

5478, February 14, 1992), and by adding the following new airworthiness directive, Amendment 39-XXXX to read as follows:

Wytornia Sprzetu Komunikacyjnego "PZL-RZESZOW": Docket No. 92-ANE-21. Supersedes AD 91-18-12, Amendment 39-8120.

Applicability: Wytornia Sprzetu Komunikacyjnego "PZL-RZESZOW" PZL-3S Second Series piston engines installed on but not limited to Grumman AG CAT aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the propeller and loss of the aircraft, accomplish the following:

(a) For pistons that have been modified and assembled with compression ring, part number (P/N) JRS 123421, scraper ring, P/N JRS 123423, and oil control ring, P/N JRS 123424, prior to further flight:

(1) Remove these pistons from service and replace with serviceable parts.

(2) Remove, clean, and visually inspect using 10x magnification the propeller to engine propeller-flange attachment bolts for evidence of cracking or failure, and perform the following:

(i) For engines with bolts found to be cracked or broken, replace with new bolts and disassemble and visually inspect for distress of the rear crankshaft, rear counterweight, and rear counterweight pins.

(A) If any distress is found in the rear crankshaft, rear counterweight, or rear counterweight pins, replace distressed parts with new parts.

(B) Distress is defined as any evidence of wear, galling, pitting, or scoring, and includes discoloration (blue color) of the counterweight pins.

(ii) For engines with bolts found not to be cracked, inspect the engine propeller-flange retaining nut for looseness and perform the following:

(A) Retorque the propeller-flange retaining nut if found loose in accordance with Section 3.3.4 of the PZL-3S Engine Servicing Instructions, revised March 1984.

(B) Replace all propeller to engine propeller-flange attachment bolts with new bolts.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Engine Certification Office. The request should be forwarded through an FAA Maintenance Inspector, who may concur or comment and then send it to the Manager, Engine Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on December 9, 1992.

Niane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

PR Doc. 93-43 Filed 1-4-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 93

[Docket No. 27106 Notice No. 92-20]

RIN 2120-AE78

Operation of Jet Aircraft in Commuter Slots at O'Hare International Airport

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would amend the regulations pertaining to the definition and allocation of commuter operator slots (i.e., allocated instrument flight rules (IFR) takeoff and landing reservations) at O'Hare International Airport (O'Hare). The FAA proposes to eliminate the provision that limits the use of larger aircraft in commuter slots at O'Hare to a temporary 2-year trial period. It further proposes to permit an air carrier to use larger aircraft in up to 50 percent of its commuter slot holdings at O'Hare, expand the category of aircraft that may be used in those slots, and remove the restriction on the maximum number of larger aircraft operations in commuter slots per half hour or consecutive half hour periods. This proposed rule would neither increase the number of operations at O'Hare, nor necessarily bring about additional jet service to some smaller communities. The proposed rule would preserve the class of commuter slots as distinct from air carrier slots. This NPRM is in response to a petition for rulemaking by American Airlines and the comments on that petition.

DATES: Comments must be received on or before March 8, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, Docket No. 27106, 800 Independence Avenue, SW., Washington, DC 20591; or deliver comments in triplicate to: Federal Aviation Administration, Rules Docket, room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the rules docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposal by

submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned decisions on the proposals. Comments are specifically invited on the overall economic, energy, environmental, reporting, and recordkeeping aspects of the proposals. Communications should identify the docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27106." Communications received on or before the specified closing date for comments will be considered before taking any further action on the proposal. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this proposal will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular NO. 11-2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedures.

Background

The High Density Traffic Airport Rule, or "High Density Rule," 14 CFR part 93, subpart K, was promulgated in 1969 to reduce delays at five congested airports: JFK International, LaGuardia, O'Hare International, Washington National, and Newark International (33 FR 17896, December 3, 1968). The regulation limits the number of IFR operations at each airport, by hour or half hour (by half hour at O'Hare), during certain hours of the day. It provides for the allocation to carriers of operational authority, or a "slot," for each IFR landing or takeoff during a specific 30- or 60-minute period. The

restrictions were lifted at Newark in the early 1970's.

