOLUTIONS—NEXTGEN

Additionally, our NextGen efforts will help with congestion relief in the long-term. To maximize the benefits as soon as possible, we have expedited implementation of some of the latest air traffic control technology at airports in the Philadelphia and New York region. With Philadelphia and New York airspace so interdependent, technologies deployed in one airport in the region will have a beneficial “cascade” effect on the others. Thus, deployment of technology and other solutions at JFK that reduce congestion means fewer delays at PHL.

Automatic Dependent Surveillance—Broadcast (ADS-B), the backbone of NextGen, is a satellite-based technology that broadcasts aircraft identification, position, and speed with once-per-second updates (as compared to the current 5 to 12 second refresh from today’s radar). While a time savings of 4 to 11 seconds may seem brief to some, this savings actually allows for far greater accuracy in determining aircraft position. Philadelphia has been selected as an initial key site for the installation of ADS-B. Philadelphia is scheduled to have coverage both in terminal airspace and on the airport surface by February 2010.

Improvements at PHL can come from NextGen technologies at neighboring airports. At JFK, we have accelerated the installation of the Airport Surface Detection Equipment—Model X (ASDE-X) system, which provides the surface surveillance necessary to reduce runway incursions and can allow airport users and operators collaborative surveillance of aircraft so that everyone has the same picture of the airport and aircraft. The schedule for ASDE-X has been accelerated by 1 year, and the additional surface surveillance planned for collaborative decision making is being developed and installed at the same time. It is anticipated that the ASDE-X installation and additional surveillance tools will be operational by August 2008, with PHL scheduled for installation in 2009.

The Traffic Management Advisor (TMA) aids controllers sequencing aircraft through en route airspace into major terminals. This system calculates a specific time for each aircraft to cross a fixed point in the airport landing route and also considers minimum safe distances between aircraft. Appropriate direction to pilots are then provided using that data, allowing arrival streams to take better advantage of available landing slots. The FAA plans to expand deployment of this tool and integrate arrivals and departures in the New York area in July 2008, and plan to include a demonstration of the incorporation of enhanced weather detection and prediction into TMA in 2008.

COMPLEMENTARY SOLUTIONS—NEW YORK ARC

Further, in response to the growing delays in the NY/NJ/PHL area, the President, Secretary Peters, and I met to discuss the unacceptable impact these delays were having on the Nation’s airspace. We formed a New York Aviation Rulemaking Committee (ARC) to work with industry and community stakeholders to come up with a list of potential solutions. My colleague, D.J. Gribbin, will provide more detail on this, but I would like to touch briefly here on some of those results.

On December 19, the Secretary announced a number of steps being taken in New York as a result. These steps include a cap on scheduled operations at JFK, planned caps on scheduled operations at Newark, a list of 77 operational improvements to reduce congestion in the region, and establishment of a New York airspace czar. Many of these solutions can be implemented in the short-term, but longer-term efforts such as airspace redesign and NextGen will also be required in order to address the problems in this congested airspace. To date, we have completed 8 of the 77 identified operational improvements, and we expect to complete an additional 9 by this summer. We are working closely with the Port Authority of New York and New Jersey and the stakeholders to prioritize the remaining 60 items, which are either long-term projects or items that are under review for feasibility, and expect

to finalize the priority list this summer. Because the NY/NJ airports share common routes with Philadelphia, and are in many ways interdependent, there will be direct benefits to Philadelphia as operational improvements are put into place in NY and NJ.

Beginning March 30, as a short-term solution, airlines agreed to cap operations at JFK at either 82 or 83 operations per hour, depending on the time of day. These caps will be in place through October 2009 and follow the conclusion of a schedule reduction meeting we held with the air carriers and airport authority. Hourly limits are also planned for Newark. On March 18, FAA published a proposed order limiting total operations at that airport at an average of 83 per hour. We propose to implement those caps on June 1. Additionally, on April 16, the Secretary announced a Supplemental Notice of Proposed Rulemaking (SNPRM) for LaGuardia Airport. This proposed rule follows the FAA's original congestion management proposal, dated August 29, 2006. Like the NPRM, the SNPRM would maintain an hourly cap at the airport and "grandfather" a majority of the existing Operating Authorizations to the carriers serving the airport today. However, we have decided to withdraw that part of the proposal that would require aircraft upgauging, which was not favorably received by most commenters.

The SNPRM incorporates the use of auctions at the airport. Under the proposal, up to 36 slots would be auctioned each year, for the first 5 years of the rule. We believe that auctioning off a portion of the existing capacity will create a monetary value for this scarce resource, which will encourage carriers to use the limited number of slots in the most productive manner. The FAA is inviting the public to comment on the proposal. The comment period will be open for 60 days.

In addition to the regulatory initiatives proposed and in place for the New York metro area, implementation of the latest air traffic control technology at airports in the Philadelphia and New York region is being expedited, and a permanent aviation "czar" has been appointed to serve as director of the newly-created New York Integration Office.

Nevertheless, expanding capacity is not always possible; neither is it an immediate solution, nor can physical expansion be limitless. As I have noted, the aviation industry is a major economic engine, providing support and jobs both for the country as a whole and for local communities. We need to continue to find ways to address congestion and allocate limited space efficiently and fairly. We believe that a market-based approach provides the best outcome because it sets the right incentives for efficient use of the system. That is why we are also looking at market-based measures for solutions to congestion.

On January 14, Secretary Peters announced one of these solutions—a proposal for comprehensive market-based changes to the FAA's Policy on Airport Rates and Charges. The amendments, if adopted, will provide airports with more tools to finance projects that reduce congestion and to encourage more efficient use of existing facilities. The amendments will allow a congested airport to raise the price of using its runways. This in turn could provide a financial incentive to aircraft operators to consider alternatives, such as scheduling flights outside of peak demand times, increasing aircraft size to use the congested runways more efficiently, or meeting regional air service needs through alternative, less congested facilities.

ENVIRONMENTAL STEWARDSHIP

The FAA is ever-mindful of our environmental responsibilities. NextGen must be more efficient than the current system, but it must also be quieter and cleaner. Our goal for NextGen is to meet growing demand by developing a system capable of handling two to three times the operations in the Nation's airspace while reducing significant environmental impacts. We want to ensure that the number of people in the United States who are exposed to aircraft noise continues to decline, and that we are reducing air and water quality impacts, addressing the impact of aviation's greenhouse gas emissions on the global climate, and supporting the development of alternative aviation fuels. Additionally, it is our goal to provide expertise and funding to assist in abating the impacts of aircraft noise in neighborhoods surrounding airports by purchasing land, relocating persons and businesses, soundproofing residential homes or buildings used for educational and medical purposes, purchasing noise barriers and monitors, and researching new noise projection and abatement models and new technologies.

For example, the city of Philadelphia has an approved noise compatibility program for PHL that includes residential sound insulation. The city is just beginning to update that program, which is based upon a study completed in 2002. In the meantime, the city can continue to mitigate in areas that are known to be still im-

pacted by significant noise levels and for which mitigation was approved. The FAA intends to support this program to the extent possible.

CONCLUSION

Congestion and delays throughout our aviation system are at a critical point. The FAA has spent years considering the alternatives and determining the most effective solutions to relieving the problems in the NY/NJ/PHL airspace, without compromising our environmental stewardship. The Airspace Redesign Project is one which will enhance efficiency and reliability of the airspace, while also accommodating the projected growth. The project plays a crucial role in our overall solutions in the region, which include upgrades in technology and other short-term scheduling solutions.

Senator Specter, Senator Casey, this concludes my prepared remarks. Thank you again for this opportunity to testify. I will be pleased to answer any questions you may have.

Senator SPECTER. We now turn to the distinguished General Counsel for the Department of Transportation, David James Gribbin.

STATEMENT OF DAVID JAMES GRIBBIN, GENERAL COUNSEL, DEPARTMENT OF TRANSPORTATION

Mr. GRIBBIN. Thank you, Senator.

Senator, thank you for this opportunity to update you on the initiatives that have been taken by the Department to address flight scheduling practices, as they relate to airline delays and consumer protection.

We are all too familiar with the litany of statistics that demonstrate that action is needed on behalf of air travelers. One of the most compelling statistics is that last year, almost 2 million flights operated by large carriers, did not land on time, because they were delayed, cancelled, or diverted.

So, over a year ago, the administration identified the need to respond to the growing consumer impacts of aviation delays. We have launched a two-prong attack on this problem, and we are working to improve consumer protections, and we're working to resolve systemic failures that resulted in delayed flights, missed connections and lost luggage.

As a response to that, we've developed a suite of options, to reduce congestion and improve the consumer experience. The Department started by undertaking a number of consumer-specific measures. In fact, just last week, we announced final changes to the rule that will double the limit on compensation airlines must pay to passengers who are involuntarily bumped from their flights. The rule will also cover more flights.

We have two other ongoing rulemakings that will help passengers know what to expect when they book a flight; that will allow us to step up oversight of chronically delayed flights, and enhance protections for consumers who are bumped, experience delays, or have complaints against airlines.

Secretary Peters also formed a Tarmac Delay Task Force, to develop model contingency plans for airlines and airports. In addition to improving consumer protections, we are also working to address the underlying cause of much of the occasional misery attributed to air travel, that is, congestion and delays.

Flight delay problems, including cancellations and missed connections, are the number one air traveler complaint. Along these lines, the Department has overseen the construction of 13 new run-

ways, allowing for 1.6 million additional operations, worked on accelerating the deployment of NextGen technology, and proposed amendments to our rates and charges policy, to give airports more tools to manage congestion at the local level.

We have taken a number of actions to address aviation congestion in the New York area, including caps and operational improvements. We focused on New York initially, because delays in New York cascade throughout the system, affecting flights across the continent and even across the ocean.

Philadelphia, in particular, stands to gain from improvements made in the New York area. The changes we have made will help, but more work needs to be done. To really address congestion, we have a choice between two fundamentally different approaches, that are currently being debated—administrative remedies or market-based solutions. And we believe that moving towards a market-based system will reduce delays and contribute to an improved flying experience for air travelers.

Instituting administrative remedies alone, such as caps, is an effective—but not an efficient way—to reduce delays. Slots limit capacity, stifle innovation, and block competition. As a result, passengers get poorer service and pay higher fares.

In addition, imposition of slots in the manner proposed by the airlines, would result in a massive wealth transfer from the public to the airlines. That is why last week, Secretary Peters announced a proposal for LaGuardia, with two market-based options that would require a limited number of flights operated by the airlines in a given day, known as slots, to be made available through an auction process. Both options will increase choices for passengers, and add competition, which is proven to lower fares. They also will cut delays and fund new aviation capacity projects for the region.

The cause of congestion at our busiest airports is not a mystery. It is a classic case of tragedy of the commons. Free access and a significant demand for a finite resource, ultimately dooms the resource to over-exploitation. Our current structure dooms airports. In fact, last summer, some airlines recognized this, and asked us to intervene and cap the New York City airports. And as you mentioned, airlines currently are incentivized to schedule more flights in a given time period, than airports can accommodate.

Pricing, by contrast, balances demand with available capacity, resulting in less congestion and more reliable schedules. Pricing sends better signals as to where the system needs extra capacity, and it can supply the revenues to add such needed capacity.

Pricing can also increase the number of passengers served in an airport, even if the number of planes does not increase. That is why we proposed changes to our rates and charges policy, allowing airports to use pricing to manage congestion at the local level. In fact, we are working on a meeting with the Philadelphia Airport to discuss how some of these new policies may benefit this area.

Market forces, however, do not address every policy problem with aviation congestion. Market forces do an excellent job of allocating resources to those who can realize the most economic value from that resource, but they do not allow for the societal value placed on certain activities—such as access to airports by general aviation,

or small community service. The Department recognizes this, and will respond accordingly.

PREPARED STATEMENT

Let me conclude by saying I think we all agree that the American public deserves the safest and most efficient, reliable airline system possible.

Thank you for allowing me to testify, Senator, I look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF DAVID JAMES GRIBBIN

Mr. Chairman and members of the committee, thank you for the opportunity to testify today. Allow me to use this time to update you on the initiatives taken by the Office of the Secretary and the Federal Aviation Administration (FAA) to address the issue of flight scheduling practices as it relates to the broader issues of airline delays and consumer protection.

The administration identified the need to respond to the growing consumer impacts of aviation system delays over a year ago. Since then, we have taken a series of important steps, including the President's announcements related to holiday travel. At the direction of Secretary Peters, our Department has developed a comprehensive list of initiatives designed to improve air travel and reduce the impacts of lengthy delays on consumers. While we have maintained a strong focus on short term actions, it is imperative that we not lose sight of the ultimate objective: establishing a sustainable and economically efficient aviation policy that actually reduces delays, not simply treats the symptoms. In order to accomplish this objective, it is important that we reform our economic model for air traffic control services and airport pricing similar to what the administration proposed last year. Without changes of this magnitude and regardless of regulatory actions pursued, it is inevitable that millions of Americans will experience unreliable air travel options and growing dissatisfaction with the performance of the U.S. aviation system.

THE PROBLEM

We are all too familiar with the litany of statistics that demonstrate without question that action is needed on behalf of air travelers and the aviation sector of the national economy. One of the most compelling statistics is that last year almost 2 million flights operated by large air carriers did not land on time because they were delayed, cancelled, or diverted. That is almost 27 percent of the operations reported by these carriers. Imagine any other business telling its customers that 27 percent of the time the service they paid for is not available as advertised. The administration has made commitments at the highest levels to address this problem. When Secretary Peters met with President Bush last September, he said, "We've got a problem, we understand there's a problem, and we're going to address the problem."

Unfortunately, Philadelphia is not immune from the problems experienced by many air travelers. The departure and arrival statistics for Philadelphia International Airport (PHL) provide the proof as recorded by the Department's Bureau of Transportation Statistics (BTS). In 2007, Philadelphia International Airport ranked 5th worst of the 32 major airports in the percentage ranking for on time arrivals—only about 67 percent of flights arrived on time. Similarly, PHL ranked 4th worst of the 32 major airports in on-time departures for 2007 with approximately 70 percent of flights departing on time.

I think we all agree that the air traveler deserves a better approach. Last year, according to the American Customer Satisfaction Index, the satisfaction level with the airline industry overall fell to its lowest level in 7 years. The statistics we gather monthly at DOT confirm deteriorating service levels. In 2007, there was a sharp rise in the number of complaints received by the Department—13,168 complaints, which is over 58 percent more than the 8,325 complaints received in 2006. Complaints are continuing at a high rate in 2008—the Department received 3,152 complaints during the first quarter of this year. For us, the objective is not to parcel out the blame, but to get to the root of the problem—congestion. Consumer satisfaction would be vastly improved if flights simply arrived on schedule. The growing lack of reliability in air travel these days is one of the most significant impacts of congestion.

DOT ACTIONS

The Department began to address flight delays and related consumer issues over a year ago. In February 2007, the administration sent Congress a comprehensive plan for transforming our aviation system to meet our present and future needs. A central reform of the administration's proposal was the overhaul of the FAA's financing structure to replace the decades old system of collecting ticket taxes with a stable, cost-based funding stream and to facilitate equipping our aviation system with modern Next Generation Air Transportation System (NextGen) technology. The proposal creates a stronger correlation between what users pay and what it costs the FAA to provide them with air traffic control services; thus, providing price incentives for systems users to reduce delays.

Flight delay problems—including cancellations and missed connections—are the number one air traveler complaint. That is why addressing aviation congestion is a critical component to improving consumer satisfaction with the aviation industry. The year 2007 was the second worst year for delays since 1995, and the first 2 months of 2008, while slightly better, are the third worst for flight delays during that time of year. Since one-third of the air traffic moves through New York airspace, the three airports in the New York City metropolitan area had the highest percentage of delayed flights last summer, and delays in New York cascade throughout the system, the Department chose to focus its initial efforts in the New York area.

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 included establishing a New York Aviation Rulemaking Committee (ARC), holding scheduling reduction meetings, implementing operational improvements, and enhancing customer satisfaction. Since forming the New York Air Congestion Working Group, the Department has taken a number of actions to implement the working group's recommendations.

Aviation Congestion Mitigation Efforts

Last September, Secretary Peters formed a New York Aviation Rulemaking Committee (ARC), which was composed of representatives from passenger and cargo airlines operating out LaGuardia, John F. Kennedy International (JFK), Newark Liberty International (Newark), and Teterboro Airports, airline and airport trade associations, the Port Authority of New York and New Jersey (Port Authority), passenger rights advocates, and representatives from FAA and DOT. The ARC had the monumental task of researching and vetting the options for reducing congestion in New York's major airports over the course of merely 3 months. The administration wanted to have a robust discussion and input from all interested parties before moving forward with a policy action.

Incorporating the information received from the ARC, the Department is undertaking several actions to address aviation congestion in New York.¹ These actions include:

- Caps on hourly operations at JFK;
- Proposed caps on hourly operations at Newark;
- Completion of 8 of the 17 airport and airspace recommended operational improvements identified by the Air Transport Association (ATA) and the Port Authority of New York and New Jersey. We expect to complete the remaining nine recommended improvements by summer 2008;
- Establishing an executive-level Director position at the FAA to head the New York Area Program Integration Office;
- Further implementation of New York/New Jersey/Philadelphia airspace redesign; and
- Proposed amendments to the Airport Rates and Charges Policy.

During the holiday season, the Department also instituted other measures to mitigate flight delays, such as negotiating an agreement with the Department of Defense to open military airspace for commercial use. We are also continuing our outreach efforts with various stakeholders, including consumer groups, airports, and airline CEOs.

We are making better use of our skies to limit the impact weather has on travelers. Last week, the Secretary announced new air traffic measures designed to help cut delays this summer. The first involves new and greater flexibility for aircraft

¹The New York Aviation Rulemaking Committee Report can be accessed at: <http://www.faa.gov/library/reports/media/NY%20ARC%20Final%20Report.pdf>.

to use alternative routes in the sky to avoid severe weather. This includes a new routing alternative that provides an “escape route” into Canadian airspace from the New York metropolitan area so airlines can fly around summer thunderstorms and high winds. In addition, the FAA will open a second westbound route for aircraft, akin to adding another interstate highway lane in the sky. This would in effect provide a parallel route along a heavily-traveled aviation corridor, helping cut westbound delays from the New York area.

Straight caps (hourly limitations on flight operations during certain peak hours) without some mechanism to ensure an efficient allocation of scarce slot resources is not economically efficient and, therefore, not our preferred option. Given the urgent need for action, however, it was necessary at the New York City area airports. The Port Authority elected not to pursue various delay reduction approaches, and the President and Secretary Peters would not tolerate delays like those that occurred last summer. The caps at JFK took effect on March 30, and we expect to issue a final order for Newark soon (the comment period on the notice proposing caps at Newark closed on April 1). The caps at JFK (and Newark, if adopted,) are scheduled to expire on October 24, 2009. It is also worth noting that because it is so heavily influenced by events in New York airspace, Philadelphia stands to gain from improvements that can be made in the New York area.

We still believe that there is a need for market-based measures to allocate capacity, and the Department continues to explore such measures. For example, there are options available to airports in lieu of caps. Our preference is to see airports address their challenges locally; however, the Federal Government will be involved once a congested airport impacts the rest of the national airspace. New York air congestion causes delays throughout the United States.

In January, we issued a notice that proposed providing airports with a new and useful tool to price access to their facilities better. The FAA proposal would make three changes to the airports rates and charges policy. The first change would clarify that airports may use a two-part fee structure with an operation-based and weight-based element. The second change would permit an operator of a congested airport to charge for work under construction. Finally, the third change would expand the authority of an operator of an airport system to charge users of the congested airport in the system for the airfield costs of other airports in its system. If adopted, the amendments would allow a congested airport to charge prices commensurate with the true costs of using its runways. In return, this will provide users better incentives to consider alternatives, such as scheduling flights outside of peak demand times, increasing aircraft size to use the congested runways more efficiently or meeting regional air service needs through alternative, less congested facilities. The comment period ended on April 3, and we hope to act on the proposal soon.

Per landing charges are a much better proxy for costs than weight-based charges. Since 2002, the amount of small aircraft (planes with fewer than 100 seats) flying into New York area airport increased substantially. Small aircraft flights at JFK increased 393 percent; Newark increased 53 percent; and LaGuardia increased 48 percent. The way we charge for airport use is an important contributor to this trend. Economists on both sides of the political aisle have acknowledged this relationship.

We share the view that expanded capacity is a critical component of the long-term solution to relieve congestion and get travelers to their destinations on time and in a humane fashion. We are intensely focused on such solutions, both at the FAA with NextGen and at the Department level. 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 fiscal year 2009 Budget Request would more than double 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 in Florida. The ADS-B program will change the Nation’s air traffic control system from one that relies on radar technology to a system that uses precise location data from a global satellite network. The FAA has chosen Miami as the key site for installation and testing of two broadcast services of the ADS-B program—Traffic Information Services—Broadcast (TIS-B) and Flight Information Services—Broadcast (FIS-B). These broadcast services transmit weather and traffic information to the cockpit of properly equipped aircraft. The FAA plans to commission these broadcast services in November 2008 and can then begin nationwide deployment.

Over the next few years, the FAA will also install and test ADS-B for use in Air Traffic Control Separation Services. Philadelphia is one of the key sites for this initiative. The FAA plans to commission the ADS-B services in September 2010 and a nationwide rollout by 2013.

Consumer Protection Initiatives

While relieving congestion will go a long way in addressing consumer issues, the Department also is undertaking a number of consumer-specific measures. Our consumer protection initiatives have advanced a great deal in the last 6 months. This is due in part to the appropriation by Congress of \$2.5 million targeted to improving consumer protections, and I can assure you we are putting it to good use. The funding is being used for additional staff to pursue investigations and enforcement actions, improvements to our aviation consumer protection website and consumer complaint system, brochures for air travelers to help them understand their rights and responsibilities, and a series of public forums to listen to air travelers and the problems they have experienced.

The Department has initiated three rulemakings to enhance passenger rights and protections. In November 2007, the Department issued a proposal to double the limits on the compensation required to be paid to “bumped” passengers and extend the compensation requirement to smaller aircraft. Just last week Secretary Peters announced final changes to the so called “bumping rule,” which takes effect next month. Under the revised rule, fliers who are involuntarily bumped will receive up to \$400 if they are rescheduled to reach their destination within 2 hours of their original arrival time or 4 hours for international flights, and up to \$800 if they are not rerouted within that time frame. The new rule also covers more flights, including those operated with aircraft seating 30 people or more; the current rule covers flights with 60 seats or more. The amount of these payments are determined by the price of the ticket and the length of the delay, and are in addition to the value of the passenger’s ticket, which the flyer can use for alternate transportation or have refunded if not used. As the Secretary has noted, it is difficult to compensate for a missed family occasion or business opportunity, but this rule will ensure flyers are more fairly reimbursed for their inconvenience.

The Department also published a proposal to enhance the on-time performance data that carriers currently report to the Department so that the Department, the industry, and the public have access to more complete information on flights that are cancelled, diverted, or experience gate returns. We hope to take final action soon.

The third rulemaking, an Advance Notice of Proposed Rulemaking, requested comments on various proposals designed to provide consumers information or enhance consumer protections, including proposed requirements that airlines: create legally binding contingency plans for extended tarmac delays, respond to all consumer complaints within 30 days, publish complaint data online, and provide on-time performance information for international flights. The Department is currently considering the comments received. The next step would be issuance of a Notice of Proposed Rulemaking seeking comments on any proposals the Department decides to advance after reviewing the public comments.

In addition to these rulemakings, the Secretary formed a “Tarmac Delay Task Force” in December. The purpose of the task force is to study past delays, review existing and other promising practices, and develop model contingency plans that airlines and airports can tailor to their unique operating environments to mitigate the impact of lengthy ground delays on consumers. The task force also will consider possible unintended consequences that solutions to tarmac delays may pose for travelers. The task force is composed of 35 individuals representing a broad cross-section of airlines, airports, consumer groups, and other stakeholders. The first meeting of the task force was held February 26, and the next meeting is scheduled for April 29. The Department expects that the task force will meet at least three more times in 2008 and will complete its work by the end of the year. In my opinion, the Task Force is working well and will be the source of best practices that will improve the travel experience when things do go wrong.

