

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Title 49 U.S.C. 44720 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, text and certify other persons for the purpose of issuing them pilot and instructor certificates.

DATES: Please submit comments by November 13, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267-9895, or by e-mail at: Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Representative of the Administrator.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120-0033.

Forms(s): 8110-14, 8110-28, 8710-6, 8710-9.

Affected Public: A total of 4,874 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 1.413 hour per response.

Estimated Annual Burden Hours: An estimated 6,886 hours annually.

Abstract: Title 49 U.S.C. 44720 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, text and certify other persons for the purpose of issuing them pilot and instructor certificates.

ADDRESSES: Send comments to the FAA at the following address: Mrs. Carla Mauney, Room 1033, Federal Aviation Administration, Information Systems and Technology Services Staff, ABA-20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on September 7, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA-20.

[FR Doc. 06-7640 Filed 9-13-06; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2006-25755]

Operating Limitations at New York LaGuardia Airport

ACTION: Proposed Order and request for comments.

SUMMARY: The Federal Aviation Administration (FAA) has tentatively determined that it will be necessary to place temporary limitations on flight operations at New York's LaGuardia Airport (LaGuardia), as described in this proposed order. The period during which the FAA anticipates that these limitations will remain in effect is January 2, 2007, through September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Regulations Division, Office of the Chief Counsel; Telephone: (202) 267-3073; E-mail: komal.jain@faa.gov.

SUPPLEMENTARY INFORMATION:

Proposed Order and Request for Comments

The Federal Aviation Administration (FAA) has tentatively determined that it will be necessary to place temporary limitations on flight operations at New York's LaGuardia Airport (LaGuardia), as described in this proposed order. The period during which the FAA anticipates that these limitations will remain in effect is January 2, 2007, through September 30, 2007. The FAA invites air carriers and other interested persons to submit written comments on this proposal in Docket FAA-2006-25755. After reviewing and evaluating the comments, the FAA expects to issue a final order on this proposal.

In the absence of the operational limitations proposed in this order, the FAA anticipates a return of the congestion-related delays that the traveling public experienced in 2000. These delays were not limited to LaGuardia, but spread to other airports throughout the National Airspace System (NAS). In a separate docket, the FAA is soliciting public comments on a proposed rule that would limit the number of scheduled and unscheduled operations at LaGuardia (2006

LaGuardia NPRM).¹ The FAA expects that the expiration of the operational limitations under this proposed order would coincide with the effective date of any final rule that the FAA adopts in the related rulemaking proceeding.

The FAA's authority to limit the number of flight operations at LaGuardia is an essential component of the FAA's statutory responsibilities. The FAA holds broad authority under 49 U.S.C. 40103(b) to regulate the use of the navigable airspace of the United States. This provision authorizes the FAA to develop plans and policy for the use of navigable airspace and, by order or rule, to regulate the use of the airspace as necessary to ensure its efficient use.

I. Background

As a result of LaGuardia's history of congestion-related delays, the FAA, over the course of nearly forty years, applied increasingly detailed rules to govern the allocation and use of limited capacity at the airport.² These regulations, collectively known as the High Density Rule and the Buy-Sell Rule (slot rules), were effective at controlling congestion at LaGuardia. In 2000, however, out of concern with the collateral effects of the slot rules at LaGuardia on airport access and competition, Congress elected to phase out the slot regulations at the airport under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21).³ Congress simultaneously directed the U.S. Department of Transportation, effective immediately, to grant all applications for exemptions from the slot rules for specific types of flight, i.e., flights operated by new entrant carriers and flights that would serve small hub and non-hub airports with aircraft with less than 71 seats operations.⁴ By statute, the slot rules will expire at LaGuardia after January 1, 2007.⁵

As carriers began using the slot exemptions permitted under AIR-21, the number of scheduled flight operations at LaGuardia began to far exceed the airport's capacity even under optimal operating conditions.⁶ With no new airport infrastructure or air traffic control procedures, overall airport capacity remained the same while the

¹ Docket FAA-2006-25709; 71 FR 51360.

² See 33 FR 17,896, 17,898 (Dec. 3, 1968); 34 FR 2603 (Feb. 26, 1969); cf. 14 CFR 93.121-93.133, 93.211-93.227 (2006).

³ Public Law No. 106-181, § 231, 114 Stat. 61, 106-10 (2000) (codified at 49 U.S.C. 41714-16).

⁴ 49 U.S.C. 41716.

⁵ 49 U.S.C. 41715(a)(2).