On August 19, 1991, the Department published Amendment No. 93-62 which, among other changes, revised the definition of "commuter" aircraft in the High Density Rule to include turboprop or reciprocating aircraft having less than 75 passenger seats or turbojet aircraft having less than 56 seats (56 FR 41200). In that same amendment, the FAA changed the slot rules, effective for a 2 year period beginning September 20, 1991, to allow carriers at O'Hare to use up to 25 percent of their commuter slots for operations with aircraft having a maximum certificated seating capacity of no more than 110 passengers.

The American Airlines Petition

Summary of the Petition

On February 18, 1992, American Airlines (AAL) filed a petition for rulemaking to (1) Suspend the 30- and 60-minute slot restrictions at O'Hare; (2) eliminate the category of commuter slots at O'Hare or increase from 25 percent to 45 percent the number of commuter slots for which larger aircraft may be used under Amendment No. 93-62; (3) impose slot restrictions at Midway Airport or establish a Chicago area slot system incorporating O'Hare and Midway; (4) permit AAL to revise its selection of commuter slot times for operations with larger aircraft under Amendment No. 92-62; and (5) make Amendment No. 93-62 permanent. The FAA published a summary of the petition on March 31, 1992, with a 60-day comment period (57 FR 10836).

Comments on the Petition

More than 200 comments were received, most of which supported AAL's petition. Supporting commenters include government officials, community leaders, business owners or managers, and other residents of regions that have received Fokker 100 (F-100) jet service by AAL since the promulgation of Amendment No. 93-62, or that anticipate such service. Comments in support came predominantly from the communities of Fargo, ND; Sioux Falls, SD; and Peoria and Springfield, IL. Although pilots of Simmons Airlines, an AAL subsidiary, commented that Decatur, IL, and Madison, WI, may lose service if more commuter slot conversions are allowed, some commenters from those two areas support the petition, ostensibly expecting an upgrade rather than cessation of air service.

Supporting comments are not limited to communities within Chicago's

commuter circumference. Raleigh-Durham, NC, and Nashville, TN, now have F-100 service non-stop into O'Hare. Several North Carolina and Tennessee commenters support making Amendment No. 93-62 permanent to continue that service. Commenters from Louisville, KY, also support the petition.

Commenters from Vail, Colorado, anticipate benefiting from a rule change. Three officers of Vail Associates wrote in support of AAL's petition, saying that adoption of the proposal would allow AAL to add service to Vail, improving the competitive position of Vail and Beaver Creek resorts in the European marketplace. Aspen Skiing Company submitted a similar comment.

Commenters opposing the petition include government officials, community leaders, business owners or managers, and other residents of regions that have suffered or fear a reduction or elimination of air service by AAL's subsidiary commuter airlines, AMR Eagle and Simmons. These communities include Mattoon, IL; Bloomington, Lafayette, and Terre Haute, IN; Dubuque, Ames, and Waterloo, IA; Lansing, MI; and Madison, WI. Pointing to the loss of a daily flight since Amendment No. 93-62 went into effect, the Madison writers opposing the petition do not share the optimism of the Madison commenters supporting the position and would rather see the 1991 amendment terminated. AAL has since announced plans to add a flight to Madison, causing one commenter to submit a second comment reversing his position.

Also opposing AAL's petition are the Simmons pilots and AAL's competitors. One commenter stated that Simmons has announced a 20 percent cutback in pilot staffing as a result of the transfer of slots from Simmons to AAL. Numerous commenters said that AAL will train new hires rather than Simmons pilots as it substitutes jets for turboprops in the commuter slots.