Three other important initiatives of our Aviation Enforcement Office deserve mention. The office has plans to conduct on-site enforcement investigations of five large airlines this fiscal year to evaluate their compliance with consumer protection requirements. In addition, the office will be holding three Aviation Consumer Protection Forums across the country to educate consumers regarding their rights as air travelers and to hear first-hand their concerns about air travel. The office is also continuing its investigation of unrealistic scheduling by large airlines, targeting chronically delayed flights. During the fourth quarter of 2007, the number of such

flights decreased dramatically, and in 2008, the Aviation Enforcement Office will be applying a somewhat more rigorous set of criteria during its review.

Some have argued that airlines have individually or collectively scheduled flights during periods of the day in which the system is simply unable to handle the volume without resulting delays. I would like to assure the committee that the Department of Transportation has sufficient authority to investigate unrealistic scheduling and, if necessary, penalize actions that we deem to be unfair or deceptive trade practices. Although a congested system is not necessarily evidence of unfair or deceptive practices, we will continue to diligently investigate potential evidence of such practices and take any appropriate action.

We are well aware that tarmac and flight delays are making air travel an unpleasant experience for passengers. The Department will continue to take action to ease uncertainty and reduce inconvenience for passengers.

ADDRESSING THE PROBLEM AND NOT THE SYMPTOM

While we are working to improve consumer protections, we do not want to lose sight of the fact that the underlying cause of much of the occasional misery attributed to air travel is congestion and delays. For this reason, the Department has been engaged in a discussion over the last several months with a wide variety of stakeholders on the efficacy of using a better economic model to balance supply and demand in a sustainable way.

Some have incorrectly suggested that expanding capacity should be the only Government response to congestion in New York City and around the country. This view largely ignores the tremendous short-term opportunities to utilize existing capacity efficiently. It also ignores the physical, economic, and political constraints on capacity expansion in many parts of the U.S. aviation system.

The Department looks to increase capacity whenever and wherever possible. Our support for expansion of Philadelphia International Airport and O'Hare International Airport are concrete examples. Philadelphia in particular is proposing major capacity enhancements to accommodate current and future aviation demand in the Philadelphia metropolitan area during all weather conditions. Key features of the proposal consist of major airfield improvements, including construction of one or more new runways and related facilities. Capacity increases must be part of the solution, particularly considering that we expect more than 1 billion air passengers by 2016. However, capacity increases, both physical and operational, often take a long time to implement and may be limited in scope. Sometimes physical capacity cannot be expanded; such as is the case with LaGuardia Airport. Operational improvements can help to address congestion, but sometimes they cannot provide enough capacity to meet demand. For example, in New York, even with the implementation of all the operational improvements initially suggested by the Air Transport Association (ATA) and the Port Authority, congestion was expected to double this year, assuming the FAA took no further action and the airlines moved forward with planned increases in their schedules.

There are additional solutions. Basically, we have a choice between two fundamentally different approaches—administrative remedies and market-based solutions. We believe that outdated Government policies relying on administrative remedies have led to an inefficient allocation of the airspace, and that moving towards a market-based system will reduce these inefficiencies and contribute to an improved flying experience for air travelers.

Administrative Remedies

Instituting administrative remedies, such as caps, is an effective, but not efficient way to reduce delays. Limiting the number of flights into an airport will reduce congestion at that airport. The Department decided to institute a short-term cap at JFK and Newark airports because something needed to be done to avoid a repeat of the flight delays that we experienced last summer. However, caps are not the best solution for improving travel options for passengers.

Airlines are often enthusiastic in their support of caps at an airport they already serve. When a cap is established, incumbents are protected because they typically maintain their market share and the potential for new competition is diminished. The legacy 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.

Although caps protect existing airline business, they also prevent airlines from adding capacity at an airport unless they are able to obtain a slot from a competitor. As a result, one of the best-known problems with slots is that they encourage airlines to "baby sit" slots; i.e., underutilize the slot by flying multiple small aircraft into an airport to maximize the number of slots an airline can occupy at the lowest

possible cost.² As a result, slots do not always go to those who value them the most and who will use the capacity in the most efficient manner.

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.

A less apparent problem is the perverse incentive that appears when caps are being contemplated at an airport for the first time. In such a situation, incumbents are encouraged to build up flight operations in advance of a capping action, simply to generate a better base for the future allocation of slots. Thus, the talk of a heavy handed and artificial solution to a problem actually exacerbates the congestion problems at the airport. For example, when the FAA began to intervene at Newark Liberty and JFK airports by designating both airports Level 2, Schedule Facilitated, airports under International Air Transport Association guidelines, the schedules that the air carriers proposed for the summer of 2008 reflected growth that appeared to be enhanced by the signals that the FAA intended to address the congestion problem with a cap.

If caps are not the answer, then the question arises—what is the solution?

Market-Based Remedies

Alfred Kahn, an airline economist and former Chairman of the Civil Aeronautics Board said, “Whenever competition is feasible, it is, for all its imperfections, superior to regulation as a means of serving the public interest.” Secretary Peters echoed that sentiment when she said, “Our preference is to find a way to let market incentives do the job, and not to return to the days of Government-regulated flights and limited competition.” Although the Department instituted caps as a short-term measure, we continue to explore market-based remedies as a longer-term solution to congestion.

Last week, Secretary Peters announced the Department’s proposal for a new way to manage congestion at New York’s LaGuardia Airport in a Supplemental Notice of Proposed Rulemaking (LaGuardia SNPRM).³ Even though this facility has been capped since 1968, it is still consistently one of the top three most delayed airports in the Nation. Under a supplemental rulemaking, the Department is proposing two market-based options that would require a limited number of flights operated by the airlines in a given day, known as 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 5 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 to help cut the record delays at the airport. 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 5 years to all other airlines through an auction. Under this option, the carriers would retain the net proceeds of their auctioned slots.

Both options provide financial stability to the airlines operating at LaGuardia by providing them with a defined right to operate at the airport for a decade, something they do not have today. These rights are given in recognition of the significant financial investment the airlines have made in the airport’s infrastructure.

This plan strikes a sound balance between protecting investments by incumbent carriers and ensuring that all airlines have the ability to fly to New York’s LaGuardia. While the status quo at LaGuardia has led to stagnant service, delays, and unnecessarily high fares, open access and competition will help give flyers more choices, fewer delays, and lower fares.

It is clear that the current system does not allocate airspace capacity efficiently. Solving that problem, however, should not entail Government picking “winners and losers,” particularly when, as currently structured, everyone involved in air travel

² GAO report GAO/RCED-99-234 notes on p. 16 that “For example, because the regulations allow a slot to go unused for up to 20 percent of the time, a carrier with five slots in 1 hour must operate only four flights in that hour on any day to obtain 80-percent use for each of its five slots. The carrier is allowed to ‘rotate’ its four flights across the five slots over the 2-month period to prevent FAA from withdrawing the slot. The practice of a carrier’s rotating actual flights among its allocated slots is commonly referred to as ‘babysitting.’ FAA officials emphasized that babysitting is not prohibited by existing regulation, provided that a slot meets the minimum-use requirements.” See <http://www.gao.gov/archive/1999/rc99234.pdf>.

³ 73 Fed. Reg. 20846 (April 17, 2008).

feels like they are the loser—both those getting terrible service and those getting blamed for providing terrible service.

Market-based pricing has been demonstrated time and again as the most effective way to allocate a scarce resource that is in high demand. Space in a movie theater, use of cell phone infrastructure, or flights during certain times to certain destinations are all examples that illustrate that such pricing works. Pricing can balance demand with available capacity, resulting in less congestion and more reliable schedules. Also, pricing sends better signals as to where the system needs extra capacity, and it can supply the revenues to add such needed capacity. Increases in fares under a pricing regime would be an indicator that more capacity is needed. In terms of efficiency, the current system focuses on airplane throughput. Instead, the objective of airspace and airport management policies should be passenger throughput. Proper pricing can increase the number of passengers served at an airport, even if the number of planes does not increase. And a framework to establish proper price signals need not be disruptive to the operations of airports.

Changing from the traditional, increasingly inefficient administrative controls to a market-based system has generated a fair amount of concern, primarily from the airlines. The following discussion outlines the issues related to pricing that were considered by the ARC. It details concerns expressed about pricing and how those concerns can be addressed.

Track Record in Aviation.—Some opponents to market-based pricing believe it does not have a proven track record in aviation, and that implementation of such pricing for airspace will devastate the industry. Further, they do not believe that experience with such pricing in other industries provides a meaningful parallel for application in the airline industry.

We live in a market economy which allocates scarce resources through pricing. This model has been adopted because history has demonstrated repeatedly that markets are the most efficient means of allocating a scarce commodity. While the aviation industry is unique in a number of respects, there is no reason to believe that market-based methods will fail if applied to this industry.

In fact, market-based pricing has been used effectively in the United States for aviation. Boston's Logan International Airport applied a pricing plan in 1988 that dramatically reduced congestion at that airport. While the plan was later found to be out of proportion to the need to reduce congestion, because it operated during non-congested as well as congested periods market-based pricing at Logan Airport did reduce congestion. In addition, the Port Authority of New York and New Jersey applied pricing in 1968 to control congestion. The pricing worked initially; however, the fee was not increased with time and eventually became ineffective.

Those questioning the efficacy of market-based pricing in aviation need look no further than airline pricing policies. Airlines already apply a market-based pricing model to airline travel. When searching for low fare flights to your destination, inevitably the cheapest flights to be found are those departing or arriving at the least desirable times. By pricing flights at less attractive times at a lower level than flights at popular travel times, airlines are incentivizing consumers to move to a less congested flight. However, this congestion fee does not reduce overall congestion in the system, because it does not impact the way the airlines themselves are charged for air traffic control and airport services.

Cost to Consumers.—Arguments have been made that market-based pricing could increase the monetary cost to travelers, if airlines pass congestion fees on to consumers. This argument, however, ignores two facts: (1) limiting competition by capping an airport creates significant upward pressure on fares; and (2) congestion fees will be offset by congestion savings.

The increased cost of a congestion charge is likely to be more than offset by the downward pressure on fares brought about by additional competition. Statistics show that when a low cost carrier enters a new market, the additional competition results in a fare decrease. When Southwest entered the market in Philadelphia in May 2004, the result was an immediate fare decrease of 24 percent. Three years later, in the 4th quarter of 2007, the average air fare in Philadelphia was still down 12 percent from the 4th quarter of 2003, before Southwest entered the market. While it is still unclear how much airlines will pay in an auction for slots at LaGuardia, it is likely that competition from new entrants will result in greater fare savings, which will offset any increases as a result of the purchasing slots.

Similarly, we need to explore the costs of instituting market mechanisms compared to the costs of various alternatives (including capping access to an airport or allowing substantial increases in delays).

In fact, congestion is expensive. According to the ATA, congestion costs the economy over \$12.5 billion a year. The New York City Comptroller has estimated that congestion costs travelers to New York City an additional \$187 million. Reducing

congestion will produce increased system reliability and dramatic savings for consumers. Market-based pricing would decrease congestion and thereby decrease the costs that flow from congestion.

Market-based pricing makes the costs consumers already pay for flying into a congested market transparent and gives them the ability to avoid the higher costs by traveling during less congested periods. When scarcity exists, consumers pay higher costs. In the case of aviation, those costs are paid in terms of wait times or higher fares due to slot controls or pricing. Only with market-based pricing do consumers have the choice of avoiding higher prices. Some airlines now charge more for additional leg room. If passengers will pay for additional leg room, they almost certainly will pay to arrive on time.

Government Tax.—One of the principal points argued by those opposed to market-based mechanisms is that the organizations that control airport and airspace access are both monopolies and, therefore, are themselves not market-based. For this reason, pricing of airport or airspace access would operate as a Government tax, rather than a market price between two private entities.

The details of how the proceeds of a pricing mechanism might be spent are important and if the proceeds are dedicated to expanding capacity and funding specific projects at the airports, then the revenue would be directly used to alleviate the congestion that generated the proceeds and would not be a tax. In recognition of this concern, under first option proposed in the LaGuardia SNPRM, the FAA would spend any proceeds from an auction on congestion and delay management initiatives in the New York City area, after recouping the costs of the auction. Under the second proposed option, the airlines would retain the proceeds of the auction.

Relationship Between Physical Assets and Investments.—Many airlines have invested hundreds of millions, and even billions, of dollars in terminals, gates, hangars, and other facilities at airports. Those airlines using special revenue facility bond financing gain tax preferences due to the public nature of the facilities whose financing they underwrite. They give up the facility to the airport proprietor at a predetermined date. The airlines also realize that the airport proprietor ultimately controls the use of the facilities for the benefit of the public. Nonetheless, those airlines are concerned that they would lose the ability to realize a return on those investments, if a pricing program resulted in the airlines not being able to fly their traditional schedule. Conversely, if reallocation of slots is achieved through imposition of a market-based pricing mechanism that does not recognize historic rights, some are concerned that the new owners of slots would not be able to gain access to the gates and ticket counters controlled by the former owners of the slots.

Any pricing mechanism pursued by the Department will recognize these concerns. Since the advent of the competition plan requirement in AIR-21, the Department has been educating airport proprietors about their responsibilities to accommodate all requesting carriers on a reasonable basis. Airlines are aware that their unused gate leaseholds may be accessed by other carriers, due to the unavailability of common-use gates and if the need arises. In addition, the Department would manage any market-based system in such a way as to recognize the legitimate interests of those airlines, which have made significant investments in existing infrastructure, to realize an adequate return on those investments. The Department does not want to create a disincentive for future airline investment in aviation infrastructure.

We recognize the concern about disruptions to the industry in the LGA SNPRM. The proposals would grant 10-year leases to airlines currently serving LaGuardia for at least 20 of their current slots. Such an approach recognizes the historical investment by airlines at the airport and the community, and will avoid disruption to the national air transportation system.

Additionally, the Airport Council International, North America, expressed concerns that the Department's LaGuardia SNPRM might interfere with the airport's ability to manage its own facilities. The Department has consistently worked with airports to give them additional tools to manage their airports and reduce delays—such as through our rates and charges policies—and we will continue to work to develop better delay and congestion management tools that do not overstep our regulatory authority to manage the airspace and respect the airports need to manage its own facilities. The Port Authority has failed to use this tool and not managed congestion at LaGuardia for 40 years.

Reduced Demand for Air Travel.—Some civic leaders were particularly concerned about the impact market-based pricing might have on the affordability of traveling to the New York City. As noted above, however, consumers are paying a heavy price in terms of congestion. It is unlikely that slightly higher prices during peak periods would serve as a greater deterrent than the chronic delays New York City currently experiences. In fact, a USA Today article published last year noted that savvy trav-

elers avoid New York City whenever possible. That can change if market-pricing can play an appropriate role.

Additionally, by establishing a market mechanism whereby slots will be allocated to the most efficient user, the incentive will be for the slots to go to the airline with the most efficient use of the slot—which will likely be the airline that is able to bring the most passengers in on a plane. This should result in increased passenger throughput at an airport—even as the physical number of planes coming through the airport remains steady—and result in greater availability of seats and downward pressure on ticket prices.

Economic Disruption.—Given the sharp increase in fuel prices, airlines are understandably concerned about any additional financial burden generated by pricing. In addition, the airports have billions of dollars of debt and other financing tied to the financial health of the airlines. The Department understands the financial environment in which airlines and airports are operating. Any market-based solution will need to be implemented in a manner that does not unduly disrupt the current system.

The recent LaGuardia SNPRM will result in a very small number of flights being auctioned off annually—under options 1 and 2, 14 or 36 slots out of 1,168 slots, respectively, will be auctioned annually for the first 5 years of the rule, with no required auctions for the last 5 years of the rule. This is a very small number of slots that will be auctioned—and while some will claim that any disruption is problematic, we expect that numerous experts and economists will chide the Department for having auctioned what they view as too small of an amount. This SNPRM is attempting to strike a balance between competing views and to spur a secondary, voluntary market whereby airlines can freely trade slots and excess capacity to the highest bidder able to realize the best economic use of the slot.

Impact on Small Communities and General Aviation.—There are concerns that market-based pricing would limit general aviation access to airports and would make it difficult for carriers to continue adequately serving small communities. While market-based pricing does an excellent job of allocating resources to those who can realize the most economic value from that resource, such pricing does not allow for the societal value placed on certain activities. The Department will monitor whether modifications to market-based mechanisms are necessary to provide for continued service to small communities and continued access for general aviation. If the Department were to publish a final rule that would auction slots at LaGuardia, the Department will carefully analyze and consider the impacts an auction will have on service to small communities.

CONCLUSION

Our objective is to address the fundamentals of the problem of aviation congestion and achieve solutions that are long-term and that provide maximum benefits to the traveling public and the vital industry that serves them. The basic question for us is whether to continue to apply temporary band-aids to the problem, or whether to seek solutions that will do a better job of allocating our scarce airspace. We believe that we must take positive, immediate steps to deal with a dynamic air transportation system that has far outpaced earlier efforts at improvement. Air travelers deserve to fly the safest and most reliable air system possible. The time has come to bring aviation into the 21st century and more fully allow market forces to work.

Change is difficult, and the airlines' concerns are understandable. In fact, very similar arguments were made by the airlines in opposition to deregulation. Concerns were raised about disruption to the industry, lack of a track record, and disruption to business models. However, the ATA Airline Handbook includes a long list of benefits that resulted from deregulation. The Handbook notes that deregulation stimulated competition, led to rapid growth in air travel, and reduced fares by more than 50 percent in real terms. We believe that market-based remedies directed at congestion will improve airline service like deregulation did.

Thank you again for this opportunity to testify. I will be pleased to answer any questions you may have.

Senator SPECTER. Mr. Sturgell and Mr. Gribbin bring excellent qualification to their job. Mr. Sturgell had been a Senior Policy Advisor to the National Transportation Safety Board, before becoming Acting FAA Administrator. He was, prior to that, a pilot for United Airlines, graduated the U.S. Naval Academy and Virginia Law School.

Mr. Gribbin, before becoming General Counsel to the Department of Transportation, was Chief Counsel to the Federal Highway Administration, got a degree from Georgetown University undergrad, and Georgetown University Law School.

Without objection, a statement made by Senator Lautenberg will be made part of the record. He expressed his regrets that he could not be here, because of a longstanding prior commitment. Senator Casey wanted to be here as well, but again, time was not something he could accommodate to, and I can tell you, they're both following these proceedings very, very closely.

[The statement follows:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

One month ago I stood on the bank of the Delaware River in West Deptford, New Jersey, across from the Philadelphia Airport and spoke out about the dangers of the Federal Aviation Administration's (FAA's) Airspace Redesign project.

Since that time, leaders at the FAA have continued to march the agency toward worsening problems in our skies, on our runways, in the maintenance hangars and over our homes.

The FAA has failed to take the necessary steps to ensure the safety of the flying public, treat its professional safety employees with the respect they deserve, and preserve the quality of life of New Jersey residents.

Although the project has taken nearly a decade to complete, FAA spent less than a year sharing its final plans with the public and then rushed to implement them. This process has been unfair for New Jersey residents and has put the traveling public at risk.

In its rush to get the newly designed flight patterns in place last December, the FAA began using the new "dispersal" headings before it even published new official documents showing pilots and controllers the new roadmaps to our region's skyways.

The resulting confusion has caused some planes to take off in the wrong direction and put travelers and residents at risk of a major catastrophe. This is a senseless risk to take with air safety, but the FAA has used these procedures at both Philadelphia International Airport and Newark Liberty International Airport.

Even FAA's own employees at the Philadelphia Airport—the air traffic controllers—tried to point out the problems with rushing the project, but the Bush administration's FAA told them that if they had safety concerns they should essentially "go find another job." That's unacceptable and an outrageous response from this administration.

When I heard New Jerseyans were turned away at FAA public meetings held in Philadelphia about this plan, I insisted that the agency come back and hold additional meetings—in New Jersey.

While FAA seemed intent on quietly and quickly pushing the project ahead, I wanted each affected New Jersey resident to be able to learn about how their lives and homes would be impacted by the FAA's plan—and to express their concerns to the FAA.

For these reasons, I have continued to block, along with my colleague Senator Menendez, President Bush's appointment of Robert Sturgell to be Administrator of the FAA.

Mr. Sturgell, the FAA's Deputy Administrator for 5 years before taking over as Acting Administrator last year, helped create many of the failed policies which led to our country's current air travel problems.

Worse, he has shown no indication that he can or will change the direction of the agency to address these key problems. His appointment represents a continuation of failed aviation policies by the Bush administration, and I will continue to block Mr. Sturgell's Senate confirmation until we see evidence of real change from the administration on these important issues.

We have seen a sad pattern of failure from FAA leaders over the past several years. The agency has failed to hire sufficient numbers of air traffic controllers we need to ensure our safety. A report I requested from the Government Accountability Office last year found that nationwide, at least 20 percent of the controllers at 25 air traffic control facilities, including towers at major airports, were working 6-day weeks. This overworking can lead to fatigue and tired eyes on our skies and our runways.

The FAA has also failed to hire enough safety inspectors to keep up with the airline companies' level of outsourcing to foreign maintenance facilities. Only recently we learned the extent to which FAA has been relying on the airlines to self-regulate much of its inspection work, as the problem of the lack of safety inspectors came to light.

Since runway safety continues to be a major concern, I will introduce legislation shortly to ensure the agency focuses on this major problem. Near-collisions on our runways continue to increase, and FAA has not taken a leadership role in coordinating its efforts to address these problems.

This is not a new problem. The improvement of runway safety has been on the National Transportation Safety Board's list of "most wanted" safety improvements since 1991.

I will continue to fight to ensure the FAA does not neglect the Nation's air safety needs—and New Jersey's quality of life.

Senator SPECTER. Mr. Sturgell, would you identify the other two individuals who are sitting at the witness table with you?

Mr. STURGELL. Sure.

To my far right is Steve Kelley, the Program Manager for this project, and then to my immediate right is Mary McCarthy, from the Counsel's Office at the FAA, who's also involved in this project.

OPERATIONS DURING PEAK HOURS

Senator SPECTER. Mr. Sturgell, I'll begin with you.

Set the time clock at 10 minutes, please?

I begin with you on the basic question about the understanding that on the so-called peak hours from 9 o'clock to 11 o'clock, and 2 o'clock to 7 o'clock, there would not be more than—there would be no overflights over the Delaware County route, unless there were 10 or more aircraft waiting to depart. That is the understanding, is it not?

Mr. STURGELL. That is not quite accurate, Senator Specter, and if you permit me to expound on this for a little bit.

We have both dispersal headings being used at Philadelphia and at Newark. At Newark, we are using a demand trigger for those three headings, which goes to the number of aircraft—

Senator SPECTER. Mr. Sturgell, before you have at it, let me quote your letter from March 20. I had written to you about that commitment, and you responded, on March 20, "Your assertion that my representative advised your staff that Philadelphia dispersal headings over Delaware County would initially only be used during peak demand hours, which we define as periods where 10 or more aircraft would be waiting to depart in the absence of the dispersal heading, that is correct."

Now, you're not backing off from your statement in that letter, are you?

Mr. STURGELL. No, I'm not. We do define peak demand hours as generally the hours where 10 or more aircraft are waiting for departure.

Senator SPECTER. Well, aren't the peak hours defined as—you have defined them, I don't know if they're necessarily correct, but you have defined them as 9 o'clock to 11 o'clock and 2 o'clock to 7 o'clock.

Mr. STURGELL. Those are the hours where we are currently using the two available dispersal headings.

Senator SPECTER. Those are the hours where you're doing what?

Mr. STURGELL. That we are using dispersal headings to the west at Philadelphia.

Senator SPECTER. Okay, and that means subject to the rule that there would not be overflights over Delaware County, unless there were 10 or more aircraft waiting.

Mr. STURGELL. So, the chart shows those hours, and it shows the number of departures—

Senator SPECTER. Before what the chart shows, I want to ascertain, with precision, your commitment. I'm trying to establish the commitment that—on the peak hours, which you define as 9 o'clock to 11 o'clock and 2 o'clock to 7 o'clock, as your letter of March 20 said, there wouldn't be dispersal unless there were 10 or more aircraft waiting to depart.

Mr. STURGELL. So, the peak demand hours generally equate to the aircraft waiting to depart. And at Newark, that is what we are using, because we did not reduce the number of dispersal headings.

At Philadelphia—

Senator SPECTER. Mr. Sturgell, why go to Newark when I'm pressing you hard to find out about your commitment to Philadelphia.

Mr. STURGELL. I'm trying to distinguish between the two, because—

Senator SPECTER. But I'm not asking you for a distinction, I'm asking you for what your commitment has been.

Mr. STURGELL. Right.

The issues have arisen together in various forms, Senator Specter, that's all—

Senator SPECTER. I don't care about that. What I care about is our exchange of correspondence where it is pretty plain that your commitment is what I have said. No routings over Delaware County, unless there are 10 or more aircraft waiting, during those designated periods.