⁶ The increase in scheduled operations at LaGuardia is described more fully at 66 FR 31,731, 31,732-34 (June 12, 2001).

number of aircraft operations and delays soared. The average minutes of delay for all arriving flights at LaGuardia increased 144% from 15.52 minutes in March 2000 (the months before AIR-21 was enacted) to 37.86 minutes in September 2000.⁷ The increase in delay was not limited to delays at LaGuardia. Flights that arrived and departed late at LaGuardia affected flights at other airports and in adjacent airspace as well; by September 2000, flight delays at LaGuardia accounted for 25 percent of the nation's delays, compared to 10 percent for the previous year.⁸

In order to quell the growing congestion at LaGuardia, the FAA intervened in November 2000. The FAA reduced the number of daily exemptions from the High Density Rule at LaGuardia to 159 during peak operating hours and distributed the exemptions via lottery.⁹ The 159 daily operations reflected an increase of almost eleven hourly operations above the limits in place before the statutory amendments. Despite the FAA's partial rollback of the number of exemption flights, LaGuardia is now operating at its peak, optimal weather capacity during weekday daytime and evening hours and during Sunday afternoon and evening hours, and LaGuardia continues to have a relatively serious delay problem.

Although LaGuardia lacks the capacity to handle additional flight operations beyond the current peak hour limits, the legislative expiration of the High Density Rule at LaGuardia after January 1, 2007, will eliminate the scheduling and reservation mechanisms that currently sustain the airport's operational balance.¹⁰ Accordingly, the FAA has proposed a new rule to maintain the number of operations at LaGuardia's current hourly limits. The 2006 LaGuardia NPRM has only recently been published for public comment, and a final rule cannot be issued before the expiration of the High Density Rule. An order that temporarily maintains LaGuardia's current operational limits during the interval between the High Density Rule's expiration and the effective date of the proposed replacement rule appears necessary, because we need to avoid any increase in the number of operations or

a significant rescheduling of existing flights at LaGuardia.

Based on past experience, the FAA expects that the termination of the slot rules at LaGuardia will lead to a significant increase in flights, seriously worsening delays at LaGuardia and elsewhere in the NAS. The FAA believes that airline demand for flights into and out of LaGuardia substantially exceeds the number of flights currently permitted at the airport. Six years ago the statutory change that required the Department to grant all slot exemption applications for specified types of service created an unacceptable level of delay at LaGuardia even though established carriers could not obtain slot exemptions for service to larger communities or for flights operated with larger aircraft. If the FAA does not adopt temporary limits on LaGuardia flights, the termination of the slot rules would eliminate all legal restrictions on the airlines' addition of flights to larger communities and flights operated with larger aircraft.¹¹

The FAA has tentatively determined not to propose several aspects of the current slot and slot exemption rules in this proposed order. In addition to reducing the days and hours covered by the slot rules, the FAA is not proposing limitations based on the number of passenger seats on the aircraft or the community served. While there may be legitimate policy objectives for such limits, such as those under consideration in the 2006 LaGuardia NPRM, they are not essential to control congestion in the interim.

In order to promote the use of scarce resources, carriers would be permitted to temporarily transfer operating authorizations to other carriers.

The FAA proposes to include a minimum usage requirement for the flight operations assigned under the order. These flight operations are a scarce resource and we desire that they are efficiently utilized during the effective period of the order. Our experience with the August 2004 Scheduling Reduction Order at Chicago's O'Hare International Airport, which capped scheduled arrivals during peak hours and allocated arrival authorizations without a minimum usage requirement, was that some carriers did not utilize their authorities and thereby the airport, the traveling public at O'Hare and the aviation system in general suffered unused capacity. We propose a minimum usage

requirement for the operating authorizations, as we have adopted in the final rule reducing congestion and delay at O'Hare. 14 CFR part 93, subpart B (71 FR 51382-51404, August 29, 2006.). Carriers would be required to use their authorizations at least 80 percent of the time over any two month reporting period in order to retain the authorization. The Administrator could decide to waive the 80 percent usage requirement under highly unusual conditions that are beyond the carrier's control and that last for at least 5 consecutive days.

In addition, this proposed order contains a lottery provision to reallocate withdrawn, surrendered, or unallocated operating authorizations. We propose to follow the lottery procedures set forth in 14 CFR 93.225. The reallocation of operating authorizations by lottery under this proposed order would be temporary. The limits on flights and the allocation of any operations created by the FAA's final decision in the rulemaking proceeding will control LaGuardia operations after any new rule takes effect.

