

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D.C.**

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**In the matter of** :  
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**Supplemental Notice of Proposed** :  
**Rulemaking Concerning** : **Docket No. FAA-2006-25709**  
**Congestion Management at** :  
**New York LaGuardia Airport** :  
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**REQUEST TO CLARIFY NOTICE AND EXTEND PUBLIC COMMENT  
PERIOD**

The Air Transport Association of America, Inc., the Regional Airline Association, and the Air Carrier Association of America on behalf of our members, have a strong interest in the supplemental notice of proposed rulemaking (SNPRM) that seeks to impose auction mechanisms to reallocate and retire slots at New York’s LaGuardia Airport (LGA). A 60-day comment period, closing June 16, 2008, has been provided. 73 FR 20836, April 17, 2008. Because of the importance of this issue to Congress, the flying public and industry, we respectfully request that the comment period be suspended until the record is amended with additional pertinent information and that additional time be provided to submit comments.

The SNPRM describes leasing slots to carriers with mandatory terms and conditions; violation of those slot terms may result in default. However, DOT provides no description of potential lease terms and conditions, the definition of default, or what the consequences of a default may be. In addition, DOT intends to procure services to conduct auctions, but has yet to do so. As DOT states in the Initial Regulatory Evaluation, it cannot provide the complete details of the auction process but provides auction features it “...would expect any acceptable auction services would include.”<sup>1</sup>

Without any information on the lease terms that could result in loss of slots, and a definitive auction method, carriers cannot plan for future sales and the public is prevented from effectively commenting on this proposal. These are fundamental concerns. Without additional information the SNPRM fails to provide sufficient public notice and the opportunity to comment under the Administrative Procedure Act.<sup>2</sup> In addition, there

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<sup>1</sup> See “Initial Regulatory Evaluation, Congestion Management Rule for New York LaGuardia Airport,” page 21, April 11, 2008, Docket No. FAA-2006-25709-0096.

<sup>2</sup> The APA requires a notice of proposed rulemaking to include, among other things, “either the terms or substance of the proposed rule or a description of the subject and issues involved.” 5 U.S.C. § 553(b)(3). To obtain meaningful participation from the public, courts have consistently held that an NPRM must “fairly apprise interested persons” of the issues in the rulemaking. *United Steelworks v. Marshall*, 647 F.2d

should be no harm in providing addition time to comment since DOT will have to develop these fundamental details in order to implement this rule.

We request that DOT suspend the comment period, clarify and amend the SNPRM to provide adequate public notice on the above provisions and provide a 60-day comment period after posting its clarification in the docket.

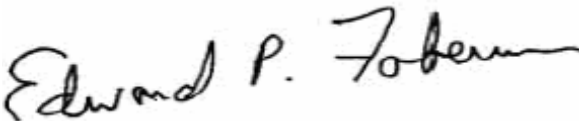
Respectfully submitted,



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April 30, 2008