Mr. STURGELL. I think that correspondence says that we are using them during those hours, because those are peak demand hours. And that generally, peak demand hours are hours where you have those kinds of aircraft waiting for departure.

Senator SPECTER. But you said, well, the difficulty with what you're saying is that you have the commitment, we have on the record, departures over Delaware County where you don't have 10 aircraft waiting, don't we?

Mr. STURGELL. So, if we didn't use these dispersal headings during those hours, we would have those kinds of delays in terms of aircraft waiting for departure.

Senator SPECTER. Well, if you—if you have fewer than 10 aircraft waiting, you made that commitment, because that was a standard where you could avoid using the departure route over Delaware County, right?

Mr. STURGELL. Senator, I believe the commitment we made to you, and in that correspondence was that we would limit the use to peak demand hours, and then we tried to explain that generally, a peak demand hour is an hour where you would have 10 or more aircraft waiting for departure.

Senator SPECTER. And if you have less than 10? You would not use the overflights over Delaware County?

Mr. STURGELL. We are trying to limit the use to the peak demand hours. And in fact, we could be starting earlier, we could be ending later, we were trying to very narrowly limit the impact to people by reducing these hours until we get further into the project, and we get the third dispersal heading, and we get other things accomplished.

Senator SPECTER. Well, alright. Take it on your re-interpretation of what your commitment is, as I read it, aside from the so-called “peak hours” where you have 10 or more waiting, if you’re at a time period, or if you’re in a situation where there are fewer than 10 waiting, would you concede, at least in that situation, you’d be obligated not to send flights over Delaware County.

Mr. STURGELL. We are not using the headings in non-peak demand hours. From 10 p.m. to 7 a.m., we’re not using the dispersal headings.

Senator SPECTER. You’re not using—in situations—never mind non-peak—let’s talk turkey, let’s talk specifics, if we can, for just one question. If you have nine or fewer waiting, you won’t go over Delaware County?

Mr. STURGELL. Senator, the mitigation strategies we had in place for this project at Philadelphia do not equate to the number of aircraft, they equate to peak demand hours. Which, as I tried to explain, generally does mean 10 aircraft. But, if you’re using the headings, you won’t see those kinds of delays.

Senator SPECTER. Mr. Sturgell, I wrote to you on February 15. “I’m advised that Federal Aviation Administration representatives claim that in November 16, 2007, congressional staff briefing, that the heading over Delaware County would initially only be used during periods of moderate and heavy traffic at Philadelphia, or when approximately 10 to 15 aircraft were waiting to depart.”

We rely on these representatives, and I would fairly call commitments, and you responded, on March 20, “Your assertion that my representatives advised your staff that Philadelphia dispersal headings over Delaware County would initially only be used during peak man hours which we define as periods when 10 or more aircraft would be waiting to depart, in the absence of the dispersal heading, is correct.”

Now, Mr. Sturgell, isn’t a fair—really, the only realistic reading of our exchange of correspondence, a commitment not to fly over Delaware County? If there weren’t 10 to 15 aircraft waiting to depart?

Mr. STURGELL. Senator Specter, what I’m trying to convey is that the peak demand hours, yes, generally equate to those types of numbers of aircraft being lined up, but if you’re using the headings during those hours, the point is not to have those kinds of departure delays for the traveling public, so you would not end up with 10 aircraft in line.

And if we’re using these over a period of 2 hours where we have peak demands, you’re going to reduce those number of aircraft in line. So then, do we stop using them until we’ve got 10 more lined up, and start using them again? We were trying to do this on a rational basis that has a limited impact to the community, by restricting the hours during those peak demand hours.

Senator SPECTER. I don't understand your last answer, about are you saying that there are times when you have fewer than 10 airplanes you consider indispensable to fly over Delaware County?

Mr. STURGELL. First of all, I'm not saying that every airplane out there is flying over Delaware County.

Senator SPECTER. You're not saying what?

Mr. STURGELL. That every airplane is flying over Delaware County.

Senator SPECTER. I don't care about the others, on this question. I do care about the others on other questions, which I'll come to.

But let me repeat the question, this is only about the seventh time. Are you saying that there are circumstances where you have nine or fewer aircraft waiting to depart, do you find it indispensable to fly over Delaware County?

Mr. STURGELL. I would say that when we are using these dispersal headings, that they are probably reducing delays, such that we don't have those types of numbers of aircraft waiting in line during the hours we're using them.

Senator SPECTER. Mr. Gribbin, you're a lawyer, do you understand that question—answer?

Mr. GRIBBIN. Yes, yes, sir.

Senator SPECTER. I don't think you have to be a lawyer to understand, but you're a lawyer, Mr. Gribbin. And I know you have a certain bias and relationship here, but you also are sworn to uphold the Constitution, which requires telling the truth. I'm not suggesting that anybody's not telling the truth.

Mr. STURGELL. I appreciate that.

Senator SPECTER. I'm not swearing the witnesses. I'm trying to find out what's happened in as a relaxed atmosphere as we can. This is not the Judiciary Committee.

Mr. GRIBBIN. Right. Actually, what Administrator Sturgell is saying is that—

Senator SPECTER. Speak into the microphone, Senator Thurmond used to say, "Pull the machine closer."

Mr. GRIBBIN. Talking into the machine.

What Acting Administrator Sturgell is saying is that we define peak periods as, if there were no use of dispersal headings, then—

Senator SPECTER. I don't want to know what you define, I want to know if you understood his answer.

Mr. GRIBBIN. Yes, his answer was—

Senator SPECTER. All right. You understood his answer.

Mr. GRIBBIN. Yes, sir.

Senator SPECTER. Now, tell me what his answer was?

Mr. GRIBBIN. His answer was that we will use the additional dispersal headings. If we did not use them, there would be more than 10 aircraft in line. As a result of using them, it reduces the line, which is the point of having the dispersal headings.

Senator SPECTER. So, there are some times when there are 9 or fewer aircraft waiting, that you fly over Delaware County.

Mr. STURGELL. If they depart on the 268 heading—

Senator SPECTER. May the record show that Mr. Gribbin looked at Mr. Sturgell, nodded in the affirmative, and now we're listening to Mr. Sturgell's answer.

Do you agree with him?

Mr. STURGELL. Yes, yes. If they use the northern dispersal heading on the departure.

Senator SPECTER. So, it's a qualified "yes."

Mr. STURGELL. Because there is a dispersal heading that goes to the south, away from Delaware County.

Senator SPECTER. But, sometimes the headings going away from Delaware County are not used, so that you have Mr. Gribbin's answer, but you are flying over Delaware County with fewer than 10 aircraft waiting.

May the record show, Mr. Sturgell is nodding, in the affirmative. You're saying that's right.

Mr. STURGELL. That's correct.

Senator SPECTER. Good. We're only 14 minutes and 32 seconds into this question.

Now we have enough questions that will take us past midnight at that rate.

Mr. Sturgell, put the chart up, with the various flight patterns around, and I think it would be useful to everyone if you would come up and show what you're doing here, by way of generalization, to give you an opportunity to state what you are trying to do to avoid the Delaware County problem. I don't think you're there by the last answer, and by my full understanding of it, but I think it would be helpful if you would—why had that chart been withheld from us, Mr. Sturgell?

Mr. STURGELL. I'm sorry?

Senator SPECTER. Why had that chart been withheld from us?

May the record show that we had a group of charts first, and now this one comes from the closet. I just want to put that for the record.

Mr. STURGELL. So, the original project proposed seven headings in grey. When we were looking at this from completely an operational efficiency and delay-reduction perspective, we came up with seven different departure headings, in grey, which permitted us to get more airplanes off the runway faster, and reduce delays.

Then we heard from the citizens. And what we did was we went back, and tried to find ways to reduce noise impact on the citizens, and, in particular, for the four headings right here—270, 29, 310, 330—all flowing off into Delaware County.

So, we heard from the community, and what we did was, we came up with three headings. So, we took an operational hit, and helped mitigate the impact to the communities. And we ended up with three headings, in purple. We moved 270 to 268, to try and reduce the noise impact in this area, and we got rid of the headings flying up to the north.

We kept 245, we have not yet put in 230—I think that's going to take us about 2 years to do, because we have some internal airspace changes we have to do—

Senator SPECTER. Why should it take 2 years to put in two-thirds of the dispersal and dotted lines?

Mr. STURGELL. Because it involves airspace changes within our facilities, which impacts the workforce and our operating environment, and they take longer to do. These two did not require those changes.

And we're also using the red heading, 255 down the river, during the off-peak hours, at night, from 10 p.m. to 7 a.m., and then there's a slot during the middle of the day, from 11 o'clock to 2 o'clock or so, where the demand drops off, we're using those headings during that time.

Senator SPECTER. Now, now, now, now, now—wait, wait. You're saying—as you had explained to me in our meeting earlier this week—that from 10 p.m. to 9 a.m., you are using only—use the chart, which has 255 on it. That chart. And you told me that from 10 p.m. to 9 a.m., you were using only 255, correct?

Mr. STURGELL. That's correct.

Senator SPECTER. Well, how can you do that, Mr. Sturgell, in view of a very heavy traffic at the airport, in the 7 o'clock time zone?

Mr. STURGELL. So, you can see, from 5 o'clock to 7 o'clock, the traffic picks up, 7 o'clock to 9 o'clock—

Senator SPECTER. Pull that chart up.

Mr. STURGELL. Five to seven starts ramping up, 7 o'clock to 9 o'clock, it's fairly high, it's above the average, which is the green. But it's not at some of the peak hours. So we are taking hits by not using the headings during that time. But it is part of our mitigation strategy to try and reduce the noise impact to the community at early times of the day, were we to be using those dispersal headings.

Until we get the third heading in, we're going to monitor these hours very closely, and try to limit them to our peak demand hours.

Senator SPECTER. And you're talking about the third heading coming in, as 230.

Mr. STURGELL. Yes, sir.

Senator SPECTER. And you say that'll be in 2 years?

Mr. STURGELL. Approximately.

Senator SPECTER. And when 230 is in, will that eliminate the flights over Delaware County?

Mr. STURGELL. It will not eliminate the flights over Delaware County. It will more evenly distribute the flights among three headings, vice two headings.

Senator SPECTER. Will it reduce the flights over Delaware County?

Mr. STURGELL. I think it will reduce the noise impact once it will be implemented.

Senator SPECTER. Reduce the noise impact?

Mr. Gribbin, would you explain that answer to me?

Mr. Sturgell, if it reduces the noise impact, wouldn't that necessarily mean that's because the number of flights were reduced?

Mr. STURGELL. Yes, I think they directly relate to each other. I'm—

Senator SPECTER. They directly relate to each other.

Mr. STURGELL. I don't specifically know whether the actual flights are reduced, I don't have that knowledge. I do know the noise impact will be less, because we will have a third heading to use.

Senator SPECTER. Well, I'm just trying to understand your testimony. The question is, will the number of flights be reduced over

Delaware County? The answer to that, unresponsive, the noise impact will be reduced. Well, if noise impact is reduced, doesn't that mean the number of flights will be reduced? Answer: Well, there is a direct correlation, there.

Do you want to—

Mr. STURGELL. Senator, I think that's a safe assumption, I just don't—

Senator SPECTER. I'm not interested in assumptions.

Mr. STURGELL. Right.

Senator SPECTER. I want to know conclusions. Will the number of flights be reduced?

Mr. STURGELL. I don't know the actual numbers that are involved.

Senator SPECTER. But you know the noise impact will be reduced.

Mr. STURGELL. But I know the noise impact.

Senator SPECTER. Okay. It's like pulling teeth, Mr. Sturgell. And I'm trying to work through to get your best presentation, give you a chance.

I think your best presentation has lots of problems, but I want to give you a chance for your best presentation.

I'm advised that Mayor Nutter has to leave very, very shortly. And of course we'll accommodate the Mayor.

Mayor Nutter, would you step forward and would you four take seats on the front row and I'll recall you in just a few minutes?

While the Mayor is coming downstairs, let me introduce him to you. Not that he needs an introduction. The Mayor comes with a very distinguished record. Elected on November 6, former Councilman from the 4th District, Democratic Ward Leader, University of Pennsylvania, Wharton School, 1979, and he has hit the ground sprinting as Mayor, and I have had the pleasure of talking to him informally, worked with him when he was on the City Council, we were on panels together, we've had a long friendship and I'm pleased to see what he's doing in so many, many areas, and especially in this area, because he convened a meeting of the airlines in the past couple of weeks to tackle this problem.

And no longer introduction, Mr. Mayor. I'll give you the maximum time you can spend with us.

STATEMENT OF HON. MICHAEL NUTTER, MAYOR, CITY OF PHILADELPHIA, PHILADELPHIA, PA

Mr. NUTTER. Senator Specter, thank you very, very much for this opportunity and the honor of testifying before this Senate Subcommittee on Transportation and Housing and Urban Development and Related Agencies. And I might, to ease my way into it, given the last panel—as happy as I am to be here, I think Mr. Sturgell might be happier that I'm here to provide a bit of a break.

These are my opening comments, Senator, I will not take a significant amount of time, but this is a very important issue. And you are correct, we did have an opportunity to talk with the airlines about these issues and many others.

And for the record, my name is Michael A. Nutter, I'm Mayor of the city of Philadelphia. The city of Philadelphia owns and operates

Philadelphia International Airport, which I will subsequently refer to as PHL.

The gateway to America's fourth most populous metropolitan area, the airport sustains over 34,000 jobs, and contributes more than \$14 billion annually to the regional economy. It is a key component of my strategic plan for economic development, job creation, and customer service in Philadelphia and our region.

Twenty-nine airlines fly over 650 daily departures from Philadelphia to 122 non-stop domestic and international destinations.

I'd like to also add for the record that I am pleased and proud to—in our continuing efforts with our Deputy Mayor Rina Cutler, and our airport director Charlie Isdell, to continue to develop working partnerships with our good friends in Tenniken Township, and Delaware County—critical and important stakeholders and partners in our efforts from a regional standpoint, to make Philadelphia International Airport work for all of us.

Senator Specter, I'd just like to give you a bit of an update on the airport. Our airport has achieved yet another record year in 2007 by accommodating over 32.2 million total passengers. This continues the steady rate of passenger growth, which we have been experiencing since 2004. PHL landed 499,653 aircraft take-offs and landings in 2007, making it the 10th-busiest airport in the United States.

Unfortunately, along with its record-setting passenger growth and robust contribution to the regional economy, PHL was ranked among the most-delayed airports in the United States for some—has ranked among the most-delayed airports in the United States for some time.

In terms of total delays in 2007, PHL ranked 6th worse among the 30th largest U.S. airports, behind only Chicago, Newark, LaGuardia, JFK and Atlanta.

However, over the past 3 years, the number of annual takeoffs and landings at PHL has declined by nearly 7 percent. This decline in activity has primarily resulted from a change in airline behavior. The current state of the economy—especially the price of jet fuel—has forced the airlines to find new ways to accommodate continued passenger growth.

Rather than simply increase flights, they have been reducing overall seat capacity by eliminating underperforming routes, consolidating activity at fewer hub airports, and strategically introducing newer, larger, more fuel efficient regional jets. In addition, at Philadelphia, US Airways has been working to reduce delays, by improving their facilities and operational efficiency.

Total delays at PHL over the past 3 years have declined by 11 percent. The total delays at JFK in 2007 were 30 percent greater than those experienced at PHL. Total delays at LaGuardia, Newark, and Chicago were 2 to 2.5 times greater than those at PHL. The delay situation at Philadelphia is certainly worth of this subcommittee's attention, but it is not yet comparable to those airports which have been forced to consider and, in some cases, implement strict demand-management measures.

We do not intend to allow our airport to ever reach that level of intervention. The city has completed an Airport Master Plan proc-

ess, which recommended short-term and long-term airfield improvements, aimed at needed delay reduction.

The short-term recommendation was a 1,000-foot extension of runway 17–35, to make it usable for a broader range of aircraft types. The Federal Aviation Administration approved this project in 2005, and it is scheduled for completion later this year. It is expected to reduce overall delays in Philadelphia by 8 percent.

The long-term plan involved continued development of the airfield, including a new runway, extension of two other runways, and several important improvements to the taxiway system. This program is currently the subject of an environmental impact statement being prepared by the FAA. The EIS process was set back by a full year, when the recent Airspace Redesign Process was implemented, because of a great deal of airfield design work had to be recalculated in light of the airspace changes.

The FAA is not scheduled to complete the PHL airfield EIS until the end of 2009. Following FAA approval, the city expects to embark on the initial phase of the program expeditiously.

This multi-year process will result in airfield infrastructure improvements that will increase the capacity of our airport, reduce delays, and allow PHL to accommodate projected growth while offering a higher level of service to our passengers.

A couple of last points, Senator Specter. We are also fully aware of a variety of other topics, and I'll just touch on the sub-headings, here. Of course, the New York-New Jersey-Philadelphia airspace, FAA Airspace Redesign, we are actively involved in that process.

Flight scheduling practices—there are three that we are primarily looking, of course, first is voluntary adjustment of airline flight schedules, the second, administrative approaches, and third, market-based approaches, as well.

In summary, Senator Specter, I would say that our primary concern with all of these approaches is their potential impact on airfares. Much progress has been made in recent years at Philadelphia to increase competition. Prior to the approval of Southwest Airlines in 2004, PHL's passengers consistently paid some of the highest average airfares in the Nation.

For the past 4 years, our passengers have consistently enjoyed some of the Nation's lowest average airfares. This accomplishment could be undone by demand management measures, particularly if they are not carefully planned and implemented.

I do not mean to diminish the seriousness of our delay problems at PHL, at all. We are committed to considering any and all responsible measures to address this problem. Our present focus is on the implementation of a long-term airfield development program. We would gratefully accept any assistance this subcommittee can provide in prioritizing that initiative.

PREPARED STATEMENT

I want to thank you, again, for the opportunity to testify today, I would submit the fuller testimony for the record, and I would certainly be glad to answer any questions that you might have that I might be able to answer on my own.

Thank you, sir.

Senator SPECTER. Your full statement will be made part of the record, without objection, and I very much appreciate your coming in, Mr. Mayor.

[The statement follows:]

PREPARED STATEMENT OF HON. MICHAEL NUTTER

INTRODUCTORY REMARKS

I am Michael Nutter, Mayor of the city of Philadelphia, which owns and operates Philadelphia International Airport (PHL), the gateway to America's 4th most populous metropolitan area. The Airport sustains over 34,000 jobs and contributes more than \$14 billion annually to the regional economy. It is a key component of my strategic plan for economic development, job creation and customer service. Twenty-nine airlines fly over 650 daily departures from Philadelphia to 122 non-stop domestic and international destinations.

AIRPORT UPDATE

Our Airport achieved yet another record year in 2007 by accommodating over 32.2 million total passengers. This continues the steady rate of passenger growth, which we have been experiencing since 2004. PHL handled 499,653 aircraft take-offs and landings in 2007, making it the 10th busiest airport in the United States. Unfortunately, along with its record-setting passenger growth and robust contribution to the regional economy, PHL has ranked among the most delayed airports in the United States for some time. In terms of total delays in 2007, PHL ranked 6th worst among the 30 largest U.S. airports, behind only Chicago, Newark, LaGuardia, JFK and Atlanta.

However, over the past 3 years, the number of annual take-offs and landings at PHL has declined by nearly 7 percent. This decline in activity has primarily resulted from a change in airline behavior. The current state of the economy, especially the price of jet fuel, has forced the airlines to find new ways to accommodate continued passenger growth. Rather than simply increase flights, they have been reducing overall seat capacity by eliminating under-performing routes, consolidating activity at fewer hub airports and strategically introducing newer, larger, more fuel-efficient regional jets. In addition, at Philadelphia, US Airways has been working to reduce delays by improving their facilities and operational efficiency.

Total delays at PHL over the past 3 years have declined by 11 percent. The total delays at JFK in 2007 were 30 percent greater than those experienced at PHL. Total delays at LaGuardia, Newark and Chicago were 2 to 2.5 times greater than those at PHL. The delay situation at Philadelphia is certainly worthy of this subcommittee's attention but it is not yet comparable to those airports, which have been forced to consider and, in some cases, implement strict demand management measures.

We do not intend to allow our airport to ever reach that level of intervention. The city has completed an Airport Master Plan process, which recommended short-term and long-term airfield improvements aimed at much needed delay reduction. The short-term recommendation was a 1,000-foot extension of Runway 17-35 to make it useable for a broader range of aircraft types. The Federal Aviation Administration (FAA) approved this project in 2005 and it is scheduled for completion later this year. It is expected to reduce overall delays in Philadelphia by 8 percent.

The long-term plan involves continued development of the airfield, including a new runway, extension of two other runways, and several improvements to the taxiway system. This program is currently the subject of an Environmental Impact Statement (EIS) being prepared by the FAA. The EIS process was set back by a full year when the recent Airspace Redesign process was implemented because a great deal of airfield design work had to be recalculated in light of the airspace changes. The FAA is not scheduled to complete the PHL airfield EIS until the end of 2009. Following FAA approval, the city expects to embark on the initial phase of the program expeditiously. This multi-year process will result in airfield infrastructure improvements that will increase the capacity of our airport, reduce delays, and allow PHL to accommodate projected growth while offering a higher level of service to our passengers.

NEW YORK/NEW JERSEY/PHILADELPHIA FAA AIRSPACE REDESIGN

For the last 10 years the FAA has been exploring ways to improve the flow of air traffic in the Philadelphia/New York/New Jersey metropolitan airspace, which is the most congested in the Nation. The city of Philadelphia has a vested interest

in the outcome of this process. We hope to benefit from any new procedures that may help reduce delays. The city offered comments on the draft Environmental Impact Statement (EIS) released by the FAA in 2006. The FAA was evaluating several alternatives, some of which introduced new flight routes for aircraft operating here. The city commented that the FAA's "integrated airspace" alternative would offer the most potential benefit for delay reduction by creating additional flight paths for use by aircraft departing from Philadelphia in a westbound direction. The proposed headings would allow FAA controllers to release departing flights faster and reduce the number of aircraft that are delayed while waiting to take-off.

The city simultaneously expressed concern over the potential for increased noise over Delaware County. We were pleased to see that when the final FAA report was released, it had been revised to eliminate some of the proposed departure headings, and also included time-of-day limitations on when the new headings could be used. Significantly, the city's own noise policy, calling for planes to stay over the Delaware River until they reach 3,000 feet, has been maintained. The use of the new headings was approved last year and implemented on December 19. The FAA has not yet published any data with which their effectiveness can be evaluated. The FAA Philadelphia Tower Manager has assured us that controllers are limiting use of the new headings to peak activity periods and adhering to the time-of-day stipulations.

FLIGHT SCHEDULING PRACTICES

In addition to airspace redesign and the expansion of airport facilities to reduce delays, "demand management" strategies have been considered and, in some cases, implemented at a limited number of airports in the United States. There are three primary demand management techniques:

- Voluntary adjustment of airline flight schedules during peak periods to shift operations to off-peak hours. This typically involves a request to the airlines that they voluntarily "de-peak" their flight schedules. The opportunities for this practice to be effective at PHL are limited because we have already experienced a significant de-peaking of the daily flight schedule. As demand for air service has grown at PHL over the last several years, the airlines have responded by adding flights during the available low activity periods in the daily schedule. This has effectively resulted in a de-peaking of the schedule. We do not believe there is much room for additional schedule adjustments that would reduce peak period operations. Furthermore, the flight schedule at PHL is largely made up of the domestic and international operation of our hub carrier, US Airways, which accounts for 62 percent of Philadelphia's market share. Their scheduling is driven by the need to link their connecting flights. Transatlantic and transcontinental flights in particular have limited windows of time in which to operate and be available to passengers at a reasonable time of day. Shorter domestic flights carrying passengers who will connect to those transcontinental or international flights must be scheduled accordingly. Thus the hub airline has limited flexibility to further adjust flight schedules. Airlines in general need to schedule flights at the times preferred by travelers in order to remain competitive in the marketplace. This also hinders the Airport's ability to secure airline cooperation in voluntarily adjusting schedules.
- Administrative Approaches to reduce delays have been used by the FAA at a limited number of airports, including the imposition of operational limitations or "caps." Caps strictly limit the number of flights that can be operated during a day, or a given peak period of a day. In recent years this approach has been implemented as a "temporary" measure at Chicago O'Hare, LaGuardia, JFK and Newark International Airports. As previously stated, these airports are experiencing delay levels that are significantly greater than PHL's. As a result we believe that caps are not appropriate at Philadelphia. They would limit opportunities for continued growth in air service and competition. The associated benefits to travelers, such as direct access to markets and competitive airfares, would be lost. Caps are not a reasonable long-term solution to Philadelphia's delay problem. We believe that long-term delay reduction is attainable through development and expansion of our airfield.
- Market-based Approaches can take several forms, including the establishment of peak period pricing, whereby an airport could charge higher fees during peak periods to encourage airlines to move some of their flights to off-peak periods or to other airports. Currently, the FAA prohibits this type of differential fee structure. However, the FAA has recently embarked upon a rule-making process that could enable peak-hour pricing in the future. Philadelphia, along with many other airports, submitted comments on the FAA's draft proposal last month. Among other points, we noted that the continued FAA requirement that

such new pricing must be “revenue neutral” for the airport undercuts the expressed purpose of the new rule.