After reviewing the comments received on the following proposed measures, the FAA expects to issue a final order that temporarily governs flight operations at LaGuardia. Because the airport has unused capacity in the terminal facilities, a final decision limiting the number of flights presumably would not discourage airlines from using their rights in a way that increased passenger traffic at LaGuardia.

The FAA has determined that it has the statutory authority to adopt this proposal. The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. Section 40103 authorizes the FAA to develop plans and policy for the use of navigable airspace and to assign the use that the FAA deems necessary for its safe and efficient utilization. It further directs the FAA to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace. The FAA interprets its broad statutory authority to ensure the efficient use of the navigable airspace to encompass management of the nationwide system of air commerce and air traffic control. While Congress determined to phase out the long-standing slot rules at LaGuardia, Congress did not strip the FAA of its authority to place operating limitations on air carriers or other operators to preserve the efficient utilization of the national airspace. Indeed, the FAA has used that authority to restrict the number of slot exemptions since 2001,

⁷ Source: FAA's Aviation System Performance Metrics (ASPM).

⁸ Calculated from FAA's Air Traffic Operations Network Database (OPSNET).

⁹ 65 FR 69,126, 69,127-28 (Nov. 15, 2000). This was extended through December 31, 2006. 70 FR 36998 (June 27, 2005).

¹⁰ The FAA maintains safe operations through the use of air traffic control procedures. Traffic management initiatives would be applied as needed but would result in significant aircraft and passenger delays.

¹¹ Several years after Congress' decision in 2000 to abolish the High Density and Buy-Sell Rules at O'Hare, the increasing congestion and delay problems at O'Hare forced the FAA to limit flights at that airport. See 70 FR 15521 (March 25, 2005).

with general support from the impacted operators.

II. Proposed Interim Measures

A. Scheduled Operations

The FAA proposes to adopt the following measures with respect to scheduled operations at LaGuardia:

1. The final order would govern scheduled arrivals and departures at LaGuardia from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The final order would take effect on January 2, 2007, and would expire at 9:59 p.m., Eastern Time, on September 30, 2007.

3. The final order would assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority (or the air carrier that operates it if a non-air carrier holds such authority) under the High Density Rule or FAA slot exemption rules as of January 1, 2007. The FAA would not assign operating authority under the final order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority to conduct scheduled passenger service and FAA operating authority under 14 CFR part 121, 129, or 135.

4. For administrative tracking purposes only, the FAA would assign an identification number to each operating authorization.

5. An air carrier could transfer an operating authorization to another carrier, not to exceed the duration of the final order. An air carrier also could trade an operating authorization to another air carrier on a one-for-one basis, not to exceed the duration of the final order. Notice of transfer or a trade under this paragraph would be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267-7277 or e-mail 7-AWA-Slotadmin@faa.gov, and must come from a designated representative of each air carrier. The air carriers would be required to receive written confirmation from the FAA prior to operating under the traded operating authority.

6. An air carrier could not buy, sell, trade, or transfer an operating authorization, except as described in paragraph 5.

7. Every air carrier holding an operating authorization would forward in writing to the FAA Slot Administration Office a list of all operating authorizations held by the carrier along with a listing of the

operating authorizations actually operated for each day of the 2-month reporting period within 14 days after the last day of the 2-month reporting period beginning January 2 and every 2 months thereafter. Any operating authorizations not used at least 80 percent of the time over a two-month period would be withdrawn by the FAA. The Administrator could waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which exists for a period of 5 consecutive days or more.

8. In the event that operating authorizations are withdrawn for non-use, surrendered to the FAA or are unassigned, the FAA would determine whether any of the available operating authorizations should be reallocated. If so, the FAA would conduct a lottery using the provisions specified in 14 CFR 93.225. The FAA may retime an operating authorization prior to reallocation in order to address operational needs. When the final order expires, any operating authorizations reassigned under this paragraph would revert to the FAA for reallocation according to the reallocation mechanism prescribed in the final rule that succeeds the final order.

9. The FAA would enforce the final order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). An air carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, would be liable for a civil penalty of up to \$25,000 for every day that it violates the limits set forth in the final order. An air carrier that is a small business as defined in the Small Business Act would be liable for a civil penalty of up to \$10,000 for every day that it violates the limits set forth in the final order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of the final order.

