



**Darryl Jenkins**  
PRESIDENT

July 20, 2010

The Honorable Ray LaHood  
Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590-0001

**Re: Tarmac Delay Limits and Public Welfare Estimates**

Dear Secretary LaHood:

Over the past four months, I have participated in a comprehensive research program to estimate the public welfare change from the implementation of tarmac delay rules. Our team has reviewed millions of flight records from public data sources as well as the regulatory impact analysis and supporting material from the Final Rule effective April 29, 2010.

In our reports, we conclude that the Department's assumptions about cancellations, diversions, and other operating factors impacting consumer welfare were overly optimistic. As you are aware from airline reporting, there are already pronounced and serious trends in flight cancellations attributable directly to tarmac delay limits that exceed the Department's estimates by orders of magnitude. We also identify and demonstrate that the Department's ambiguity in specific fines and enforcement criteria for tarmac rule violations is causing extreme risk aversion among airlines, needless cancellations and unwarranted public harm.

For more information, I refer you and your staff to our report, which accompanies this letter.

Based on our findings, we respectfully request that the Department consider the following actions:

- 1.) If the Department does not intend to seek punitive and disproportionate fines for relatively minor infractions of the tarmac delay limit, it needs to clarify its position urgently in a public and transparent manner. This will reduce unnecessary flight cancellations and diversions.
- 2.) If the Department does intend to seek punitive and disproportionate fines, it must acknowledge the demonstrated consequences on public welfare.
- 3.) Regardless of the Department's fine intentions, the estimates used in the Regulatory Impact Analysis to justify the Department's approach should be updated to reflect real-world cancellations and passenger re-accommodation time.

We believe that the deviations between the Department's original flight cancellation and welfare estimates, versus observed results from May 2010, merit immediate and urgent attention by both DOT and airlines.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Darryl Jenkins', written over a thin horizontal line.

Darryl Jenkins  
President, The Airline Zone