Additionally, the city has recently executed a new Lease Agreement with the airlines at PHL. Unless the FAA preempts it, this agreement would not permit any type of peak period pricing structure to be effected during its 4-year term. As previously stated, we believe that peak-hour pricing would have little effect at PHL because the airlines have already voluntarily de-peaked to the extent feasible.

SUMMARY

Our primary concern with all of these approaches is their potential impact on airfares. Much progress has been made in recent years at Philadelphia to increase competition. Prior to the arrival of Southwest Airlines in 2004, PHL’s passengers consistently paid some of the highest average airfares in the Nation. For the past 4 years, our passengers have consistently enjoyed some of the Nation’s lowest average airfares. This accomplishment could be undone by demand management measures, particularly if they are not carefully planned and implemented.

We do not mean to diminish the seriousness of our delay problem at PHL. We are committed to considering any and all responsible measures to address this problem. Our present focus is on the implementation of a long-term airfield development program. We would gratefully accept any assistance this subcommittee can provide in prioritizing that initiative. Thank you for the opportunity to testify today. I will be glad to answer any questions you may have.

Senator SPECTER. Let me pick up on a comment you just made late in your testimony, at Philadelphia that there are the highest airfares in Philadelphia in the country. Do you have any idea as to why that is so?

Mr. NUTTER. Well, I would certainly suggest—and not just because of Southwest, but certainly Southwest Airline’s arrival in Philadelphia set off—as I best recall—a good healthy round of competition among the various airlines. And I would only suggest, help to drive prices down, helped us to attract more customers, and Philadelphia International Airport, and our passengers, were the true beneficiaries. And there have been some other entrants into the market who have stepped up their presence.

Senator SPECTER. So, before Southwest—and I agree with you, they’ve driven down prices. Before Southwest, the prices were even higher. But why should Philadelphia be among the highest airfare-cost cities?

Mr. NUTTER. Well, I would agree with you, Senator.

Senator SPECTER. And that may be a question that neither of us can answer.

Mr. NUTTER. Right. We shouldn’t.

Senator SPECTER. But, I think we ought to find out.

Mr. NUTTER. Yes, I would agree with that. We should not be.

Senator SPECTER. Mr. Mayor, on the impact on commerce and encouraging corporations and other business to settle here, has to be impacted by the difficulty of getting in and out of the city. Without quantifying it statistically, just off the cuff, what would your overall impression be, having been city government on council for many years, and now Mayor and an aircraft flyer yourself, on how people look at Philadelphia and how they think about settling here, contrasted with a city which has a good record.

Mr. NUTTER. Senator, I can tell you from direct personal experience and conversations that this issue does arise, more oftentimes than not. After we get past, you know, discussions—especially with major companies that we may be trying to attract or encouraging others to expand, when you get beyond taxes and public safety and

a number of other factors, invariably, issues related to Philadelphia International Airport do arise.

It is, unfortunately, something that we're known for. Not necessarily in the most positive light. And so, that was why I convened the meeting of the airlines, our primary airlines in Philadelphia, and of course you were a participant in that discussion.

I look at Philadelphia International Airport, as I mentioned in my testimony, as a key component of the economic vitality, not just of Philadelphia. Everyone knows that two-thirds of the airport is actually in Delaware County and Tenniken Township, this is a regional asset, it is a regional economic engine.

In our uniquely—what I refer to as our unique situation—almost perfectly situated between New York and Washington, I believe there's actually a strategic advantage for the city of Philadelphia, but we have to be able to get people on the ground and in the terminal, or out of the—away from the gate and in the air much quicker.

It does nothing for our reputation if you can technically land on time but no—I guess the formal term is, deplane—for the rest of us, get off the aircraft, as opposed to sitting on the runway.

Senator SPECTER. Well, I think you point up a good factor. If you're delayed in getting into the terminal, it oughtn't be landing time, it ought to be foot in the terminal time.

Mr. NUTTER. I mean I have to agree with you. I mean, you know, the fact that I got on the plane at 9:30 a.m. for a 10 a.m. departure, and maybe then sit on the runway for another half hour—yes, I did get on on-time, and we pulled away on-time, but we didn't leave. So, the goal is not to be on the tarmac of Philly International. I think you're trying to get to, you know, Boston or Baltimore or New York or wherever it is that you're trying to go.

Senator SPECTER. Mr. Mayor, what consideration, if any, should be given to charging the airlines for these peak hours? To try to discourage them from using them?

Mr. NUTTER. That issue certainly came up during the course of our meeting, and I've had other discussions about it, you know, one—I don't know what the reaction by the airlines would be, two, I don't know what impact, ultimately, that would have on fares.

Speaking now, more from a business standpoint, I would wonder whether that "fee" would be passed on to passengers, and if that were the case, it may put Philadelphia back in the uncompetitive status from a fare standpoint, which of course we're constantly seeking to drive our fares down, use fares as a competitive advantage, in addition to our strategic location.

I need a well-functioning airport that is fairly priced, competitive with many other cities up and down the east coast. It is—it puts Philadelphia in an uncompetitive situation if the alternatives are to leave Philadelphia or our region—with no disrespect to Baltimore or other locations—but to go to BWI, or Newark or somewhere else, to avoid Philadelphia International Airport. That is an untenable situation for us, and I can not accept that, under any circumstances, as Mayor of Philadelphia.

Senator SPECTER. Mr. Mayor, there has been action by the FAA to go into New York and to try to do some rational scheduling. And the testimony earlier today was New York causes a cascade, and

it's a national problem. I know the answer to this question, but let's put it on the record—is there any reason why New York should get more consideration for the FAA on trying to work out a rational airline schedule for arrivals and departures in Philadelphia?

Mr. NUTTER. Well, as long as we're still as part of the United States, I would say the answer is no.

Senator SPECTER. The Equal Protection Clause?

Mr. NUTTER. You're much better at arguing those—making those arguments, but yes, Philadelphia should at least receive the same consideration from our Federal Aviation Administration.

Senator SPECTER. Mr. Mayor, I've been discussing with key officials in the Department of Transportation legislation—the FAA does not have the authority to impose restrictions, or at least if a—it is highly doubtful, something they are not inclined to do. And I believe the mood of the Congress is really very angry about what's going on with these arrivals and departures all over the country.

It would behoove the airlines to try to take some action in advance of congressional inaction—whatever the market does, or the airlines do, as a private matter is always more sensible than waiting for somebody to come down and impose it. It also takes a long time to get the legislation through and implement it.

So, it may be that as a supplement to what—and I appreciated the invitation to your meeting—the supplement to what you have done, and what we're trying to do on this subcommittee, that we might encourage the airlines to come up with a voluntary plan—they know what these delays are, ask them to sit down and figure it out themselves, with the obvious implication really flat statement that the Sword of Damocles is not far away. Try to get them to do it. And for all I know, you'd be prepared to provide leadership on that subject—

Mr. NUTTER. Yes.

Senator SPECTER. And something I believe we ought to consider, as a follow-up on your meeting with them, and this session.

Mr. NUTTER. Well, Senator, I can certainly report to you that after that meeting, and you had a—I know you have another meeting to attend, but I can report to you, we haven't talked since. The airlines were quite inspired, based on your comments, with regard to the Federal legislative option, to start exploring ways that they may be able to—away from any, you know, anti-trust or occlusion issues, but they were more than optimistic about trying to explore ways to voluntarily sort out these scheduling challenges.

Senator SPECTER. Volunteerism may come to the fore with imminent Federal action in the rear.

Mr. NUTTER. I think, Senator, when you mention the Sword of Damocles—that was the point where they really were looking at the voluntary action. Most of them try to avoid that sword.

Senator SPECTER. Mr. Mayor, we'd be glad to hear anything you'd care to add. In the absence of that, I thank you for revising your schedule to accommodate what we had to do on scheduling at this end.

Mr. NUTTER. Thank you. Any time for you, Senator.
Thank you very much.

AVIATION DELAYS

Senator SPECTER. Thank you very much, Mr. Mayor.

I'd like to recall, now, the four witnesses from the FAA.

Welcome back. Let's move to the subject of overbooking, delays on takeoffs and landings.

On those calculations, Mr. Gribbin, do they count the time when—or they don't count the time the plane takes off after waiting on the tarmac for all that time? They count the time from the scheduled departure?

Mr. GRIBBIN. Well, they count the tarmac delays—we keep tarmac delay statistics, also.

Senator SPECTER. Well, if the statistics are that the planes—so many of the planes left late, that's late from the time they take off on the tarmac, not from the time they pull away from the gate?

Mr. GRIBBIN. No, we're counting delays as based on arrivals, so—

Senator SPECTER. You count delays based on arrivals?

Mr. GRIBBIN. On arrival times.

Senator SPECTER. Well, you also count delays based on takeoffs?

Mr. GRIBBIN. Well, we count tarmac delays, and then we count arrival time delays.

So, I think the challenge that you mentioned earlier during your opening statement, is that airlines will over-schedule certain periods of time for departure times, because consumers want to leave at those times. Right now, there is no disincentive for them to do that, in fact, they're incentivized to over-schedule key departure times. But, there's nothing that prohibits them, currently, from padding their schedule. And even if they end up departing late, if they arrive on time, that is counted as an on-time flight.

Currently, the Secretary has asked my office to—

Senator SPECTER. Excuse me, Mr. Gribbin?

Mr. GRIBBIN. Yes, sir.

Senator SPECTER. If the plane is scheduled to leave at 7 a.m., and it pulls away from the gate at 7 a.m. and it takes off at 10 a.m., is that a delayed flight?

Mr. GRIBBIN. That is a delayed flight.

Senator SPECTER. And if a plane, you're scheduled to arrive at 5 p.m., and pulls into the gate at 5 p.m.—pulls into the gate area, but can't get a gate to allow the passengers to depart the plane until 6 p.m., is that a delayed arrival?

Mr. GRIBBIN. That is a delayed arrival.

Senator SPECTER. Well, the issue of delayed takeoffs and delayed arrivals is of enormous import—don't have to talk too much about it to establish the nature of the problem, you've heard the Mayor's testimony, and I can testify personally to the problems, over a long, long period of time. And beyond the commercial aspects, which we talked about, that's what I wanted to focus with the Mayor, didn't want to keep him any longer than absolutely necessary because of his other commitments, but the experience I've had, and the experience with passengers I've been with, you're due to come in at 6 o'clock and it's foggy and rainy and you circle back to Harrisburg and back, and a terrible anxiety as to what's going on. Especially with the limitation on air controllers and all of the issues on safety

in the sky—and let me commend you for the hearing you had last week, and the efforts that are being made there.

Had a surprising story in the New York Times today about the biggest problem in flying is collisions on the ground.

But getting back to the anguish, flying, foggy, rainy, just takes a tremendous, tremendous toll, it's like something you really have to come to grips with.

Mr. Gribbin, you talk about New York having a cascade across the country. Well, I think Philadelphia qualifies for that.

Mr. GRIBBIN. That's right.

Senator SPECTER. I note that you are on the Study Group for New York, in addition to your duties of General Counsel, you're chairman of the New York Aviation Rulemaking Committee, which convened meetings in New York area airports in October to come up with findings for dealing with air congestion. Why not a similar meeting for Philadelphia?

Mr. GRIBBIN. Well, when we started the Aviation Rulemaking Committee, the question was, how big a scope did we want to have? We talked about doing something that was nationwide, and then we decided to focus on the New York area, and then we decided to collapse that even further, and focus just on the Port Authority-owned airports, since most of the Nation's delays were triggered by those three airports.

However, there's nothing that prohibits us from taking us—

Senator SPECTER. Pull the mike a little closer.

Mr. GRIBBIN. There's nothing that takes us—

Senator SPECTER. You say you started with three—just three airports?

Mr. GRIBBIN. We started with just the Port Authority airports—Newark, LaGuardia, JFK. And what we wanted to have with New York, which was represented by airlines, consumer groups, State of New York, State of New Jersey and the Port Authority—

Senator SPECTER. Isn't Philadelphia really indispensable for that consideration because of the confluence of the airspace?

Mr. GRIBBIN. Well, Philadelphia is considered to be part of the New York City airspace, and the changes being proposed in New York will benefit Philadelphia, as well.

Senator SPECTER. My question was different, my question is, isn't Philadelphia travel—air travel, the airlines, so integral with what happens out of New York that they ought to be included in those studies?

Mr. GRIBBIN. Well, we are including Philadelphia in future actions. The ARC has concluded, so that action has finished, and we had a set of recommendations that came forward out of that exercise. But that does not preclude us from taking what we learned from the ARC, and applying it to Philadelphia.

Senator SPECTER. Well, will you schedule one of those meetings for Philadelphia?

Mr. GRIBBIN. We would be glad to schedule a meeting for Philadelphia. In fact, I handed the mayor my card—

Senator SPECTER. Within 90 days?

Mr. GRIBBIN. Yes, sir, we will do that within 90 days.

Senator SPECTER. Okay, that's a nice, direct answer. We're making progress.

With respect to the question of imposing limitations on the airlines, Mr. Gribbin, does the Department of Transportation need authority from Congress to do that?

Mr. GRIBBIN. The Department of Transportation currently has legal authority to convene schedule reduction meetings with the airlines, similar to what the FAA did for JFK and Newark, during the end of last year and the early part of this year. I think that our concern is that—and the mayor touched on this—if you cap an airport, as in, you say there's only so many operations allowed per hour, you grant that to the incumbent airlines, and effectively you've locked out competition.

The mayor talked about the importance of Southwest entering into the Philadelphia market and what that did for fares—

Senator SPECTER. Well, I wouldn't do that—come back to the central question which I'd like to have answered, and then I can move on—could, does the Department of Transportation have the authority, now, to establish a limited number of flights, say from 7 a.m. to 8 a.m., 8 a.m. to 9 a.m., 9 a.m. to 10 a.m., et cetera, at Philadelphia International Airport?

Mr. GRIBBIN. It does. The question is, if it does that, what does that do to fares and competition, and is that in the public interest?

Senator SPECTER. So, you do not need congressional authority?

Mr. GRIBBIN. Currently we do not need congressional authority to place flight limitations on an airport.

Senator SPECTER. Flight limitations on the airport.

Mr. GRIBBIN. That's correct.

Senator SPECTER. Well, when you talk about freezing out competition, I agree with you—you can't do that. But that could be accommodated by a monthly reevaluation, or 45 days or some realistic period, so the schedules can be made for an appropriate period of time. Has that consideration been given by the Department of Transportation?

Mr. GRIBBIN. Yes, as part of our focus on New York, which will soon include Philadelphia, we just talked about what term limit—if you impose slots on an airport, what term should that slot take for the airlines? The airlines argue that it should be for incumbents in perpetuity, new entrants suggest, that it should be a matter of a year or two.

So, there's significant debate over, once you impose slots, what property interest you're giving to incumbent airlines.

Senator SPECTER. I don't really understand your position on that. Is the Department of Transportation giving serious consideration to limiting the number of flights into New York City so that there are only as many flights scheduled as New York, LaGuardia, JFK, Newark, can handle?

Mr. GRIBBIN. Currently what we have done is similar to what we have historically—LaGuardia has been capped since 1968. So, those caps have been in place—

Senator SPECTER. New York caps in 1968, are they realistic? Or are they still having lots of delays?

Mr. GRIBBIN. There is concern that the current cap that is in place is too high, because there are significant delays at LaGuardia. It remains one of the top three—

Senator SPECTER. Cap is too high, or too low?

Mr. GRIBBIN. Too high—too many flights per hour.

Senator SPECTER. Okay, so has consideration been given to lowering the cap, something which is realistic with what the airport can handle?

Mr. GRIBBIN. As part of the supplemental Notice of Proposed Rulemaking that the Department put out a couple of weeks ago, one of the options would reduce the number of operations at LaGuardia. As you can imagine there's—

Senator SPECTER. And what are the other options?

Mr. GRIBBIN. There are two options. What we are suggesting is, capping the airport, and then allowing for options for some of the existing capacity. This would allow the new entrants of the world, the Southwests, to compete in that market and keep fares low.

So, the two options—

Senator SPECTER. Is that option two?

Mr. GRIBBIN. Auctions are in both options. Under the first option—

Senator SPECTER. Option one is to lower the cap. What's option two?

Mr. GRIBBIN. Option one is to withdraw 10 percent of the slots, auction 8 percent of them, and retire the 2 percent that are not auctioned. That's option one.

Option two does not have a retirement. So, it doesn't reduce the number of slots, it would just require the airlines to auction a piece of the slots that they have to another airline, and then the airlines could keep the proceeds from that auction.

Senator SPECTER. Well, option two is not going to help the congestion. Is—you're going to offer 8 percent to other airlines, or 2 percent?

Mr. GRIBBIN. Eight percent and then 2 percent would be retired.

Senator SPECTER. Isn't 2 percent a pittance? Not realistic, at all to solve the congestion problem.

Mr. GRIBBIN. Well, what we're trying to do is accommodate, sort of, the public interest. Because the Port Authority would prefer that it not be lowered, at all. Airlines, similarly, would prefer that it not be lowered at all.

Senator SPECTER. Why is it so hard to answer my question and then move on to whatever you would like to say? That's what the chairman is supposed to be able to do, or the member who raises the question.

Mr. GRIBBIN. Yes, sir, to answer your question—

Senator SPECTER. Yes, I would—

Mr. GRIBBIN. I would—

Senator SPECTER [continuing]. Much if you would start with answering my question. Then if you want to answer some of your questions, I'll let you take the time to do it.

The pending question is—is a 2 percent reduction, de minimus? Meaningless, virtually? To deal with the congestion?

Mr. GRIBBIN. I would not consider 2 percent meaningless. It is small. But again, what we anticipate, with the improvements that the FAA is going to make to New York City airspace, is that over time capacity will grow. And therefore delays will be reduced without having to lower the cap.

Senator SPECTER. Well, that's fine, over time. And if I had 3 days for your testimony, here, we could go into all of the hypothetical things that might happen.

But, in terms of getting something done now, isn't 2 percent a pittance?

Mr. GRIBBIN. Remember, similar to the comment you made about the Philadelphia Airport, these airports are operating in a system, and the FAA is currently making up improvements in Philadelphia, as Acting Administrator Sturgell mentioned earlier, making improvements at Newark, and we've put in place caps at JFK. So, I think, overall, we expect a reduction in the amount of delays.

Second, I think the goal is not to reduce the delays to zero. In other words, we could cut in half the number of flights that are coming in—

Senator SPECTER. What are the caps at JFK?

Mr. GRIBBIN. The caps at JFK are an average of 82 or 83 per hour.

Senator SPECTER. And what's the reduction?

Mr. GRIBBIN. The delay reduction is from an average of—

Mr. STURGELL. I think it's about a 13 to 15 percent delay reduction, based on our modeling.

Senator SPECTER. Thirteen to 15 percent?

Mr. STURGELL. I believe that's correct.

Senator SPECTER. I don't consider that adequate. I won't ask you if you do, but I don't consider that adequate to leave 85 to 87 percent of the delays in effect. I don't think my colleagues in the Congress would consider that adequate, either.

It would not be a desirable situation to have the Congress come in, and start to establish standards for the FAA. But, gentlemen, and lady, I don't think what you're talking about is realistic, in terms of that kind of minimal reduction. And 2 percent, I think, is laughable. And 15 percent is a start, but only a start.

We have the authority, as you say, Mr. Gribbin. That might leave Congress the only option to mandate, which we can do.

Mr. GRIBBIN. That's correct.

Senator SPECTER. We can mandate the standards. I think that would be a very bad governmental policy, for the Congress to try to micromanage the Department of Transportation and the FAA. But if you don't do it, we will.

I can't go into all of the long-range undertakings that you have in mind to make this Newark 10 percent meaningful. But, I'd like you to submit, in writing, within 30 days the projections which would support your argument, that 2 percent is meaningful.

Mr. GRIBBIN. I'd be glad to, Senator.

Senator SPECTER. And LaGuardia? What is the proposal for delay reduction there?

Mr. GRIBBIN. The 2 percent was LaGuardia.

Senator SPECTER. I thought 2 percent was Newark, well, what's Newark?

Mr. GRIBBIN. Newark, we just put in place caps to prevent the growth of delays. Those are the caps I mentioned that were averaging 82 to 83 per hour.

Senator SPECTER. Doing what?

Mr. GRIBBIN. The caps average 82 or 83 operations per hour. And the delay reduction would be——

Mr. STURGELL. I don't recall those off-hand, Senator, but we'll get you that information, also.

[The information follows:]

Dear Senator Specter, thank you for your April 22 letter about the use of departure dispersal headings at the Philadelphia International Airport and your request to consider a method for restricting access to the airport to avoid chronic overscheduling. In addition, I want to thank you for the opportunity to share these discussion items with you and your constituents at the field hearing you hosted on April 25.

While we agree that 10 aircraft waiting to depart is a problem, the Federal Aviation Administration's use of departure dispersal headings at Philadelphia is intended to avoid and prevent having too many aircraft waiting for departure. We are using dispersal headings during periods of peak demand as a tool to prevent long departure lines and avoid excessive delays. Once long lines form, it can take significant time for delays to be reduced or eliminated.

You also requested that we consider demand-triggered headings at Philadelphia in the same way we use them at Newark Liberty International Airport. At Newark, we use one departure heading during light demand (fewer than 5 departures waiting), 2 departure headings during moderate demand (more than 5 departures waiting), and 3 departure headings during heavy demand (more than 10 departures waiting). This is the most viable way to provide noise mitigation at Newark because all of the original headings proposed in redesign were retained. Mitigation at Philadelphia was provided by reducing the total number of departure dispersal headings from six headings to three. These measures were selected at each location independently to provide the optimum mitigation while still meeting the purpose and need of this valuable project.

I appreciate the offer to assist with legislative authority to address overscheduling. I agree congestion and delays at key airports may result in far-reaching impacts throughout the NAS. We have limited operations at several airports through existing authority to manage the NAS safely and efficiently. In Vision 100—Century of Aviation Reauthorization Act, Congress specifically authorized the Department of Transportation to convene scheduling reduction meetings when necessary. We believe sufficient authority exists to address congestion and delays caused by schedules that routinely exceed the average available capacity of an airport or the NAS. We prefer to improve system efficiency and accommodate demand rather than impose operating limits that may have unintended consequences.

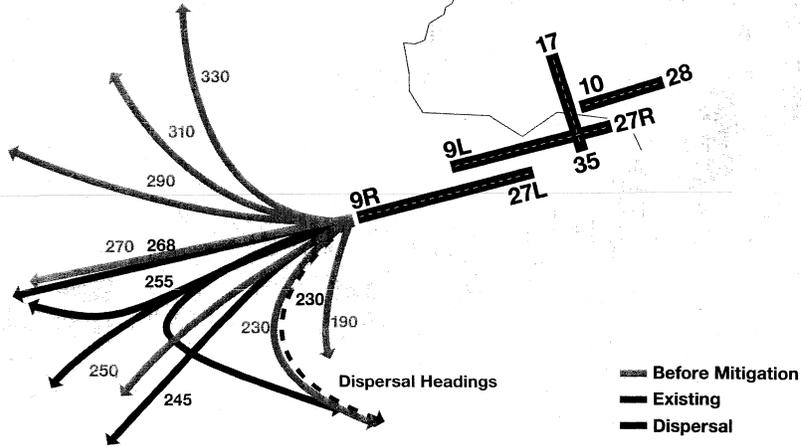
There were two points raised at the field hearing that I would also like to address. The first is the scheduling adjustments and delay reduction efforts by the FAA at Newark. The second is the potential impact of reducing the number of slots at LaGuardia Airport under one of the options proposed by the FAA in a supplemental notice of proposed rulemaking published in the Federal Register on April 17.

