

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 93**

[Docket No. FAA-2005-21249; Amendment No. 93-84]

RIN 2120-A158

Definition of Commuter Aircraft at Ronald Reagan Washington National Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration (FAA) is amending the regulations for aircraft permitted to operate in commuter slots at Ronald Reagan Washington National Airport (DCA). This change is necessary to conform the regulations to amendments set forth in the Vision 100—Century of Aviation Reauthorization Act of 2003 (Vision 100) Section 426, which increases the maximum seating capacity for aircraft used in commuter slots at DCA.

DATES: This final rule is effective May 19, 2005.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Availability of Final Rule

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of

1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.faa.gov/avr/arm/sbreffa.cfm>.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

The FAA publishes this rulemaking under the authority described in Subtitle VII, Part 93, Subpart K, Section 93.123—High Density Traffic Airports. Under that section, the FAA designates high-density traffic airports and air traffic rules for operating aircraft, other than helicopters, to or from those airports. This regulation is within the scope of that authority.

Background

The FAA published the High Density Traffic Airports Rule, 14 CFR part 93, subpart K, in 1968 to reduce delays at five congested airports: JFK International Airport, LaGuardia Airport, O'Hare International Airport, Ronald Reagan National Airport, and Newark International Airport (33 FR 17896; December 3, 1968).

On December 12, 2003, the president signed Vision 100—Century of Aviation Reauthorization Act, Public Law 108-176 (Vision 100). Section 426 of Vision 100 amended 49 U.S.C 41718 by adding:

(f) Commuter Defined.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less."

This amendment to part 93 as a final rule incorporates changes mandated by the Vision 100 legislation.

Discussion of the Amendment

Ronald Reagan National (DCA) is designated as a high-density traffic airport in 14 CFR 93.123(a). The number of slots allocated to the commuter category, as used in paragraph (a) of this section, refers to the number of operations conducted by air carriers with:

- Turboprop aircraft having a certificated maximum passenger seating capacity of less than 75; or
- Turbojet aircraft having a certificated maximum passenger seating capacity of less than 56; or
- Any aircraft having a maximum payload capacity of less than 18,000 pounds, if used for cargo service in air transportation.

This rule amends § 93.123(c)(2), by removing the distinction at DCA between turbojet aircraft and turboprop aircraft. The amendment permits the operation of any aircraft in commuter slots that have a maximum passenger seating capacity of 76 or less. This amendment does not change the restrictions on maximum payload capacity for cargo operations using commuter slots at DCA or any other High Density Traffic Airports.

Paperwork Reduction Act

There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of the Administrative Procedures Act (APA) (5 U.S.C. Section 553(b)(3)(B)) authorizes agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under this section, good cause exists if the notice and opportunities for comment are "impracticable, unnecessary, or contrary to the public interest."

The FAA finds that notice and public comment to this final rule are impracticable, unnecessary, and contrary to the public interest, because this final rule adopts a Congressional mandate.

Regulatory Analyses

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We do not propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this rule indicates that its economic impact is

minimal. Since its costs and benefits do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory impact analysis." Similarly, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We determine whether a proposed or final action will have a "significant economic impact on a substantial number of small entities" as defined in the Act. If we find that the action will have a significant impact, we complete a "regulatory flexibility analysis."

This final rule increases the maximum seating capacity for aircraft operated in commuter slots at DCA. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will not have any impact on international entities and thus has no international trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law

104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312(f) and involves no extraordinary circumstances.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA Pub. L. 94–163), as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska Navigation (air), Reporting and recordkeeping.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration amends chapter I of title 14 Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

■ 2. Revise § 93.123(c)(2) to read as follows:

§ 93.123 High density traffic airports.

* * * * *

(c) * * *

(2) The number of operations allocated to scheduled commuters, as used in paragraph (a) of this section, refers to the number of operations conducted by air carriers with turboprop and reciprocating engine aircraft having a certificated maximum passenger seating capacity of less than 75 or by turbojet aircraft having a certificated maximum passenger seating capacity of less than 56, or if used for cargo service in air transportation, with any aircraft having a maximum payload capacity of less than 18,000 pounds. For purposes of aircraft operations at Ronald Reagan Washington National Airport, the term "commuters" means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

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Issued in Washington, DC, on May 11, 2005.

Marion Blakey,

Administrator.

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