The supporting and opposing comments exhibit little common ground. Supporters of the petition generally urged eliminating the commuter restrictions or increasing the slots eligible for use with larger aircraft to 45 percent of a carrier's commuter slot base, making the recent amendment permanent, imposing slots at Midway, and giving carriers greater scheduling flexibility at O'Hare. A common theme is that allowing airlines to match equipment with market demand will improve service to small communities and bring about economic growth and opportunities. Many commented on the enhanced competition AAL has brought;

one commenter observed that Sioux Falls, SD, is now served by seven commercial airlines. Another commenter observed that upgraded jet service has enhanced connections to other cities in the region. Other commenters spoke about the perception of extra safety, comfort, and convenience that jet service provides. The Fort Wayne Chamber of Commerce and the Assistant General Counsel for Caterpillar Inc., Peoria, mentioned reduced noise.

Those opposing AAL's petition said that Amendment No. 93-62 should be allowed to expire in September 1993. Any further relaxation of the commuter restrictions, they argued, will lead to air service only in major markets, small communities will lose access to O'Hare and its connections to the rest of the nation and the world, and much of the rural Midwest will be placed at a severe competitive disadvantage. Some commenters saw the recent amendment as a measure to enhance the competitive position of one carrier, American Airlines.

United Air Lines, USAir, Delta Air Lines, Air Wisconsin, Continental Airlines, and Pan Am Express also opposed the petition on grounds of diminishing air service to small communities, the exclusive benefit and windfall to AAL, and the resulting increase in air and ground congestion at O'Hare. The City of Chicago foresees, however, a reduction in parking ramp congestion as jet aircraft replace commuter turboprops.

The City of Chicago also suggested, as did Great Lakes Aviation, that the slot category for general aviation and non-scheduled operators is underutilized and should in part be made available for carrier use. Among the other comments were that certain slots should be attached to secondary hubs through which connections would be provided to outlying communities, that AAL has used most of its subsidiaries' commuter slots designated for use with larger aircraft to serve major long-haul markets, and that increased use of commuter slots with larger jets will require additional Essential Air Service awards to replace discontinued service to small communities.

Discussion of Comments

A. Suspend 30- and 60-Minute Slot Restrictions

AAL proposed to expand the air carrier slot restriction periods to 2-hour blocks. It claimed that the 30- and 60-minute restrictions concentrate arrival and departure banks. The City of Chicago agreed and suggested

conducting a demonstration program suspending the limits during one 2-hour period. The Mayor of Chicago stated that airlines at other hub airports have been able to adjust their schedules to avoid congestion and delays. United Air Lines suggested extending each slot period to include the 15 minutes before and after the designated period and permitting slides of slot times to less congested periods. Delta Air Lines disagreed that any expansion will reduce the bunching of operations, citing AAL's practice of concentrating banks at its Dallas, Raleigh-Durham, and Nashville hubs. The Michigan Department of Transportation (MDOT) asserted that expanding the slot restriction periods might reduce the opportunities for smaller communities to gain access to O'Hare.

The FAA is not persuaded that expanding the slot restriction periods will ameliorate the concentration of flight operations since airlines appear to schedule their operations based primarily on marketing strategy. At O'Hare, voluntary schedule agreements have been used several times since 1984 to reduce concentrations of operations. These agreements authorized the participating airlines to operate outside their allocated slot times on the condition that the major hub operators diffused the concentrations of their arrival and departure banks. These agreements served to reduce congestion and delays in the short term, but carriers quickly made schedule adjustments and peaked operations, leapfrogging their schedules to precede immediately a competitor's banks.

The purpose of the slot restriction periods is to force carriers to spread their operations throughout the day and avoid concentrated operations within discrete, peak periods. AAL argues that the 30-minute restriction on scheduling within a slot period causes peaking because carriers tend to bunch flights at the beginning and end of the 30-minute slot period. Scheduled flights at O'Hare show periods of compressed scheduling throughout the day, however, and not just at the beginning and end of a slot period. Adoption of AAL's proposal to substitute 2-hour limits for the current 30- and 60-minute totals would merely raise the ceiling on the number of operations that carriers might bunch within the same peak times. The practice of peaking schedules would likely be exacerbated at O'Hare if the slot periods were expanded.