The FAA requested schedule information from carriers planning Newark operations for the summer 2008 season. The schedule requests included about 100 new operations, many in the busiest hours when delays were already high. If implemented, some delays would have increased by as much as 50 percent above the summer 2007 levels. We worked with the airlines to re-time flights to periods when the airport has unused capacity. By doing this, about 50 new operations were scheduled outside peak hours. This was not an easy task as carriers made choices on which flights needed to be rescheduled and, ultimately, we simply did not approve the addition of new flights by some carriers at their preferred times. Additionally, we expect some operational improvements because of the implementation of the initial stages of Airspace Redesign and other measures to improve operations. We were also concerned that operating limitations at John F. Kennedy International Airport could indirectly encourage carriers to operate new flights to Newark. On May 15, the FAA issued a final order to adopt operating limits at Newark continuing through summer 2009. We also issued a proposed rule that would extend limits at JFK and Newark and introduce market-based approaches to assign slots. The comment period closes July 21, 2008.

In the recently issued proposal for LaGuardia, one option includes a measure to phase out 18 slots, or about 1 slot an hour, over the first 5 years of the rule. We recognize this would only provide minimal delay mitigation. We expect to receive comments on the appropriate level of operations at the airport. The comment period closes June 16. As is the case of other airports in the area, we are also seeking effi-

ciency gains and delay reduction by implementing Airspace Redesign and other measures.

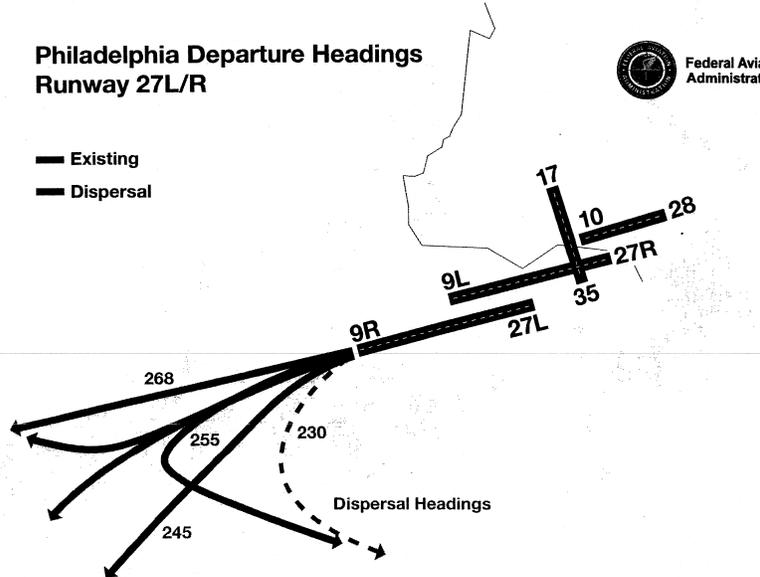
Philadelphia Departure Headings Runway 27L/R

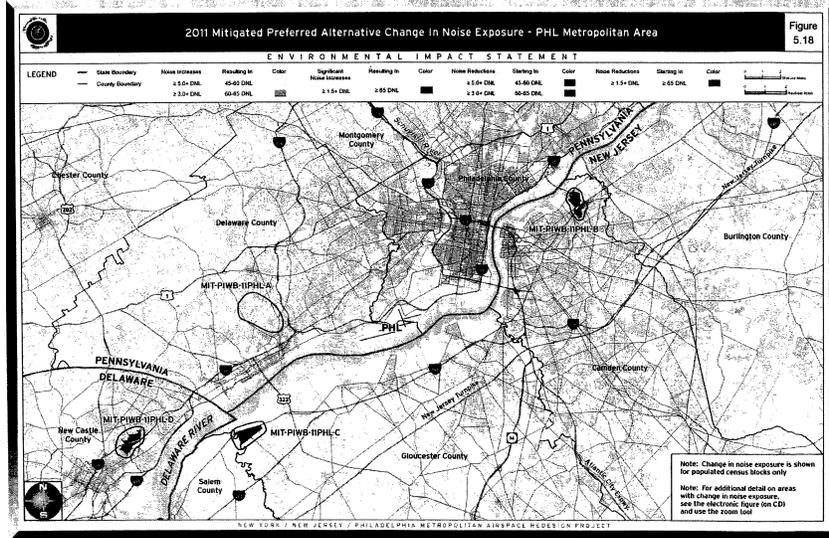


Philadelphia Departure Headings Runway 27L/R

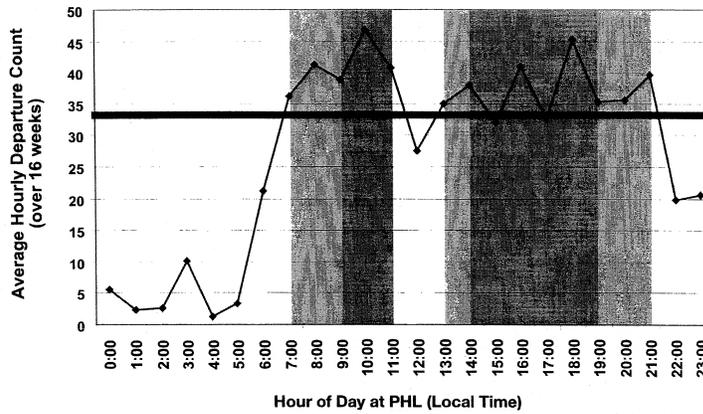


Existing
Dispersal





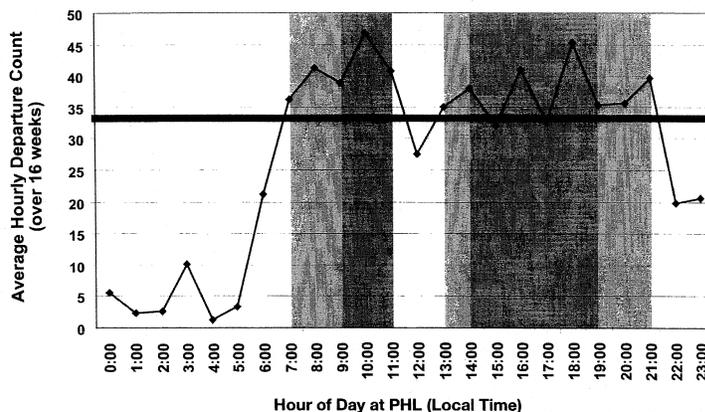
Philadelphia International Airport (PHL) Departures Hourly Average from January 30 to April 19



- Hours where dispersal headings are needed
- Hours where dispersal headings are currently used
- Median Average over the 16 weeks



Philadelphia International Airport (PHL) Departures
Hourly Average from January 30 to April 19



 Hours where dispersal headings are needed
 Hours where dispersal headings are currently used
 Median Average over the 16 weeks



Senator SPECTER. Well, within the 30 days, tell us what will be the specific impact on delay reduction at Newark.

Mr. GRIBBIN. We'd be glad to.

Senator SPECTER. Well, I think we all have—we all have a lot of work to do. And I know that you're overburdened in your administration, I know your budget requests have not been fulfilled. That's true, isn't it?

Mr. STURGELL. We have received support from the Congress for the budgets we have submitted. So, the Congress is funding what the administration is requesting.

Senator SPECTER. You've gotten what OMB allowed you to ask for?

Mr. STURGELL. We got what the administration submitted, Senator.

Senator SPECTER. And those—

Mr. STURGELL. And we have received great support. I do want to say, we've received great support from the Congress, especially on our staffing levels, both in aviation safety and oversight, and for our—

Senator SPECTER. And beyond safety?

Mr. STURGELL. For our controller workforce, and for our modernization programs, and this year we are asking for increases in the 2009 budget in all of those areas. And it would be great if Congress would support those increases.

Senator SPECTER. Well, let's follow up on the open-ended questions which we've come here today, and I would ask you, Mr. Sturgell, to really review those flight patterns. And the commitment not to fly over Delaware County when you have fewer than 10 waiting.

And, Mr. Gribbin, I've left you with the lion's share of the work on these delay issues.

And I know it's always a delicate subject, in fact, it's not a delicate subject you can't communicate with the Congress on your ideas for what is adequate funding, that's not permitted. You submit your request through channels, and they go through the Office of Management and Budget and that puts together the entire budget, but your budget comes out of the discretionary pot, and that is very, very tightly circumscribed.

So much so that there are cuts in funding for the National Institutes of Health and inadequate funding for the Centers for Disease Control and title I on Education. But those are not—not your overall problems, those are problems for the Appropriations Committee.

But I believe that the issues we've dealt with today are top priority and I will do my best through the subcommittee and the full committee to help provide the adequate funding.

Thanks very much for coming up and for modifying the schedules today. I appreciate it.

Mr. STURGELL. All right.

Mr. GRIBBIN. Thank you, Senator.

Senator SPECTER. I will now call the second panel. vice chairman Jack Whelan of the Delaware County Council, former Governor and president Mark Schweiker of the Greater Philadelphia Chamber of Commerce, executive vice president and chief operating officer of the Air Transport Association, president of the National Air Traffic Controllers Association, Patrick Forrey. Congressman Joe Sestak has requested to be added to the panel, and we will hear from him, as well.

We'll take a 5-minute recess while the panel is assembled.

Thank you very much, gentlemen, for coming in. For the record, State Representative Brian Lentz has submitted testimony for the record, which will be made a part of the record without objection.

[The statement follows:]

PREPARED STATEMENT OF BRYAN R. LENTZ, PENNSYLVANIA STATE REPRESENTATIVE

Senator Specter, members of the committee, thank you for the opportunity to testify about the airspace redesign at Philadelphia International Airport. As you know, two-thirds of Philadelphia International is located within Delaware County. As a State Representative in Delaware County, increased air traffic over our communities is an issue of grave concern to the citizens I represent. Residents of Delaware County know about air traffic congestion and the harm it causes because it directly affects them and their neighbors. Delaware County residents, however, are not the only citizens of the Commonwealth who should be tracking the dramatic increases in air traffic. All of Pennsylvania should be concerned that our State is not prepared to handle the historic increases in air traffic coming over the next 20 years. If we do not plan for and develop systems to properly manage the massive increase in flights, communities like the ones I represent will suffer, as will Pennsylvania's economy and security.

The simple fact is we have no choice but to start to look elsewhere to accommodate our air traffic needs. At the same time Philadelphia International is bursting at the seams, other regional airports like Lehigh Valley International are dramatically underused and have ample capacity and desire for increased airline business. Right now, more than half of all Lehigh Valley residents rely on airports other than Lehigh Valley for air travel. Airports in Trenton, New Castle, and Atlantic City also have ample capacity but are underused.

Unlike cities such as Boston, New York, Chicago and Washington, commercial air traffic in our area is heavily concentrated at a single airport—Philadelphia International—instead of being spread out among existing airports in the region. Philadelphia International had over 530,000 aircraft operations in 2005 alone. That is

more than any other airport in the northeast corridor, including LaGuardia, JFK and Newark, and it is at or above the airport's capacity. Demand at Philadelphia International is expected to increase to over 700,000 takeoffs and landings per year during the next 20 years.

The FAA wants to address this problem by redirecting flights and aggressively expanding the airport. The airspace redesign is about increasing capacity. By directing flights along multiple paths, the airport can increase its ability to handle more takeoffs and landings. In 2005, the airport also began extending a commuter runway to handle larger planes, a \$60 million project that will address only 8 percent of the traffic problems. Later this year, a report is expected on the impact of Philadelphia's proposal to spend over \$2 billion to add a parallel runway at the airport. No matter how much Philadelphia International is expanded or improved, the airport will still continue to operate at its saturation point. The runway expansion and airspace redesign combined account for 20 to 30 percent of a projected 50 percent increase in traffic. Despite the stunning cost and impact of these proposals, Philadelphia International and the FAA did not consider greater use of regional airports as a way to relieve the coming air traffic congestion.

To address the problem of congestion we must address development, growth and traffic needs on a regional basis instead of each airport fending for itself. Regional authorities have worked and are working in other States, and an authority can work in Pennsylvania. In Massachusetts, the Port Authority, known as MASSPORT, monitors air service levels at more than half a dozen airports. It continually analyzes airport development, how to improve and distribute service, and how the region as a whole can market itself to air carriers. The New York Port Authority follows a similar approach, and recently purchased Stewart Airport in Newburgh, New York in order to expand the authority's regional capacity. Stewart will be the fourth major airport in the New York Port Authority airport system.

As a freestanding facility, Philadelphia does not have the options for system expansion that are available to the New York Port Authority or similar authorities. Philadelphia International is also limited by its size, sitting on approximately 2,400 acres. By way of comparison, Denver International, a similarly busy airport, occupies 36,000 acres.

To help solve the problem of airport congestion, I have introduced House Bill 1182 in the State legislature. House Bill 1182 would create a regional authority to replicate the success of these other State authorities. The authority would coordinate activities of regional airports along with rail and mass-transit agencies.

In addition to the harm it does to neighboring communities, concentrating all regional air travel at a single airport has other negative effects. Over 50 percent of the flights to and from Philadelphia International are to destinations within 500 miles. This preponderance of commuter traffic hinders the airport's ability to expand international routes. International traffic has a greater economic benefit to our region, yet the concentration of shorter flights is so great that international terminals are being used for domestic flights. These frequent short distance flights also contribute to the traffic congestion on the roads and highways in and out of Philadelphia International. In the long-term, a high speed rail system like the proposed MAGLEV train would be best suited to move people to and from destinations within 500 miles.

Achieving the goal of managing air traffic needs is a challenging task. If we do not start following the example set by other regions, we will be unprepared for the increase in air travel in the years ahead and left out of the economic benefits that air travel will create. Before billions are spent to expand Philadelphia International, I would urge this committee to scrutinize any funding for airports that is not linked to a regional approach to dealing with increases in air traffic and development of alternative means of travel.

Senator SPECTER. And we will begin our panel with Congressman Joe Sestak, graduate of the Naval Academy, Admiral of the United States Navy, and now a Congressman.

Welcome Congressman Sestak, and the floor is yours.

STATEMENT OF REPRESENTATIVE JOE SESTAK, U.S. HOUSE OF REPRESENTATIVES, PENNSYLVANIA, SEVENTH DISTRICT

Mr. SESTAK. Thank you, Senator, and Senator, first off, thank you very much. You and your staff have been a gem to work on this issue, not just today, but for months on end, and I appreciate that very much. And I also appreciate, personally, the best advice

I got when I entered Congress, when I met you, right after the election, which was remember you're a public servant and everything should be transparent.

Senator SPECTER. Pull the mike a little closer. You weren't in the Congress when Senator Thurmond was there, but he's famous for saying, "Pull the machine a little closer."

Mr. SESTAK. But thank you for your support sir, both in personal advice and for this issue.

I want to start off by saying the Philadelphia International Airport is, as Mayor Nutter so well pointed out, it's absolutely critical—absolutely critical to the economic growth of our community. But delays in the departures are well documented. However, I've spoken up about this Air Space Redesign, because I honestly believe that it inadequately addresses the safety and health of residents here in the community, as well as those who are traveling, and it fails to take into account other options, such as unused capacity at regional airports.

As you notice, Michael Nutter spoke up and said, "I'll fly into Baltimore/Washington." Over one-third of all aircraft that come into Philadelphia International Airport come from less than 200 miles away. And so, not only other options might be looked at, like unused capacity or the others that you were questioning Michael Nutter—Mayor Nutter upon, but also, can we not be a model, the pilot model, for a true inter-modal type of transportation policy that this Nation so badly needs?

And that's part of the major reason I've spoken up on this. Yes, it affects my district, but it also cries out for an inter-modal approach for this Nation.

This airspace redesign began 10 years ago in a meeting down in Baltimore. And then in 2003, something occurred that I think, Senator, really made it go amiss. Congress approved the streamline legislation that gave FAA exclusive authority to determine the objectives and the options that were to be studied. About that time, they removed from the Philadelphia Airspace Redesign Project, Senator, the objective of noise abatement. And then they really only studied one option, although they listed four. And I think that's a large reason you'll hear from someone who's led this fight, Mr. Whelan here, of why there are 12 separate communities, including ours, that have 13 lawsuits pending.

I was very fortunate, after the election, to have established an Expert Advisory Board led by Mr. and Mrs. George Loveless, who have worked with your staff. The resulting study, which we briefed the FAA Administrator on over a year ago—about a year ago—looked at the benefits and the costs. Without a question, the benefits that the FAA has listed, Mr. Senator, are well documented, the dollars that the airlines will save.

And also, as they stated, there'll be 4 minutes saved in delays for each flight, 4 minutes. Other studies have shown, and their own website data has shown, it's actually 29 seconds. Whether it's 29 seconds or 4 minutes, that's not much of a benefit, not when you consider the cost.

When you look at the cost, Senator, you look at the cost of the environmental impact statement on sound, noise, and air emissions, how they were supposed to adhere to the Clean Air Act, for

example. And when the EPA objected to how they said it was de minimus, they then declared, on their own, a “presume to conform activity,” inserted into the Federal Register, and then said, “There is no air emissions that are going to harm anyone.”

And however, they (the FAA) absolutely ignored the law as well as their own implementing order on NEPA, the National Environmental Policy Act, where it said that you are supposed to do a separate study if it impacts children. As we briefed documented studies to show that these flights under 3,000 feet would mean one—a child who starts in first grade, Senator, and ends in high school, will lose 1 year, documented, statistical studies, of 1 year of education. In addition, my community will be at risk of the deadliest disease killer in the Nation, cardiovascular disease.

That’s why it was galling to us when the U.S. Department of Transportation spokesman, Brian Turmail said, “We hope they won’t let a small thing like a slight change in noise level”—a slight change in noise level—“affect us.”

Senator, I was in charge of the Navy’s \$70 billion warfare program. We studied and the Navy input, millions of dollars into Woods Hole, Massachusetts to understand what’s the impact of the noise from sonar upon mammals. Millions of dollars I spent for the U.S. Government, under direction of the U.S. Government. We know they had a health impact, we haven’t spent a cent on children. And then, most galling, is when we briefed Administrator Blakely, and Representative Andrews has been a stellar star on this, said to her, “What’s the cost after 10 years of this?” She said, “We don’t know.” We don’t know the cost, but we sure can tell you what the benefits are to the airlines. And then most galling, sir, I think, and of most concern to me, is the safety considerations.

The FAA Administrator—spokesman said several times, “We can not institute this plan that they announced last September,” or documented—they announced it 2 years ago, but then put into action, that they would last September, for 8 to 12 months, Senator, because of safety concerns, that they would have to have the New York airspace open up better, as was alluded to earlier. And where we get our aircraft up and into their airspace, because it’s their airspace that’s causing our delay.

And yet, when asked—

Senator SPECTER. Representative Sestak, you’re more than a minute over, how much more time will you need.

Mr. SESTAK. May I have one minute and summarize?

Senator SPECTER. Okay.

Mr. SESTAK. Thank you, Senator.

I’ll summarize just by saying that this safety concern for ours is enormous, as they will turn at 500 feet with these 747s at center over our district, particularly with their safety record. As you saw on the front page of the newspaper today, once again FAA has hidden safety revelations. Now, one more airline, Southwest.

In summary, I think Chairman Oberstar is right, the FAA, yes, needs to clean the house from top to bottom, but more so, we need to take care of our citizens, say, just stop. There are other options before we implement this and harm our children.

This was to be a cost-benefit analysis. We know the benefits of the airlines, but never have they addressed the cost per the proce-

ture, which is why we've asked for the Government Accountability Office—which will be done this summer—to look over of how they have failed in doing this, not to have implemented this unsafe and very costly procedure that they are having for our District.¹

Thank you for abiding me my overrun, sir.

Senator SPECTER. Thank you very much.

We turn now to the vice chairman of the Delaware County Council, the honorable Jack Whelan, partner in the firm of Whelan, Doyle, and Pressman. He was the Delaware County Assistant DA from 1986 to 1991, a graduate of the Temple University School of Law.

Welcome for joining us Jack, and we look forward to your testimony.

STATEMENT OF JOHN J. WHELAN, VICE CHAIRMAN, DELAWARE COUNTY COUNCIL

Mr. WHELAN. Thank you, Senator Specter, for the opportunity to explain how the changes in flight paths at the Philadelphia International Airport have impacted and distressed Delaware County residents. Specifically today, I want to stress how the new departure headings implemented in December have disrupted the lives of the residents in Delaware County without achieving many benefits, or minimal benefits, at best.

Not only do we want to use flight—not only do we want the flight paths curtailed, but we want the planes in the—flying over, to remain at an altitude of 3,000 feet before they turn. Senator, I believe that the prior practice was, when an aircraft would take off from the International Airport, it would reach an altitude of 3,000 feet before it was permitted to turn over Delaware County, thus it would have a minimal impact in noise and pollution.

There's no compelling evidence from the FAA to show that putting more planes over Delaware County homes and neighborhoods would reduce delays at the airport, except to a very de minimus nature.

It is important to point out that two-thirds of Philadelphia International Airport is located in Delaware County, which of course, as the Senator knows, is a built-up suburb of Philadelphia, having about 550,000 residents, first generation communities, which are densely populated, all near the airport.

On December 19, 2007, the FAA implemented a new departure heading right over Delaware County homes, schools, and businesses. Since the new departure heading went into effect, the complaint calls to the airport noise hotline increased by a remarkable 1,400 percent.

Prior to December 19, there would be, at best, one or a half a call per day averaged, but however, after the 3-month period, specifically between December 19, and April 3, there have been 881 calls to the airport noise hotline, which has increased it to the 1,400 percent. And we believe, Senator, that there are only a handful of people calling. I get calls from my constituents at the County Council offices constantly, beyond what is being reported at the airport noise hotline.

¹ GAO Report: July 2008—FAA Airspace Redesign, Report No: GAO-08-786.

What's really disturbing is also the fact that 10 percent of these calls are between the hours of midnight and 5 a.m., so that a resident is being disturbed after midnight and between 5 a.m. when they're trying to sleep.

These are numbers that have been calculated during the winter, and we're very concerned, now that the weather's getting nice and we're approaching later into the spring and summer, that we're going to have a myriad of additional complaints. Delaware County is at ground-zero when it comes to increased air traffic in Philadelphia and the FAA consistently fails to take into consideration the negative impacts these flights have had on the health and quality of life for people in the county.

I speak for those people and I want to relate some of those complaints directly to you, Senator. Terri Lummy, a resident of Middletown Township, about 7 miles from the airport, works at home, can't schedule any phone calls between 3 and 5 p.m. because of the airplane noise. One day airplanes were going over their house 2 minutes apart, non-stop, from 5:30 p.m. to 7:30 p.m., and again at 9:30 p.m. to 10:30 p.m. The next morning airplane noise bothered her for 2½ hours.

Mary Keefer, a resident in Chester Heights, about 10 miles—and this is the western part of Delaware County, not the eastern part—complained about loud flights between 3 and 3:30 a.m. The noise was so loud it woke her up right out of her bed.

One really disturbing complaint came from Barbara White, the Principal at Lakeview Elementary School in Ridley Park. This school is approximately 3 miles from the end of the runway. Ms. White said flights over the school and playground on February 1, were so loud that they frightened the students and staff. Ms. White has been a principal at Lakeview for 14 years and the change has been very noticeable. She said that the multiple over-flights cause school staff to say it felt like a subway train was going through the building.

Natalie Coleman, her 8-year-old son attends Lakeview School. He said between 8 a.m. and 10 a.m. the planes were so loud they thought they were in a war. The girls got really scared and the teachers had to yell at the kids so that they could be heard. He said that, "Lately the noise at the school has been really bad, we all get headaches, we're very angry. At recess it is so loud that I hate it."

People are also worried about their safety. Philadelphia air traffic controllers say they're concerned about safety of the new takeoff headings. One of the county's concerns from the beginning was the increased risk of airplane crashes or objects falling from airplanes.

Before the flight changes occurred, two recent instances of airplane debris falling through the roofs of Delaware County homes, miraculously resulted in no injuries. And I can say, Senator that I personally visited the one house on Donna Avenue, and it was devastating to see the hole in that roof and how close it came to hitting that mother and child.

The bottom line is that the Airspace Redesign Project is not achieving its goal, the reduction in flight delays in Philadelphia. In fact, the only reduction we see is the quality of life in our communities.