B. Unscheduled Operations¹²

Under the High Density Rule, the FAA requires all operators at LaGuardia

¹² Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, charter, ferry, and positioning flights. An air carrier can use an operating authorization for a ferry, positioning, or other non-revenue flight. An air carrier may choose to do so if a reservation is not available. Helicopter operations are excluded from the reservation requirement. Reservations for unscheduled flights operating under visual flight rules (VFR) are granted when the aircraft receives clearance from air traffic control to land or depart LaGuardia. Reservations for unscheduled VFR flights are not included in the limits for unscheduled operators.

to obtain a reservation for each takeoff or landing.¹³ Each reservation for an unscheduled operation at LaGuardia is an authorization for a one-time arrival or departure on a specific date within a specific 30-or 60-minute period. FAA Advisory Circular 93-1, "Reservations for Unscheduled Operations at High Density Traffic Airports," describes the procedures for obtaining a reservation. The FAA uses similar procedures for Special Traffic Management Programs implemented to respond to temporary increases in airport demand caused by special events such as major conventions or sporting events, and the FAA intends to use these procedures to allocate reservations for unscheduled operations at LaGuardia under the final order.

The FAA proposes to implement a reservation system for unscheduled operations to ensure that demand is spread reasonably throughout the day in support of the FAA's peak hour operational cap for scheduled and unscheduled flights. The FAA proposes to permit six (6) unscheduled operations per hour from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and 12 noon through 9:59 p.m., Eastern Time, on Sunday. This is consistent with the current number of peak hour reservations available for unscheduled operations at LaGuardia. The FAA believes that a half-hour allocation period is appropriate and proposes to limit reservations in each half-hour period to no more than three (3) operations (arrivals and departures) unless otherwise authorized by the Air Traffic Organization.

Therefore, with respect to unscheduled flight operations at LaGuardia, the FAA proposes to adopt the following measures:

1. The final order would apply to all operators of unscheduled flights, except helicopter operations, at LaGuardia from 6:30 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The final order would take effect on January 2, 2007, and would expire at 9:59 p.m., Eastern Time, on September 30, 2007.

3. No person could operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operation, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO). Additional information on procedures for obtaining a reservation will be

¹³ See, e.g., 14 CFR 93.125 (2006).

available via the Internet at <http://www.fly.faa.gov/ecvrs>.

4. Six (6) reservations would be available per hour for unscheduled operations at LaGuardia. The ARO would assign reservations on a 30-minute basis.

5. The ARO would receive and process all reservation requests. Reservations would be assigned on a "first-come, first-served" basis, determined as of the time that the ARO receives the request. A cancellation of any reservation that will not be used as assigned would be required.

6. Filing a request for a reservation would not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan could be filed. The IFR flight plan would include the reservation number in the "remarks" section and would be filed in accordance with FAA regulations and procedures.

7. Air Traffic Control would accommodate declared emergencies without regard to reservations. Non-emergency flights in direct support of national security, law enforcement, military aircraft operations, or public-use aircraft operations would be accommodated above the reservation limits with the prior approval of the Vice President, System Operations Services, Air Traffic Organization. Procedures for obtaining the appropriate reservation for such flights would be available via the Internet at <http://www.fly.faa.gov/ecvrs>.

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA could accommodate additional reservations over a specific period. Unused operating authorizations could also be temporarily made available for unscheduled operations. Reservations for additional operations would be obtained through the ARO.

9. Reservations could not be bought, sold, or leased.

III. Request for Comments

The FAA invites all interested persons to submit written comments on the proposals described in this order by filing their written views in Docket FAA-2006-25755 on or before October 16, 2006. The FAA does not intend this proposal to address the longer-term issues that will be considered in the related proposed rulemaking. Therefore, any submissions to the current docket should focus on the issues specified in this proposed order.

Issued in Washington, DC, on September 7, 2006.

Nan Shellabarger for Nancy LoBue,

Deputy Assistant Administrator for Aviation Policy, Planning, and Environment.

[FR Doc. E6-15221 Filed 9-13-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Fort Worth Alliance Airport, Fort Worth, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Fort Worth, Texas for Fort Worth Alliance Airport under the provisions of 49 U.S.C. 47501 *et. seq* (Aviation Safety and Noise abatement Act) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is September 7, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Blackford, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, Texas 76137-0650, (817) 222-5607.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Fort Worth Alliance Airport are in compliance with applicable requirements of Part 150, effective September 7, 2006. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the

measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the city of Fort Worth. The documentation that constitutes the "noise exposure maps" as defined in section 150.7 of Part 150 includes: Exhibits 4.1-4.5, Exhibits 5.1-5.5, Table 4.2, and Table 5.1. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on September 7, 2006.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, 2601