Mike Wagner, air traffic manager, Philadelphia, says there has been a slight reduction in delays between December 19, 2007 but not because of airspace redesign, it's because there has been fewer flights. And I would, it's been a very mild winter. There's been about 4 percent, as they're touting, of improvement, however I would again suggest to you, respectfully, Senator, that is because of weather and because of reduced flights.

We would ask you to consider common sense strategies to improve airport service and reduce negative impacts on Delaware County residents. The FAA should encourage airlines to use regional airports that are grossly underutilized, such as Lehigh Valley International, Atlantic City International, New Castle County, Trenton/Mercer Airports. This would take the pressure off of Philadelphia and give people near those airports a more convenient way to fly.

Based on the reduction in flights and the resulting reduction in delays, the FAA should consider putting a reasonable cap on the number of flights during peak hours, consistent with the flights that the airport can physically handle.

Finally, I would point out that the airport and the airlines should be encouraged to adopt a congestion pricing—

Senator SPECTER. Chairman Whelan, you're a minute over. How much more time will you need?

Mr. WHELAN. I'm done, Senator. I would just simply point out, and it was referred to earlier today, that if we charge—even if it's passed on to the consumer—a higher price during peak hours, that would encourage consumers to go off peak hours. So, if we could get people—I have a family of six, if it was cheaper to fly at 10 o'clock in the morning or 12 noon, I would be encouraged to do so instead of peak hours where the congestion is most problematic.

I thank you for considering my comments.

[The statement follows:]

PREPARED STATEMENT OF JOHN J. WHELAN

Thank you, Senator Specter and members of the hearing panel, for the opportunity to explain how changes in flight paths at Philadelphia International Airport have impacted—and distressed—Delaware County residents.

Specifically, I want to stress how the new departure heading, implemented in December, has disrupted the lives of residents in Delaware County without achieving any benefits.

Not only do we want use of this flight path curtailed, but we want all planes departing the airport to remain over the Delaware River until they reach an altitude of 3,000 feet. We are not wavering from this position.

There is no compelling evidence from the FAA to show that putting more planes over Delaware County homes and neighborhoods will reduce flight delays at the airport.

So why subject our residents to more noise, more air pollution, and the threat of safety hazards, if it's not going to improve air service at the airport?

In all the hearings, in all the reports, in all of the FAA's statistics . . . NO ONE has been able to answer that question for us.

It's important to point out that three-fourths of Philadelphia's airport is located in Delaware County, a built-up suburb of Philadelphia, having about 550,000 residents. Our first-generation communities, which are densely populated, are all near the airport.

December 19, 2007, was a defining moment in this whole, misguided airspace redesign plan.

December 19 is when the FAA implemented a new departure heading, right over Delaware County homes, schools and businesses. Since the new departure heading

went into effect, complaint calls to the Airport's noise hotline increased by a remarkable 1,400 percent.

During the 3-month period before December 19, there were an average of .54 calls per day to the noise hotline and a total of 58 calls in those three months.

During the 3 months after the change was made (between December 19, and April 3, 2008), County residents called the Airport's noise hotline 881 times to report an airplane that was too close or too loud for comfort. That's an average of 8.23 calls per day, or a daily increase of about 1,400 percent.

What's more disturbing is that after December 19, 10 percent of the complaints (88) were made between midnight and 5:00 a.m., a time when the FAA admits traffic is light. The FAA said it would only utilize this new departure heading when traffic was backed up during airport rush hours. But these headings are being used in the middle of the night, in blatant opposition to what was promised.

And these numbers are for winter. Wait until summer, when people want to have their windows open, or be outside in their yards, and are bombarded by airplane noise.

Delaware County is Ground Zero when it comes to increased air traffic in Philadelphia. And the FAA consistently fails to take into account the negative impact these flights have on the health and quality of life for people in the county. Today, I speak for those people and want to relate some of their complaints directly to you.

Terri Lunny, a resident of Middletown Township, about 7 miles from the airport, works from home and can't schedule any phone calls between 3 and 5 p.m. because of the airplane noise. One day, airplanes were going over her house 2 minutes apart non-stop from 5:30 to 7:30 p.m., then again from 9:30 to 10:30 p.m. The next morning, airplane noise bothered her for 2½ hours.

Mary Keefer, a resident in Chester Heights, about 10 miles from the airport, complained about loud flights at 3 or 3:30 a.m. The noise was so loud, it woke her up.

One really disturbing complaint came from Barbara White, the principal at Lakeview Elementary School in Ridley Park. This school is 3 miles from the end of the runway. Mrs. White said flights over the school and playground on February 1, 2008, were so low and loud, they frightened the students and staff.

Mrs. White has been principal at Lakeview for 14 years and the change has been very noticeable. She said that multiple overflights caused school staff to say that it felt like a subway train was going through the building.

Natalie Coleman's 8-year-old son attends the Lakeview school. He said that between 8 and 10 a.m., "the planes were so loud they thought they were 'in a war.' The girls got real scared and the teachers had to yell so the kids could hear them. He said that lately the noise at school 'has been real bad, we all get headaches and we are angry. At recess it is very loud and I hate it.'"

Mrs. Coleman said at her house, the new departure flights mean: "We can't sleep, my clients can't hear me on the telephone in my home office, we have seen the volume on our TV go from a 24 to a 49 just to hear it and we still hear the planes, the windows shake . . . and my home value has gone down."

That's just a small sampling of the hundreds of complaints we've heard.

People are also worried about their safety. Philadelphia air traffic controllers say they are concerned about the safety of the new takeoff headings. One of the county's concerns from the beginning was the increased risk of airplane crashes or objects falling from airplanes. Before the flight changes occurred, there were two recent instances of airplane debris falling through the roofs of Delaware County homes, miraculously resulting in no injuries.

In Delaware County, we are working to revitalize our eastern and riverfront communities, the same areas where airplane noise is now having a negative impact. The county is providing funding to these older, inner-ring suburbs to revitalize their business districts, parks, and streetscapes. We are trying to stem the tide of migration to more distant areas and encourage home ownership in these communities. But major airplane noise impacts threaten to undo this work.

The bottom line is the airspace redesign project is NOT achieving its goal of a reduction in delays at PHL. In fact, the only reduction we see is a reduction in property values and quality of life in our communities.

Mike Wagner, the air traffic manager at PHL, said there has been a slight reduction in delays since December 19, 2007, but it's NOT because of the airspace redesign changes. It's because there have been fewer flights.

Between January and November 2007, about 67 percent of PHL flights were on time. In January and February 2008, about 71 percent of flights were on time. Prior to December, approximately 1,500 flights per day were arriving or departing. After December, about 1,400 flights have been arriving or departing every day. Economic conditions, fuel costs, and larger airplanes are contributing to the reduction in

flights. About 330 daily flights during the hours of 9 and 11 a.m. and 2 and 7 p.m. are using the new flight headings.

Our aviation expert, Williams Aviation Consultants, estimated that the FAA's airspace redesign would reduce delays at PHL by a mere 3 percent, which translates to a couple of minutes.

Historically, 84 percent of PHL delays have been caused by factors that cannot be addressed by airspace redesign, such as bad weather and equipment problems. The impacts on Delaware County residents and school children are not worth the tiny delay reductions.

Truth is, experts can manipulate these numbers, this flight data, a million ways. Two things remain clear. The FAA overestimates any benefit the airspace redesign will have; and underestimates the impact on our residents.

Delaware County Council stands strong in this battle and we are even expending tax dollars to fight these changes in court. Be we would prefer a legislative remedy. We don't want to spend tax dollars fighting the FAA, an agency that's supposed to protect people. So we are looking to members of the House and Senate to find an alternate way to accomplish these transportation goals.

We're not here to stand in the way of progress and success at the airport. The County supports a viable airport to serve the region. But putting more planes over the county is not the answer.

We propose three common-sense strategies to improve airport service and reduce negative impacts on Delaware County residents:

- The FAA should encourage airlines to use other regional airports that are grossly underutilized, such as Lehigh Valley International, Atlantic City International, New Castle County, and Trenton-Mercer airports. This would take some of the pressure off of PHL and give people near those airports a more convenient way to fly.

- Based on the recent reduction in flights and the resulting reduction in delays, the FAA should consider putting a reasonable cap on the number of flights during the peak hours, consistent with the number of flights the airport can physically handle.

- The airport and airlines should also be encouraged to adopt congestion pricing, charging more for flying during peak times and less for off-peak times. In January, Secretary of Transportation Mary Peters introduced a policy to allow this.

This would encourage some flyers to change their flying times to off-peak times. A combination of these strategies would reduce the need for flying over Delaware County homes and schools at low altitudes.

Thank you very much. I'll be happy to answer questions.

Senator SPECTER. Thank you, thank you very much, Mr. Whelan.

Our next witness is executive vice president of the National Air Traffic Controllers Association, Mr. Paul Rinaldi, 15 years as an air traffic controller at Washington/Dulles, attended the University of Dayton. He is accompanied by Mr. Don Chapman, the National Air Traffic Controller Association's facility representative for the Philadelphia International Airport to respond to questions if any arise, specifically of local questions.

Mr. Rinaldi, thank you for coming in, and we look forward to your testimony.

STATEMENT OF PATRICK FORREY, PRESIDENT, NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION

ACCOMPANIED BY DON CHAPMAN, NATIONAL AIR TRAFFIC CONTROLLER ASSOCIATION'S FACILITY REPRESENTATIVE

Mr. FORREY. Senator Specter, thank you, and my name is Patrick Forrey, I'm the President of the National Air Traffic Controllers Association. Mr. Rinaldi, somehow must have got mixed up in this whole process, but he's not here.

Senator SPECTER. Well, we need—we accept your qualifications and—

Mr. FORREY. I appreciate that.

Senator SPECTER [continuing]. But without an introduction—I know that there are many, many occasions where I have vastly preferred no introduction.

Mr. FORREY. I appreciate that. Thank you, Senator. I would like to say—start by thanking you for showing such leadership on this important issue of aviation. The men and women I represent in this State, as well as throughout the Nation, are grateful to you because you treat their profession with respect and you are a champion for their cause and the safety of the system.

I also want to thank Senator Lautenberg who isn't here today, but who sits on this important subcommittee. Like you Senator, he continues to be a champion for the working men and women of NATCA, by making sure that our aviation system is safe and working conditions for air traffic controllers and other FAA employees are adequate.

Air travel is an integral part of the economy and life in Philadelphia, where the airport is ranked ninth busiest in the world and among the fastest growing in the United States. Over the past 3 years, more than 83 million passengers flew into or out of Philadelphia Airport for business or leisure.

But flying into Philadelphia has become less efficient. Philadelphia is ranked 30th out of 32 major airports for on-time departures, a rate which has fallen 9 percentage points in 5 years, to a low of 70 percent. Arrivals are even worse, with only 67 percent of flights arriving within 15 minutes of their scheduled landing time.

Rather than working with stakeholders to identify and address the root of this problem, the FAA has endeavored to follow its own flight plan, unilaterally enacting changes to Philadelphia's airspace design and to aircraft control facilities. It is the opinion of NATCA that neither the dispersal headings nor the de-combination of Philadelphia's air traffic control operations will have any positive impact on air travel, in or out of Philadelphia Airport.

Rather, both changes will introduce additional safety risks into the system, and increase the potential for confusion and inefficiency. We believe that a status quo is unacceptable, as well, but that changes must directly address the two key components of Philadelphia's airspace woes, airline over-scheduling, and the understaffing of air traffic control facilities. The actions already underway by the FAA are, at best, ill-advised, and at worst, downright harmful.

First, the plan to separate tower and radar approach functions at Philadelphia Airport will result in, with increased staffing pressure, at a facility already too thinly spread. Philadelphia is currently operating with 61 percent of the controllers authorized by the FAA in 1998, and traffic has grown since that time.

With only 67 of the authorized 109 controllers working at Philadelphia, and an additional 15 eligible for retirement, we are becoming increasingly concerned with the inexperience, over-work and fatigue controllers are now subjected to.

While the FAA has stated that splitting this facility will require an increase in the overall staffing of controllers, they have not addressed how the need will be filled, or how long it will take. One major importance to note—splitting this facility will narrow the

field of knowledge for the controllers, and introduce barriers for communication and smooth operation.

Trainees assigned to the new split facilities will have no knowledge of the tower operations or TRACON operations, depending on where they're assigned. They will, therefore, lack a clear understanding of how their actions affect operations at the JC positions.

The co-location of tower and TRACON functions allows for a more comprehensive understanding of operations, simpler communications and more face-to-face interactions, resulting in greater efficiency. Barriers to communications caused by physical separation reduce efficiency, potentially causes additional, unnecessary delays.

Second, the hastily introduced dispersal headings of Philadelphia have increased risk of miscommunication between air traffic controllers and pilots. FAA has published no official guidelines governing the uses of dispersal headings, nor have they updated Standard Instrument Departure routing charts, we call SIDs, to include these new headings.

Without new SID charts, controllers have had to verbally override SID instructions, requiring pilots to depart using unfamiliar procedures, without the benefit of written instructions, which opens up the potential for miscommunications. An audit of 23 hours of tape revealed nine communication errors, in that short span of time.

These, and all areas, have high stakes, particularly when dealing with such constrained airspace. Additionally, these headings have not been tested for use during hot weather, where aircraft are known to climb and turn much more sluggishly.

But, while the FAA has made these ill-advised changes, they have addressed neither the issue of airline over scheduling, nor that of air traffic controller staffing. The work rules imposed by the FAA on the controller workforce have resulted in unprecedented attrition of air traffic controllers. Controllers are leaving the workforce at a rate of 5.2 per day. Most of them are retirees who have not yet reached mandatory retirement age. Resignations have also tripled to 345 since the implementation of the imposed work rules. For Philadelphia, this has meant running operations at 61 percent of the authorized staffing levels.

There are fewer eyes watching the skies and runways in Philadelphia, and throughout the country, and those that remain are suffering from fatigue. This fatigue has resulted in more frequent lapses in safety, and a less efficient, and therefore, more delayed operation. The FAA has taken no steps to stem that flow.

As for the issue of airline over scheduling, while the FAA has determined that Philadelphia can handle 13 departures per quarter hour in optimal weather conditions, they do not require airlines to take these rates into account when planning their schedules. Therefore, the airlines are free to use marketing as their only driving force in their schedule development—a practice which may maximize profits for the airlines, but results in losses for airline customers in the form of delays. Airlines frequently schedule departures in excess of optimal airport capacity.

These excess departures automatically result in delays, before weather or even air traffic control staffing are factored into the equation.

Although we are gathered here to discuss the issues facing aviation in Philadelphia area, it must be understood that the situation in Philadelphia is not unique. Overall airline delays in 2007 were second-worst on record, with nearly one-fourth of arrivals, 21 percent of departures experiencing delays. This number has consistently risen over the past 5 years, and with arrival delays increasing by 12 percentage points since 2001.

Meanwhile, total staffing—

Senator SPECTER. Mr. Forrey, you're more than a minute over, how much more time will you need?

Mr. FORREY. Just 30 seconds.

Senator SPECTER. Okay.

Mr. FORREY. Meanwhile, controller staffing nationwide is at a 16-year low, with the number of certified professional controllers at 70 percent of authorized levels.

Our hope is that, for this hearing, that by using Philadelphia as an example, we can bring about meaningful and substantive changes that will benefit the flying public throughout the country.

Therefore, we recommend the following: the FAA should abide by their clause in S. 1300, and realign facilities only after receiving input and approval by review board, consisting of the representatives from all stakeholder groups, including NACA, pilots, Members of Congress, and the community.

The FAA must discontinue use of dispersal headings until such time as full testing is complete, and proper procedures have been established with collaboration from all stakeholder groups.

The FAA should take steps to control airline scheduling, to prevent scheduling over the maximum arrival and departure rates, and Congress must pass the FAA reauthorization bill, that will require FAA to return to the bargaining table for fair negotiations with the controllers, in order to curtail a rapid attrition rates in the workforce.

Mr. Chairman, thank you, and I'll be happy to answer any questions you have.

[The statement follows:]

PREPARED STATEMENT OF PATRICK FORREY

AIR TRAFFIC ISSUES OF CONCERN TO THE PHILADELPHIA METROPOLITAN AREA

Air travel is an integral part the economy and of life in Philadelphia. Ranked the 9th busiest airport in the world and among the fastest growing in the United States,¹ Philadelphia International Airport has had more than 83 million passengers arriving and departing over the last 3 years.² But flying into Philadelphia has become less efficient; Philadelphia is ranked 30 out of 32 major airports in percent of on-time departures, a rate which as fallen from 79 percent in 2001 to only 70 percent in 2008. Arrivals are even worse, with only 67 percent of flights arriving within 15 minutes of their scheduled landing time.

Rather than working with stakeholders to identify and address the roots of this problem, the FAA has endeavored to follow its own flight plan, unilaterally enacting changes to Philadelphia's airspace design and air traffic control facilities. Neither the dispersal headings nor the de-combination of PHL's air traffic operations will have any positive impact on air travel into and out of Philadelphia Airport. Rather, both changes will introduce additional safety risk into the system and increase the potential for confusion and inefficiency. The status quo is unacceptable, but changes

¹Federal Aviation Administration Philadelphia International ATCT/TRACON De-combining Staff Study.

²Bureau of Transportation Statistics Airport snapshot for PHL.

must directly address the two key components of PHL's air traffic woes—airline over-scheduling and the understaffing of air traffic control facilities.

NATCA therefore makes the following recommendations to this committee:

- The FAA should initiate realignment activity only after receiving input and approval from a review board as per the FAA reauthorization bill passed by the House of Representatives and under consideration by the Senate. This board would include representatives from all stakeholder groups including air traffic controllers, pilots, members of congress and the community. In the case of the PHL, the FAA should work with NATCA and consider our alternate plan to reduce the number of positions required for full certification while maintaining the integrity of the combined facility.
- The FAA must discontinue the use of dispersal headings until such time as full testing—including hot weather testing—is complete and proper procedures—including revised Standard Instrument Departure (SID) charts—have been established. This too must be developed with active participation of all stakeholder groups including air traffic controllers, pilots, members of congress and the community.
- The FAA should take steps to control airline scheduling and prevent scheduling over the maximum arrival/departure rates.
- Congress must quickly pass the FAA reauthorization bill, which would require the FAA to return to the bargaining table for fair negotiations with NATCA in order to curtail the rapid attrition from the workforce.

DE-COMBINATION OF PHILADELPHIA TOWER AND TRACON

On March 31, 2008 the National Air Traffic Controllers Association was officially informed of the FAA's plan to de-combine the Philadelphia International Airport's air traffic control facility by separating tower and radar approach functions in separate facilities. This decision was made entirely without the participation of those with most intimate understanding of air traffic control operations at Philadelphia Airport—the air traffic controllers who work there each day. The FAA did not seek input from these controllers who are best able to identify benefits and pitfalls and make informed suggestions for plan improvement. This shows not only contempt for the air traffic control workforce, but also a lack of sincere desire to develop a plan with the greatest benefit to users. It is the opinion of NATCA that the plan to de-combine PHL ATCT/TRACON is deeply flawed and will bring no benefit to users but will instead introduce into the system additional safety risks and opportunities for delays.

It must be understood that NATCA is not categorically opposed to all realignment initiatives. In the past, we have worked alongside the FAA to plan some of the most successful realignments of ATC facilities. This includes the formation of TRACON facilities in New York, Southern California, Chicago, Denver, Dallas-Fort Worth, Northern California, Atlanta, and the Baltimore/Washington/Virginia Tri-State (Potomac) area. However, it is our firm belief that all realignment decisions must be made with a specific operational need in mind. These changes must serve the public by improving safety, efficiency and service. To date, the FAA has been unable to satisfactorily justify their PHL plan on any of the above grounds. Instead, the administration has chosen to focus on reducing its own operating costs while ignoring the cost of delays for those who depend on our airspace for travel and commerce.

As the facility is currently structured, controllers must learn all aspects of operations required for safe and efficient arrivals and departures from PHL. This well-rounded training enables controllers to understand how their actions at one position effect the operation of the adjacent positions. With this knowledge, controllers are able to optimize their performance for both safety and efficiency. By splitting this facility, the FAA will narrow the field of knowledge for controllers. New trainees will not only be denied the opportunity to train on all dimensions of the operation, they will not even have the opportunity to observe operations at other sectors.

Creating two separate facilities will also introduce barriers to coordination between the Tower and TRACON. The collocation of tower and TRACON functions allows for simpler communications and more face-to-face interactions, resulting in greater efficiency. Philadelphia has a unique and very intense crossing runway operation which requires continuous interaction between tower and TRACON. Barriers to communication caused by physical separation necessarily reduce efficiency, potentially causing additional unnecessary delays.

Perhaps the deepest flaw in the de-combination plan is that by creating two facilities, the FAA increases the number of controllers necessary to conduct operations. The combined tower/TRACON facility allows for flexibility in staffing. If, for example, the tower finds itself short-staffed on any given day, they can call upon the

TRACON to supply the additional staffing, and vice versa. If these facilities were separated, this flexibility would be lost, and each facility would be required to maintain a higher level of staffing in order to ensure uninterrupted service. The FAA acknowledges this fact in their staff study stating that de-combination “will require an increase in the overall staffing of controllers, administrative, and support staff,” but they did not discuss how that need would be filled.

Already PHL is in the midst of a staffing shortage, one that is likely to grow only more severe. PHL currently employs only 67 certified professional controllers (CPCs), only 61 percent of the staffing level jointly authorized by the FAA and NATCA in 1998. Of those 67, 3 are scheduled for transfers and 15 are already eligible to retire. De-combination would encourage retirement of those that are eligible, as the split would result in the downgrading of each of the daughter facilities causing an estimated 4 percent pay cut to employees. The 2006 imposed work rules have already removed incentives for experienced controllers to transfer to new facilities, as doing so would reduce their pay by placing them in the new pay bands.

The FAA’s key justification for the separation of these facilities is that it would “reduce the lengthy training time required for developmental and prior experienced controllers in attaining full performance level certification. By reducing the total number of positions a controller is assigned to work maintaining currency would be easier and controllers would become more proficient in the areas they are assigned to work.”³ NATCA agrees that there are advantages in reducing training time. However, we believe that this same objective can be met without losing the benefits of an integrated air traffic environment. Larger Centers and TRACONs throughout the country have their operations divided into sectors, a structure that has used successfully in Miami, a facility similar Philadelphia. There is no reason why similar structural changes should not be an equal success in Philadelphia.

The FAA’s refusal to consider this reasonable alternative calls into question the agency’s true motive for change. The agency has shown itself to be motivated primarily by its own bottom line, without regard for safety or delays. We also have reason to believe that this realignment is but the first in a series of changes that the FAA is planning for the Pennsylvania area. If we use past FAA behavior as a predictor, PA can expect to see consolidation, closing or outsourcing of air traffic control towers at smaller local airports in the region. Allentown, Wilkes-Barre Scanton, Reading, Atlantic City, and perhaps Harrisburg airports are all at risk. We base this prediction on the FAA’s behavior in southern Florida—where a similarly-justified de-combination of Miami tower and TRACON ultimately resulted in the consolidation of Palm Beach International Airport (PBI) TRACON and potential outsourcing of the remaining tower functions at PBI—and Texas—where in recent weeks we have seen the consolidation of Beaumont Airport’s (BPT) TRACON functions with operations out of Houston.

DISPERSAL HEADINGS

On December 19, 2007, misguided FAA management unilaterally implemented dispersal headings to be used for aircraft departing out of Philadelphia airport. These new headings were supposed to reduce delays by cramming more aircraft into the already-constrained airspace surrounding PHL. The theory was that if we were to fan out aircraft along multiple vectors from PHL, we could speed the rate of departures as the new departures would not be following in trail and would therefore not need the same buffer of time between takeoffs. As with de-combination, the FAA failed to seek collaboration from Air Traffic Controllers, pilots and other stakeholders and therefore overlooked major pitfalls and consequences of their plan.

Such constrained airspace poses a risk to the safety of aircraft by eliminating room for error. Small misjudgments, pilot error, or imperfect aircraft handling could have disastrous consequences in an operation run too tightly. For example, if a pilot landing on runway 27R or 9R has to abort a landing while the dispersal headings are in use, they may be faced with departure traffic coming towards them on the 268 heading. Further complicating matters in this situation is the fact that the departing and arriving aircraft are communicating on different frequencies.

The implementation of these dispersal headings has also created an environment ripe for miscommunication. The US Airways ALPA safety chairman, an active airline pilot wrote: “It is now a practice where a different heading is being assigned as part of the takeoff clearance. This practice can easily result in confusion as it is a change to the briefed departure heading. It also occurs during a very busy time in the cockpit and possibly while only one pilot is on the radio.” In response to pub-

³Federal Aviation Administration Philadelphia International ATCT/TRACON De-combining Staff Study.

lic pressure on this issue, the FAA conducted a random review of 23 hours of tape and found 9 communication errors in that short span of time. Further contributing to the potential for miscommunication is the increased frequency congestion caused by a combination of overutilization of airspace and understaffing of Air Traffic Control. With more aircraft in the same space and no change to controller staffing, each single controller must communicate with and monitor read-backs from an increased number of pilots. This congestion of the communication frequencies increases the likelihood that a controller will overlook—and therefore fail to correct—a miscommunication between himself and a pilot. Needless to say, controller-pilot miscommunication poses an additional risk to safety.

Another leading cause of miscommunication over dispersal headings is the complete lack of published procedures. As of the writing of this testimony, the FAA has published no official guidelines governing the usage of the dispersal headings, nor has the FAA updated Standard Instrument Departure (SID) charts to include these new headings. Under ordinary circumstances controllers refer to these charts when issuing departure clearances to aircraft, giving pilots and controllers a great level of clarity regarding the departure plan. Without new SID charts, controllers have had to verbally override SID instructions, requiring pilots to depart using unfamiliar procedures without the benefit of written instructions. Without SID charts, miscommunications have increased. One of the instances of miscommunication discovered in the above referenced investigation—of which NATCA maintained audio records—resulted in an aircraft traveling ten degrees off course.

Relatedly, neither Air Traffic Controllers at PHL nor pilots have received meaningful training on this change in procedure. Controllers had been briefed that a particular procedure would be used, and then on the day of implementation the agency changed the procedures and required controllers to “read an initial” the changes on the day of implementation.

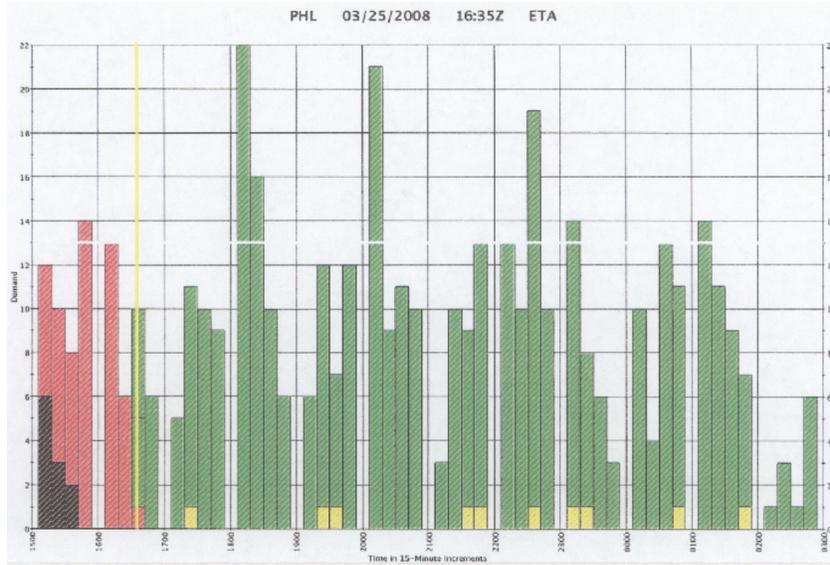
There still exists the possibility of additional dangers caused by the headings, as the FAA failed to comprehensively test them prior to implementation. Notably missing from the FAA testing was testing in hot weather conditions. Aircraft are known to perform sluggishly in hot weather and climb and turn rates often suffer as a result. Controllers have already reported issues with constrained airspace design, an issue which will be exacerbated in hot weather and could pose serious safety problems. This must be tested prior to using these headings during such weather.

The FAA hastily implemented these dispersal headings in order to appear to be addressing the issue of delays in the Philadelphia area. While delays are a serious and growing problem at PHL, the dispersal headings do not address the root of the problem and will have little if any impact on the situation. The key culprits in the problem of delays in the Philadelphia area are airline over-scheduling, and understaffed air traffic control facilities. Unfortunately, the FAA would prefer not to address either of these issues in a meaningful way, as they have proven resistant both to regulating airline behavior and to negotiating with air traffic controllers.

AIRLINE OVER-SCHEDULING

Due to the laws of physics and FAA separation requirements, there is a finite number of aircraft that can safely arrive or depart an airport in a given span of time. The FAA has developed an estimate of the maximum number of operations each airport can handle in optimal weather conditions called the Airport Arrival Rate (AAR) and the Airport Departure Rate (ADR). The ADR at PHL is 52, meaning that 52 aircraft per hour—13 per quarter hour—can safely depart Philadelphia airport. However, the FAA does not require airlines to take these rates into account when planning their schedules. Therefore the airlines are free to use marketing as the only driving force in their schedule development, a practice which may maximize profits for airlines but which results in losses for airline customers in the form of delays, as airlines frequently schedule departures in excess of optimal airport capacity. Although PHL can depart only 13 aircraft per quarter hour in the best of conditions, there are some 15-minute intervals in which more than 20 aircraft are scheduled to depart.

The graph below is a snapshot taken from the Flight Schedule Monitor (FSM), built from data in the Enhanced Traffic Management System (ETMS), tools used by traffic management specialists to manage traffic flow. This was taken at 12:35 p.m. local time on March 25, 2008 and depicts scheduled departures until 11 p.m. The horizontal white line indicates the departure rate for that day. In this case, PHL was operating at full capacity, with 13 aircraft able to depart per quarter hour.



The green bars indicate the number of aircraft scheduled to depart from PHL in each 15 minute interval. Each instance in which the green bar goes over the white line, the airlines have scheduled beyond optimal capacity for the airport. In each of those cases, aircraft must be delayed.

This type of scheduling automatically builds delays into the system before weather, understaffing or other mitigating factors are taken into account. In the example above—a typical day not during the peak travel season—this is what happens:

- At 2:00 p.m. (1800Z) there are 22 flights scheduled to depart, 9 more than the maximum. So nine flights must be delayed and carried into the next interval. This begins the backlog.
- At 2:15 there are 16 flights scheduled to depart, plus the 9 that were carried over for a total of 25. This is 12 beyond the maximum, so 12 must be carried over.
- At 2:30 there are 10 flights scheduled to depart, plus the 12 that have been carried over for a total of 22. Because the scheduled number was below the maximum, we were able to absorb some of the backlog; however the backlog was so great that, nine must still be carried over.
- At 2:45 there are 6 flights scheduled for departure, plus the 9 that have been carried over for a total of 15. Again, we are able to absorb some of the backlog, but 2 flights must still be carried over.
- At 3:00 we are finally able to absorb the entire backlog. There are six flights scheduled plus the two carried over, for a total of eight, which is below the maximum.
- However, the process begins again at 4:00 p.m., when 21 flights are scheduled to depart.

Therefore, between 2 p.m. and 3 p.m. airline scheduling alone caused an estimated 480 minutes (8 hours) of delays at PHL.⁴

It is the FAA's responsibility to ensure that NAS customers—the flying public—are protected. This means taking all possible steps to ensure not only a safe passage through the skies, but to help them avoid unnecessary delays. Rather than look out for the flying public, however, the FAA chose to protect a corporate bottom line, letting marketing, rather than logic or physics dictate airline scheduling practices.

AIR TRAFFIC CONTROLLER STAFFING AND THE EFFECT OF THE IMPOSED WORK RULES

On September 3, 2006, the FAA unilaterally imposed a set of work rules on its air traffic controller workforce. These rules instituted unpopular changes to the an-

⁴This figure was calculated by estimating 15 minutes of delay for each aircraft carried over from one interval to the next.

nual leave policy, removed career advancement opportunities, established new pay bands that decreased controller wages significantly, and eliminated rest periods, among other provisions which left many controllers dissatisfied with their work environment. Recent NATCA research has shown that as a result of these imposed work rules the total number of CPCs has fallen to a 15 year low, attrition from the ATC workforce has reached record levels and exceeded all expectations—the attrition rate in fiscal year 2008 has been 6.8 per day—and facilities throughout the country are severely understaffed.

The FAA has repeatedly claimed that the increase in controller attrition is due entirely to the increase in retirement eligibility as those hired following the PATCO strike reach eligibility age. NATCA research shatters those claims. Ninety-eight percent of Air Traffic Controllers who left the workforce in fiscal year 2007 did so with time still left on the table. Resignations—of which there were only 64⁵ in the last year of the signed contract—more than more than tripled to 202 in fiscal year 2007. Similarly the percent of those eligible to retire who chose to do so has increased from 21 to 30 percent since the imposition of the work rules.

Practically, this means that there are fewer eyes watching the skies and runways throughout the country, and those that remain are suffering from fatigue. At Philadelphia Tower/TRACON, there are currently only 67 CPCs, 2 of whom are scheduled for transfer within the next several months. This is less than 65 percent of the 109 jointly authorized by the FAA and NATCA in 1998. Smaller facilities in Pennsylvania are similarly strained. Wilkes-Barre airport has 14 CPCs rather than the authorized 25, while Harrisburg is down to a staggering 13 full performance level controllers 43 percent of what had been authorized.

Left with understaffed facilities, management is faced with two choices for handling the ever-increasing volume of air traffic: call in overtime or work short-staffed. Both of these options—which are often used in tandem—create fatigue among air traffic controllers. Regular use of overtime limits a controller's ability to recover from work-related stress and fatigue, while short-staffing increases workload and limits opportunities for rest and recovery during the shift. On short-staffed shifts managers are forced to reduce the number of Radar Assistants (RAs), giving one controller the responsibility of not only for communication with aircraft but also coordination with other controller positions and facilities and updating flight progress information. Additionally, managers may be forced to combine positions, creating greater complexity by requiring each controller to monitor greater numbers of conflict points and an increased volume of aircraft. According to the FAA's own research, "evidence was found that increased sector complexity may be associated with reduced situational awareness and may lead to a larger number of, and more severe, errors."⁶ Fatigued Air Traffic Controllers are more likely to make errors, less likely to identify pilot error, and are more likely to increase the safety buffer, which would result in delays.

PHL currently has 15 CPCs who are eligible to retire. If they left, this would further exacerbate the staffing shortage and the threat of fatigue-related errors and delays. Rather than encourage the continued outflow of experienced controllers by continuing to enforce the imposed work rules, the FAA must return to the bargaining table to bargain fairly with NATCA. Congress can do its part by quickly passing the FAA reauthorization bill, which contains provisions that would force the FAA to resume bargaining with NATCA and would send any unresolved disputes into binding arbitration. While this would not reverse the damage that has already been done, it would significantly slow the rate of attrition and give the system more time to recover.

CONCLUSION

The FAA has repeatedly shown that it is either unable or unwilling to govern the usage of our Nation's airspace and runways in a way that maximizes the benefit and minimizes risks to the flying public. Time and time again they have ignored offers from subject-matter experts like air traffic controllers to assist them in their endeavors, just as they have ignored the pleas from elected officials. In this way, Philadelphia is not unique. The issues facing this city, and indeed the entire State of Pennsylvania are being experienced in various incarnations throughout the country. Mismanagement has become endemic in this agency, which is determined to focus only on its own bottom line. Today we are given the opportunity to identify

⁵ All staffing data is based on FAA payroll information provided to the union by the FAA.

⁶ Rogers, Mark D, Richard H. Mogford, Leslye S. Mogford, U.S. Department of Transportation, Federal Aviation Administration Office of Aviation Medicine The Relationship of Sector Characteristics to Operational Errors, May 1998.

the problems facing air travelers in the Philadelphia area—many of which have been either caused by the FAA or ignored by them—and begin taking steps to correct them. It is the sincere hope of this union that this hearing will lead to meaningful action and that positive changes will be made throughout the country.

We therefore recommend the following:

- The FAA should initiate realignment activity only after receiving approval from a review board as per the clause in the FAA reauthorization bill passed by the House of Representatives and currently under consideration by the Senate. This board would include representatives from all stakeholder groups including air traffic controllers, pilots, members of congress and the community. In the case of the PHL, the FAA should work with NATCA and consider our alternate plan to reduce the number of positions required for full certification while maintaining the integrity of the combined facility.
- The FAA must discontinue the use of dispersal headings until such time as full testing (including hot weather testing) is complete and proper procedures, including appropriate revisions to the PHL7 SID chart have been established. This too must be done with the active participation of all stakeholder groups including air traffic controllers, pilots, members of congress and the community.
- The FAA should take steps to control airline scheduling and prevent scheduling over the Maximum Arrival/Departure Rates.
- Congress must quickly pass the FAA reauthorization bill that would require the FAA to return to the bargaining table for fair negotiations with NATCA, in order to curtail the rapid attrition from the workforce.

Senator SPECTER. Thank you, Mr. Forrey.

Mr. Chapman, would you care to add anything to that?

Mr. CHAPMAN. No, Senator, I just want to thank you for inviting us to participate today, and I'm here to answer any questions you may have.

Senator SPECTER. Well, on a number of occasions I've visited your towers. It's dark, a lot of funny-looking symbols on the screens, and we thank you for what you do, even though we wonder what it is, sometimes.

Our next witness is going to be Mr. Steve Aichele. He is a key member of the Philadelphia CEO Council for Growth. Graduate of the Naval Academy, now he's the Chairman of Saul Ewing, a very distinguished Philadelphia old-line law firm.

He appears here instead of former Governor Mark Schweiker, who's President of the Greater Philadelphia Chamber of Commerce, but this hearing had originally been scheduled for 11 a.m., when the Governor was available, and couldn't miss—couldn't make it because of the necessary change in scheduling.

So, we welcome you here, Mr. Aichele, and look forward to your testimony.

STATEMENT OF STEPHEN S. AICHELE, CHAIRMAN, SAUL EWING, ON BEHALF OF THE PHILADELPHIA CEO COUNCIL FOR GROWTH

Mr. AICHELE. Yes, sir. Thank you very much, Senator, and thank you for having the business community here today.

On a personal note, and off the record, please, thank you for being here. Keep up the fight, you're an inspiration to those of us who are fighting a similar battle, so thank you very much for being here.

Senator SPECTER. Thank you.

Mr. AICHELE. I'm here today, as you said, on behalf of the regional business community, specifically the CEO Council for Growth, which is a group of over 60 CEOs of major businesses throughout the 11 county region of Greater Philadelphia. They've formed an alliance with the Greater Philadelphia Chamber of Com-

merce, which we've named Select Greater Philadelphia. Our President and CEO, Tom Moore, is in the audience today, as well.

Our objective is to increase the competitiveness of Philadelphia as a world-class city, and to make sure that the rest of the world knows about that. One of the major points in achieving that objective would be for the PHL, which we're calling the Philadelphia International Airport, to become—and remain, remain and become—an even better world-class airport, that's absolutely essential.

In today's global economy, having a world-class airport is, as I said, absolutely essential. Throughout history, commerce has occurred where trades routes cross, and in our century, the 21st century, that's going to be airports.

Philadelphia International Airport is already a gateway to the world, and a critical driver of the regional economy. Tens of thousands of jobs rely on the airport, currently, and the ability to easily travel in and out of the region is a significant factor for professionals who choose to do business here, and for residents seeking convenience.

Our region currently enjoys one of the most rapidly growing air travel markets, there are a whole bunch of data cited in the testimony, that's on the record, I'm going to skip over that. But clearly, airport provides benefits to businesses, residents, and travelers, and to follow up on the question you asked Mayor Nutter—we have had businesses cite Philadelphia International Airport as a reason not to locate in this region. So, it is definitely having an impact, currently.

In a very dynamic airline competitive environment, the city of Philadelphia, the management of PHL have done a very effective job of attracting both domestic and international flights to serve our region. Sizable projects currently under construction will solve most of the irritating problems that all of us encounter from time to time. Recent facility improvements such as Terminal East have set a standard of quality at PHL that's appropriate for major market communities, such as ours.

However, the growth in quality of service at PHL can provide is dependent on its ability to expand its capacity, both in the air and on the ground. Currently, Philadelphia International Airport is among the five worst U.S. airports, we've heard about that over and over, so I'm not going to go into any more of the detail here.

As a result, however, of all of that, we've garnered a somewhat negative reputation for travelers, in that the delay detracts from the region's quality of life, ability to attract and retain businesses, which are highly dependent on airline travel. With an eye to addressing such delay, the FAA is taking the actions that you've heard about today, and which is the subject of a lot of your discussion and questioning.

We favor, obviously, the improving the efficiency of the operations at PHL, however, we believe that every effort should be made to ensure the important goal of reducing delays at PHL be balanced with efforts to mitigate noise impacts on our community.

We commend the FAA for listening to the concerned citizens of Delaware County and other communities, resulting in significant mitigations of the proposed heading over the county, over which

was originally proposed. We urge the new headings over Delaware County be used only when necessary to reduce the delays—much as your line of questioning intimated. We're committed to working with the airport, the FAA, and the region's congressional delegation to help make sure that these appropriate mitigation measures are undertaken.

We also believe that preserving and enhancing the airport's ability to serve as an economic engine for the region will directly benefit Delaware County by providing job growth and increased tax revenues.

In addition, we believe that the airport and its adjacent areas should be viewed strategically—as this is Delaware, Philadelphia, South Jersey—should be viewed strategically as a prime development opportunity, where adjacent land uses could enhance PHL's ability to create jobs for nearby residents, and tax revenues for everybody.

We recently articulated our vision for the future of PHL in a letter to Mayor Michael Nutter, and his Deputy Mayor for Transportation and Utilities, Rina Cutler. I think it's realistic to say, after you heard the mayor today, that the new mayor and his administration share many of the same priorities for PHL as the city and the region's business community and we're ready to work together to leverage and improve this great infrastructure asset.

To that end, we are certainly interested in Federal funding, and in assistance for developing the airport and its adjacent areas, so it can truly become a global hub.

Therefore, in order to accelerate recent progress, we hope that all of the stakeholders—the city of Philadelphia, the Commonwealth, neighboring jurisdictions, regional Federal officials, the Federal Aviation Administration, Department of Homeland Security, air carriers, and our business community, can dedicate ourselves to completing a series of actions and facility projects over the next 10 years, that will improve the quality of customer service, increase the availability of more non-stop flights, enhance the efficiency of operations, and maximize the contributions of PHL to the quality of life and growth of regional prosperity here.

With shared commitment and foresight, we believe PHL can be the first-class airport that this region needs. With that in mind, we're here today to offer the support of the Greater Philadelphia region's business community, to these efforts.

In closing, Senator, let me thank you again for the opportunity to provide comments this afternoon, and I also would be happy to answer any questions and I should just for—correct the record, sitting next to an admiral and a real graduate of the Naval Academy—I'm a retired Naval Reserve Captain, but I was ROTC, I went to Cornell University.

Senator SPECTER. Thank you very much, Mr. Aichele.
[The statement follows:]

PREPARED STATEMENT OF MARK SCHWEIKER, PRESIDENT AND CEO, GREATER PHILADELPHIA CHAMBER OF COMMERCE; CHAIRMAN OF THE CEO COUNCIL FOR GROWTH

Thank you, Senator, for inviting me to testify before you today on behalf of the business community. And best wishes for good health. For the record, I am Mark Schweiker, President and CEO of the Greater Philadelphia Chamber of Commerce, which is the premier advocate of the region's business community, representing

5,000 companies and organizations in 11 counties across 3 States—southeastern Pennsylvania, southern New Jersey, and northern Delaware.

Today, I am here in my role as Chairman of the CEO Council for Growth, which is a group of prominent business executives committed to Greater Philadelphia's growth and prosperity and an affiliate of the Chamber. The mission of the CEO Council is to enhance the competitiveness of the Greater Philadelphia region in the global economy. One key to successfully carrying out this mission would be the ability of Philadelphia International Airport (PHL) to serve as an economic engine for Greater Philadelphia.

In today's global economy, having a world class airport is essential. Throughout history, commerce has occurred where trade routes cross; in the 21st century, that means airports. Philadelphia International Airport is our gateway to the world and a critical driver of our regional economy that also provides very real benefits to local communities. Tens of thousands of jobs rely upon the airport. The ability to easily travel in and out of the region is a significant factor for professionals doing business, and for residents seeking convenience.

Our region currently enjoys one of the most rapidly growing air travel markets and has both hub and low fare operators that are committed to air service expansion at PHL. Between 1997 and 2006, total passengers at PHL have increased 42 percent. There are currently 700 daily departures to 120 cities, including 52 daily non-stops to 36 international destinations. By 2009, US Airways will initiate non-stop direct service to Beijing, a route that provides direct and indirect economic impacts to every region that can secure the service. With 34,000 employees and over 200 employers, PHL is estimated to provide \$14 billion in regional economic impact. Clearly the airport provides important benefits to businesses, residents and travelers.

In a very dynamic airline competitive environment, the city and management of PHL have done an effective job of attracting both domestic and international flights to serve our region. Also, sizeable projects currently under construction will solve some of PHL's most irritating problems. Recent facility improvements such as Terminal A East have set a standard of quality at PHL that is appropriate for a major market community such as ours.

However, the growth and quality of service that PHL can provide is dependent on its ability to expand its capacity, both in the air and on the ground. Currently, Philadelphia International Airport is among the five worst U.S. airports for departure delays. Routinely, the New York and Philadelphia metropolitan areas are among the top 10 that experience regular airport delays. As a result, PHL has garnered a negative reputation among air travelers that detracts from the region's quality of life and ability to attract and retain businesses who are highly dependent on airplane travel.

With an eye on addressing such delay, in 2007, the FAA made the decision to re-design airspace along the eastern half of the United States. This area has the most complex and densely traveled airspace in the world. Travelers in and out of Greater Philadelphia will benefit from better air traffic flows, as will people traveling to and from Boston, Washington, DC and New York City.

We favor improving the efficiency of operations at PHL. However, we believe that every effort should be made to ensure that the important goal of reducing delays at PHL be balanced with efforts to mitigate noise impacts in our community. We commend the FAA for listening to the concerned citizens of Delaware County and other communities, resulting in significant mitigation of the proposed headings over the County. We urge the new headings over Delaware County be used only when necessary to reduce delays on the ground as originally proposed by FAA. We are committed to working with the airport, the FAA and the region's Congressional delegation to help make sure that these appropriate mitigation measures are undertaken to preserve the quality of life in Delaware County and other communities.

We also believe that preserving and enhancing the airport's ability to serve as an economic engine for the region will directly benefit Delaware County by providing job growth and increased tax revenue. In addition, we believe that the airport and its adjacent areas should be viewed strategically as a prime development opportunity where adjacent land uses could enhance PHL's ability to create jobs for nearby residents and tax revenues for Philadelphia, Delaware County and the region.

We recently articulated our vision for the future of PHL in a letter to Mayor Michael Nutter and his Deputy Mayor for Transportation and Utilities, Rina Cutler. For the first time, I think it is realistic to say that the Mayor shares many of the same priorities for PHL as the city and region's business community and we are ready to work together to leverage and improve on this great infrastructure asset. To that end, we are certainly interested in Federal funding and assistance for devel-

oping the airport and its adjacent areas so that it can truly become a global hub for travel and business growth.

Therefore, in order to accelerate recent progress, we hope that all stakeholders—the city of Philadelphia, the Commonwealth of Pennsylvania, neighboring jurisdictions, regional Federal officials, the Federal Aviation Administration, the Department of Homeland Security, air carriers serving PHL and the business community—should dedicate ourselves to completing a series of actions and facility projects over the next 10 years that will improve the quality of customer service, increase the availability of more non-stop flights, enhance the efficiency of operations and maximize the contribution of PHL to the quality of life and growth of regional prosperity here.

With shared commitment and foresight, PHL can be the first class airport that this region needs. With that in mind, I am here today to offer the support of the Greater Philadelphia region's business community.

In closing, let me thank you for the opportunity to provide comments this morning and I would be happy to answer any questions.

Senator SPECTER. We'll work out the seating arrangements more carefully next time.

Our next and final witness is executive vice president and chief operating officer of the Air Transport Association, Mr. John Meenan. Had been Assistant General Counsel with the Association, 9 years in the U.S. Secret Service, a Bachelor's Degree in Political Science from Holy Cross, a law degree from Santa Clara.

Thank you for being with us, Mr. Meenan, and we look forward to your testimony.

STATEMENT OF JOHN MEENAN, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATIONS OFFICER, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. MEENAN. Senator, thank you very much. I hope my written testimony can be submitted for the record, but I do want to thank you, on behalf of the airlines for the opportunity to appear here today to discuss both redesign and our scheduling practices.

We've heard the airspace, the east coast airspace and the issue here affects the entire country, and that's absolutely true. What amazing about that is, is that that airspace today is being managed essentially the same way it was in the 1960s. We—it doesn't reflect current technology, it doesn't reflect the integration of airspace between New York and Philadelphia and Washington, it doesn't reflect the air traffic control technologies that exist, and are coming into being today.

As a result, it's managed in a very complex way, and what Airspace Redesign is all about, is trying to eliminate and reduce those complexities, to make the flow of traffic move more smoothly, to better the working conditions for the air traffic controllers, we know there are a lot of issues that need to be worked through, but we're confident that those can be addressed.

We're, of course, also mindful of the concerns expressed about the airlines' scheduling practices. And on that note, I would simply point out that at \$4 a gallon for jet fuel, it's unrealistic to really think that airlines aren't doing everything they can to go after every passenger and every shipment they can, but they're certainly not wasting fuel for the purpose of simply flying around in the air.

Now, how does this reflect itself at Philadelphia International? The FAA's published capacity rate for the airport, under optimal conditions, shows between 104 and 116 operations an hour. Under IFR conditions, that drops to 96. Looking at projected June sched-

ules for this year, in only 1 hour of the day do those scheduled exceed by 4 operations—the 96 level that the FAA publishes as the acceptable IFR rate for that airport. What that tells me is we're not over scheduling at the airport. Philadelphia should be able to handle that level of operations, it shouldn't be handling less than it did before.

Senator SPECTER. Well, Mr. Meenan, if they are not overscheduled, why are these enormous delays?

Mr. MEENAN. In part, sir, because of the inadequate design of the airspace. That's one of the reasons for redesigning the airspace, so that we can move those airplanes more efficiently.

Senator SPECTER. Well, how do you know that? When the schedules were established, what did you say? In 1999?

Mr. MEENAN. What I'm saying is that the FAA publishes rates based on data that the FAA analyzes to determine what an airport—

Senator SPECTER. Publishes rates?

Mr. MEENAN. Rates of acceptable levels of operation at an airport, optimal conditions, as I say, 106 to 114. Under Instrument Flight Rule conditions, at Philadelphia, it's 96.

Senator SPECTER. But, the schedule that they establish is reasonable flight—planes coming in and out—is based upon the current system. You talk about a revised system not using the air properly, well, that may be so, or it may not be so, but what we do know what is so, is what it's on now—are those allotments realistic with what is happening today?

Mr. MEENAN. I think, sir, what we know is that the rates have been published for more than a decade. We would be surprised, based on the billions of dollars that's been spent on the air traffic management system over the last decade, that we're handling fewer operations today than we were able to operate a decade ago. That's disappointing to us.

Senator SPECTER. Handling fewer?

Mr. MEENAN. That's essentially what we would be saying, if we can't handle the levels of operations that the FAA told us a decade ago that that airport can handle.

Senator SPECTER. Well, when they posted them a decade ago, was that for the flight patterns they had at that time?

Mr. MEENAN. It was for the flight patterns they had at that time.

Senator SPECTER. And were there enormous delays on takeoffs and landings?

Mr. MEENAN. Those flight patterns, unfortunately, are still based on 1960s aircraft design characteristics, aircraft operating capabilities, FAA's air traffic control management—

Senator SPECTER. Aren't there more planes now, then—

Mr. MEENAN. There are more planes, but they can perform better. They can perform much more precisely, they can climb more rapidly, they can move much more precisely through the airspace.

Senator SPECTER. But there are many more planes.

Mr. MEENAN. There are, for example, there are 18,000 business jets in operation today that we don't hear much about. All we seem to want to talk about is commercial jets—

Senator SPECTER. Well, do they figure into the—

Mr. MEENAN. Very much so. They're 20 to 30 percent of the operations, for example, in the New York airspace during peak hours. We're not talking about them, we seem to only want to focus on the commercial operators, that are really looking to benefit the broader community.

And on that, I would like to just briefly, the rest of my testimony touches on the fact that if you look at what we think is an indication of what—

Senator SPECTER. You will have all of the time I took from you. It's not the Supreme Court of the United States where Chief Justice Rehnquist bangs the gavel at the end of the—

Mr. MEENAN. Senator, I certainly don't want to prolong this—

Senator SPECTER. I've been there, when I defended the Philadelphia Navy Yard. And the rumor was—you'll get this time, too—the rumor was Chief Justice Rehnquist is looking for an opportunity to interrupt a lawyer in the middle of the word "if."

Your turn, Mr. Meenan.

Mr. MEENAN. There's 6 million people in the Philadelphia metropolitan area, there are 24 million passengers a year at Philadelphia, origin and destination passengers. Those are people who are coming from the community and using the airport. There's another, 20 or 30 percent more of connecting passengers there.

Right now, this last summer, looking at the busiest period of the year, our load factors at the airport were over 80 percent—83, 84, 85 percent. That's an extraordinarily high level of people getting on each and every airplane leaving that airport. What that tells me is, we're just meeting the demands of the community. We're trying to respond to the economic needs of the Philadelphia area.

That's what we want to do, that's what we're in the business of doing. We want to be able to do that as efficiently, and as an environmentally friendly way as possible. We think the Airspace Redesign, for example, can help reduce emissions by 20 percent in the region. We think it can help reduce exposed noise population rather substantially, for the most part. There are always going to be small communities, they're going to be affected differently. We can't avoid that, at this point.

One final note I would really like to emphasize, and that is that the airline industry today is in a far more serious financial meltdown than it was following 9/11.

There are fundamental questions about the future of aviation in the United States. We think this is a particularly inappropriate time for the Department of Transportation to be talking about extracting more money from the airline industry for some economic experiment, rather than getting at the heart of some of these problems, and helping us move more airplanes as efficiently as possible.

Senator SPECTER. You—are you finished?

Mr. MEENAN. I will end on that note.

Senator SPECTER. Okay. I just—

PREPARED STATEMENT

Mr. MEENAN. But I—one more—we look forward to working with everyone—with you, with Congress, with the FAA, with the controllers, with the communities, with the airports—that's the business we're in.

Senator SPECTER. I just wanted to be sure you felt that you were getting all of your 5 minute allowance.

Mr. MEENAN. I appreciate it very much, sir.
[The statement follows:]

PREPARED STATEMENT OF JOHN MEENAN

On behalf of the Air Transport Association,¹ let me begin by thanking the subcommittee for the opportunity to appear at today's field hearing. The level and quality of air service to and from Philadelphia is of vital importance to us and we look forward to discussing both the ongoing airspace redesign and airline scheduling practices.

As to the former, as the subcommittee is aware, the Federal Aviation Administration (FAA) has undertaken a multi-year, four-stage project to re-engineer the way the Nation's airspace is utilized in the New York/New Jersey/Philadelphia Metropolitan Area. This project has been in development for 10 years and has been the subject of an extensive environmental review. It is critically important.

Why? The airspace under review is among the most heavily congested in the United States. This is not surprising given that the aviation marketplace in the metroplex both fuels and benefits from the vibrant economy of the region. What is surprising, however, is the fact that the way this airspace is currently being managed is based on aircraft performance characteristics and air traffic control technologies dating to the early 1960s.

As a result, the way the airspace is managed is extremely complicated—and that complexity leads to avoidable delays. By re-engineering the airspace to take greater advantage of modern aircraft climb capabilities, improved speed, higher altitude capability and more precise navigation technology—and by better integrating the way the airspace is managed in relation to adjoining airspace—we can move more aircraft even more safely and with greater efficiency. Aside from the obvious benefit of reduced delays, the FAA projects a drop in people exposed to noise levels above 45 DNL of 619,000 and a reduction of aircraft emissions by 20 percent. In an era of \$4 per gallon jet fuel, of course, we would also welcome the associated reduction in fuel burn.

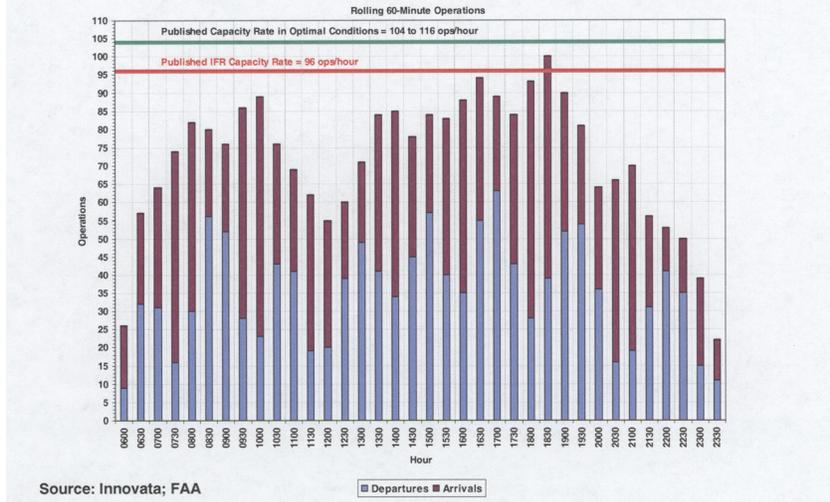
In addition to these benefits, the redesign is also intended to reduce and improve the balance of air traffic controller workload by permitting the more efficient flowing of traffic through the airspace. It will enhance departure capabilities with additional headings—a key to reducing delays—and provide greater flexibility in routing aircraft during significant weather events.

We are, of course, also mindful of concerns expressed about airline scheduling and the often expressed concern with “over-scheduling.” To return the focus to \$4 per gallon jet fuel for just a moment, I would simply note that airlines are intensely motivated to schedule flights to meet public demand for air transportation—they are seeking every passenger (or shipper) possible. Excess capacity or over-scheduling makes no sense.

How does this reflect itself at Philadelphia International Airport? The FAA's published capacity rate for the airport under optimal conditions is between 104 and 116 operations per hour. Under instrument flight rule (IFR) conditions that rate drops to 96 per hour. Looking at projected June 2008 airline schedules, reflecting the busiest travel season, there is only one hour in which scheduled operations exceed (by 4) the published IFR capacity of the airport. At no point do scheduled operations exceed the optimal conditions rates. These levels of demand are consistent with what Philadelphia Airport is capable of handling.

¹ ATA airline members are: ABX Air, Inc.; AirTran Airways; Alaska Airlines, Inc.; Aloha 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 US Airways, Inc. ATA Airline Associate Members are: Air Canada, Air Jamaica Ltd. and Mexicana.

Philadelphia June 2008 Schedule Scheduled Operations vs. Published Capacity Rate



The data is also strongly suggestive that these schedules are driven by consumer demand. The best indicator is to look at the load factors expected on flights at Philadelphia Airport. For the June 2008 schedule cited, looking back to last summer offers the best picture of what to expect this summer. What we see is that the average load factor for the two largest carriers operating at Philadelphia Airport exceeded 84 percent for this time frame. That is an extraordinarily high percentage of filled seats on each and every flight and we have every reason to believe that will be equaled if not exceeded this summer. Rather than over-scheduling it would appear that the carriers are hitting the mark in meeting the market demand.

WN/US AVERAGE PHL LOAD FACTORS

	Percent
June 2007	84.16
July 2007	84.43
August 2007	83.37

In conclusion, the stakes for airspace redesign are high. This is a program with tremendous potential to pay noise, emissions, reduced fuel consumption and delay reduction dividends. Properly implemented, the long-term benefits to the regional and national economies are tremendous and we look forward to working with the FAA, the controllers, the airport, the community and all interested stakeholders to assure that those benefits are realized.

Thank you and I would, of course be pleased to respond to any questions.

Senator SPECTER. With an exception I took.

I will begin the questioning with you, Mr. Meenan.

Will you set the clock at 5 minutes please? Not that I'll observe, but I'd like to know what the time is.

The chairman doesn't have to observe the time limit. The witnesses do, and that's only to try to inject some mortar into focus as to what, at least the subcommittee thinks is relevant.

You said, Mr. Meenan, something about the Government extracting funds from the airlines and you were in disagreement with what they were doing. Would you expand on that?

Mr. MEENAN. The—the subject is this—this economic experiment that's being tried up at LaGuardia to take more money, effectively, out of the airline industry and turn it over to the Government. And the putative purpose behind that is to—to move airplanes out of particular slots in the day.

Senator SPECTER. You think that's a bad idea?

Mr. MEENAN. We think that's a very bad idea. We think that the industry is—

Senator SPECTER. Especially since the FAA thinks they're adequately financed?

Mr. MEENAN. The FAA does think they're adequately financed, but I—

Senator SPECTER. So why are they asking for more money at LaGuardia?

Mr. MEENAN. The—

Senator SPECTER. That's a question for them, not you.

Mr. MEENAN. That's a question really that I can't answer. But the—our point in it is, the airline industry needs every penny it has today to try to improve the way we fly people around the country, the service we provide to the public, the way we replace our fleet. The U.S. airline fleet is aging rapidly and we are unable to replenish that fleet, because we don't have the money to do it.

That's why we are opposed to things that simply take more money off the table. We think they're hurting the end-game—the end-goal here, which is improving service.

Senator SPECTER. Mr. Meenan, you heard the testimony about the enormous delays in the Philadelphia Airport, takeoff and landing, and the way they're scheduling 35 flights in 45 minutes, can't possibly handle it. Do you think that is satisfactory?

Mr. MEENAN. Senator, the carriers are always looking at the way they schedule to try to improve their performance, to try to improve their on-time performance overall. We think that—and I will say that the carriers are precluded from talking to one another about how they schedule those flights, as you know.

But on balance, we think an airport like Philadelphia, with a published capacity of 96 instrument flight rule operations per hour, ought to be able to handle, pretty comfortably, 96 instrument flight rule operations per hour.

Senator SPECTER. Now would you answer my question?

Mr. MEENAN. And that was—

Senator SPECTER. Forgot it.

Mr. MEENAN. I'm not sure—

Senator SPECTER. With the enormous delays, takeoff and landing, which you hear, and I repeated something just now, is that satisfactory?

Mr. MEENAN. Not at all.

Senator SPECTER. Okay. That's all I wanted to know. And if you look for the years ahead, on a speculative basis, it is too long to wait and who knows what we'll get at the end of the wait.

What—do you think—well let me go to Congressman Sestak, do you think, in light of the fact that the FAA has the authority now

to impose caps and they haven't done it, that the House and Senate—I put the House first—that the House and Senate ought to impose mandates?

Mr. SESTAK. No sir, I don't think they should do that right now.

Senator SPECTER. Should do that?

Mr. SESTAK. I do not think that they should do that right now. It is an option later. I think that there is a better way to approach this.

Senator SPECTER. Congressman Sestak, would you follow the suggestion of your colleague, Congressman Dent, from the Lehigh Valley who—understandably on grounds of representing the Lehigh Valley—would like to have that airport used more. He makes an argument of accessibility from a good part of the metropolitan area, not too far—if you start, say at Willow Grove, probably closer to the Lehigh Valley Airport than the Philadelphia Airport. Do you think there ought to be a big effort made to use that airport more?

Mr. SESTAK. Yes, sir. Lehigh and New Castle. And as you know, when the BRAC Commission closed Willow Grove, it was inserted in the language that the future use of this was to be used as a civilian airport.

Senator SPECTER. You had mentioned Washington and Baltimore and flights, do you think that there ought to be a prohibition on flights from those cities, to use alternative transportation like Amtrak?

Mr. SESTAK. No sir, I don't think that there should be, right now, a prohibition. I think a better way to do it is to invest in a bullet-like type of train, like Shanghai has or Maglev capability, which you well know, because I know your office is following this, that Pittsburgh is developing—and Delaware County Community College is investing in—so that someone can get on a train and be there in relative minutes.

I think that type of positive incentive to move to a different type of inter-modal transportation is the way to do it, if you can avoid mandating it from the Government level.

Senator SPECTER. Do you see a way to integrate Pittsburgh, Congressman Sestak, into the issues and problems we're facing here, for some of the answer?

Mr. SESTAK. Yes sir, I do. There has been a proposal, and I believe Brian Lentz the State Representative has, that there should be much more of a regional airport approach to this. We have, as Mr. Whelan's pointed out, two-thirds of this airport is actually in Delaware County, but the authority resides in Philadelphia. I believe that, both on the—as you, I believe, are addressing—I hope I'm answering the question—there are all these airports in the region—

Senator SPECTER. And you think the Pittsburgh Airport could figure in that?

Mr. SESTAK. Yes sir, I do, in the sense that what—where does Pittsburgh fly to? For example, does it fly to Harrisburg? Or does it fly to—and I don't know the answer to that. But if you then look at where it is flying to, can we then, not just on the Airspace Regional Plan, but on the Surface Regional Plan, actually alleviate the demands.

Senator SPECTER. But how could that take pressure off of the Philadelphia Airport?

Mr. SESTAK. I'm not sure, sir, right now. I just—as I said, I believe it can work itself in.

Senator SPECTER. Mr. Meenan, is there any realistic way to utilize Pittsburgh to take pressure off of Philadelphia?

Mr. MEENAN. I think it obviously is something that individual carriers have to decide where they want to base their operation. But when you're running a network system, if that's what you're talking about, you pick a particular spot for a hub, and that's where you work out from.

Senator SPECTER. Well, the airlines have made their choices.

Mr. MEENAN. But other—other carriers certainly have decided Pittsburgh is a great spot for business. There are carriers providing a lot of service there.

Senator SPECTER. But the question is, would it take pressure off of Philadelphia?

Mr. MEENAN. I don't really think it, I mean, when you—if you want an airport like Philadelphia to grow and expand into a worldwide airport, the more service you have in and out of there, the more rapidly that worldwide service will develop. By dispersing yourself into, you know, backyard sort of steel mills isn't going to get you there.

Mr. SESTAK. Mr. Senator, may I ask—

Senator SPECTER. Of course, it looks like you have something critical, because I do want to move on to some of the other panelists quick.

Mr. SESTAK. May I just—the critical issue I think in this is, a lot, a vast majority—when you take off from Philadelphia, air traffic goes into New York airspace. The delays are not caused by Philadelphia, the delays, as the controllers can tell you, are caused because they wait on the tarmac, waiting for New York airspace to open up. If Pittsburgh airspace—aircraft are also jamming itself into that New York airspace, that's part of the delay in Philadelphia. So there is an interconnection.

Mr. MEENAN. Senator?

Senator SPECTER. Mr. Forrey, you talked about shortage and fatigue. Could you amplify your thought that that is contributing to the delays?

Mr. FORREY. Well, the fewer controllers you have, the fewer positions you can open, so the controllers are now required to work more aircraft, they're busier, it's a greater workload, they get tired quicker. And when you get tired you make mistakes, so when you are prone to make mistakes, you try to be more careful. As you're being more careful, you may end up causing more delays. So, it's just a question of the ability to manage traffic in a safe and efficient manner, and the more tired you get, the harder that is.

Senator SPECTER. I was distracted for a moment, would you repeat that answer?

Mr. FORREY. Yes, sir. I'd certainly be happy to.

Senator, when you have fewer controllers and they're working more positions combined, they're working more aircraft combined, the workload is greater and it creates quite a bit of mental fatigue. And when you know you're prone to making mistakes, you try to

be more careful, so you try to be more precise and direct and slow down. So, that's part of the difficulty. Or, you get jammed up quicker and now you've got a mess on your hands and you have to shut things off before you can clean it up, because you have to be safe before you are anything else.

Senator SPECTER. Vice Chairman Whelan, I'm very much impressed with the specific situation, you commented about people being kept awake 12 a.m. to 5 a.m., because the FAA says they don't use that flight—in that timeframe. That from 10 p.m. to 7 a.m. they fly across the river.

I would ask you, how do you account for that, but there's no way you can. What do you think of that?

Mr. WHELAN. Well, you're correct, I can't account for it, but I can tell you, I'm getting a myriad of complaints at that particular timeframe.

Just last week, I received a complaint from a couple of senior citizens that live on Colonial Drive in Nether Providence Township. They say they are constantly being awoken in the night, but their problem area is anywhere from 8 p.m., right through the middle of the night. I was going to schedule a visit to that particular neighborhood to see what's going on, but it's contrary, clearly, to what the FAA testified here today.

Senator SPECTER. Mr. Whelan, I'd like to get those specifics from you, and have my staff contact you to get those specific people, copies of your correspondence, so we can confront the FAA.

You've heard what they've had to say here about the hours they don't fly over Delaware County, at a very minimum, they really ought to be observing that. We heard what might be characterized as double-talk about peak hours and not more than 10 flights waiting, et cetera, et cetera. We're going to have to see to it that at least they abide by their own rules. They try to make a case of necessity for some of those flights, but they've established times where they say they won't fly, they at least ought to be held to that.

Mr. AICHELE, how serious do you think this problem is of retarding growth of business?

Mr. AICHELE. It's clearly——

Senator SPECTER. In the region?

Mr. AICHELE. It's serious. It's clearly having an impact today, and to the extent that you try to resolve the issue by laying off flights or moving flights to more convenient times, you will end up further exacerbating the issue of the convenience for business travelers coming and going from Philadelphia.

We have had situations where meeting planners have told our folks that when they're coming to Philadelphia, they schedule a, you know, an hour or 2 hour earlier flight, just to make sure they account for the delays. And if they're telling us that, imagine what they're telling their people, the folks that are scheduling, what do you call that—bringing businesses into town—they're the site selectors.

Senator SPECTER. Mr. Aichele, what do you think about the proposition that the FAA on its own ought to impose limits, and see to it that schedules are established so that they're not overbooked to have the long delays?

Mr. AICHELE. It seems—as a business person—I'd always rather have less Government regulation, then more.

On the other hand—

Senator SPECTER. You're not just a business person, you're a lawyer, you're the head of a very big law firm.

Mr. AICHELE. Who very much appreciates the importance of convenience in getting in and out of our airport to the rest of the cities we need to be at.

Where I was going is—

Senator SPECTER. How many cities do you have offices in?

Mr. AICHELE. Eight different cities throughout the region.

Senator SPECTER. You must use air traffic.

Mr. AICHELE. All the time. And we suffer the delays in spades.

Senator SPECTER. Do you have to schedule 2 hours early, to be sure you get there?

Mr. AICHELE. Yes, sir.

Senator SPECTER. What's your hourly rate?

You don't have to answer that question.

Mr. AICHELE. Thank you, sir.

Senator SPECTER. But those 2 hours are costing a lot of money.

Mr. AICHELE. Yes, sir. There's no doubt about it. And that inefficiency, that exact inefficiency is—

Senator SPECTER. I used to—I used to do that.

Now, you might be interested to know, not relevant to this subject, that I've asked Laurie Frankly to appear before the International Trade Commission. The U.S. Steel Industry wants me to appear there.

I'm not sure they like the quality of my argument, but they certainly like my hourly rate. I don't do case law.

So, what do you think about FAA establishing schedules so that you don't have to leave 2 hours early? See to it that we, if not eliminate, at least minimize these long waits?

Mr. AICHELE. If it maintains or increases the capacity of the airport to bring people into this town and get people out of the town, then it's something that should be looked at.

Senator SPECTER. Anybody else have anything they'd like to have added to this fund of knowledge?

I thought you might, Congressman Sestak.

Mr. SESTAK. Thanks, Senator. I just wanted to make it clear that all we want is to ask this to stop and have a true cost-benefit study done, where the costs are transparent and the benefits are transparent.

Then society, the citizens, the Government can make a decision objectively—what are the right options? I honestly believe that when all of the costs are out there, that it will force you to look at these other options that you've, at least, asked questions about—regional airports, or caps, or other ones, and then you can look at the fair spread of options.

Because it is true, this is an important economic development. We just believe that this has come to a—since that 2003 legislation to a single-source solution that has not—as FAA Administrator says, where they have—don't even know the cost financially, never mind the impact on education and health—and then have an objective assessment done.

Senator SPECTER. Well, thank you very much, gentlemen. We're now approaching the 2½ hour mark, and it had run longer than I had anticipated, but I did not want to cut anybody short, I wanted to explore one of the issues fully. It took months to schedule this hearing, to get the FAA to come to Philadelphia—very, very hard to get them to do that, had a lot of preparation time when they appeared before the subcommittee in Washington, and a lot of correspondences. And I sat down for an hour with them earlier this week, to get a background so that we—it wasn't too easy to illicit information today. But you should have been with me on Wednesday for an hour.

But these are complex matters, and they require a lot of explanation.

CONCLUSION OF HEARING

But we very much appreciate your coming, and that concludes our hearing.

[Whereupon, at 5:38 p.m., Friday, April 25, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

○