The timing of current operations at O'Hare is largely determined by the number of slots held by the major hub carriers during half-hour periods. The 30-minute slot restrictions and the

distribution of a slot holdings prevent large overlapping of banks during most periods of the day. This notice does not propose, therefore, to adopt the suspension that AAL seeks.

B. Eliminate the Commuter Slot Category

AAL proposed to eliminate the seating capacity restrictions applicable to commuter slots or to raise to 45 percent the percentage of commuter slots in which aircraft with up to 110 seats may be operated under Amendment No. 93-62. The City of Chicago would support this proposal if the larger jets operate below 24,000 feet mean sea level (MSL) and added that the substitute aircraft should meet Stage 3 noise standards. MDOT would concur with the proposed change if small and medium communities were guaranteed access to O'Hare, a view shared by the Wisconsin Department of Transportation (WDOT) and the Director of the Monroe County Airport, Bloomington, IN.

The FAA is proposing to retain the category of commuter slots to preserve slots for use by commuter aircraft serving smaller communities. Where feasible, however, the FAA endeavors to reduce or remove burdens on slot use. Increasing the percentage of commuter slots that could be used with larger aircraft is consistent with that objective and could be accommodated without exacerbating air traffic congestion. The FAA proposes, therefore, to retain the commuter slot restrictions but to increase the number of slots that may be used for operations with non-commuter aircraft to 50 percent of a carrier's commuter slot holdings. In proposing 50 percent, the FAA is seeking to achieve a fair balance among competing interests and operational practicalities at O'Hare and would appreciate comments on whether 50 percent is the appropriate level considering the potential impact on service to small communities.

Amendment No. 93-62 limits the aircraft size to 110 maximum passenger seats according to the aircraft series' type certificate, regardless of the actual seating configuration. To reduce the restrictive burden of this limit, the FAA proposes to modify the 110-seat restriction and allow the use of any aircraft having an actual seating configuration of 110 or fewer passengers as reflected in the type certificate or any supplemental type certificate for the aircraft in up to 50 percent of a carrier's commuter slot holdings at O'Hare.

The use of the actual seating configuration of an aircraft as based on the limitations set forth in the type

certificate or supplemental type certificate would be a change to the existing rule. Under current procedures, the maximum number of passenger seats as reflected in the original type certificate for the aircraft series is controlling for the purpose of determining the size of aircraft permitted to be operated in commuter slots pursuant to the definitions found in 14 CFR part 93, subpart K. The FAA incorporated the use of the original type certificate as a way of limiting the overall size of the aircraft. The original type certificates show maximum seating in excess of 110 passengers, however, for several models of aircraft that are comparable in size, i.e., fuselage length and wing span, to the aircraft envisioned by the FAA for use in commuter slots, but their actual seating is configured for less than 110 passengers.

The number of type certificated passenger seats does not necessarily relate directly to the overall size of the aircraft. Therefore, the FAA is proposing to change the current procedures and use the seating configuration approved for the operator's airplane, rather than the original type certificate for the aircraft series. The FAA is proposing to use the most recent certification (original, amended, or supplemental) for the operator's airplane as the basis for determining whether an aircraft complies with the 110-seat maximum limit. Comments are welcome on whether using the most recent certificate might compel an operator to seek to amend or supplement a type certificate just to enable it to use the aircraft in commuter slots at O'Hare under this proposed rule.

The FAA recognizes that even wide-body aircraft might be configured to hold less than 110 seats. To ensure that the larger aircraft used in the commuter slots would be comparable in size, the FAA proposes, in conjunction with the seat limit, a maximum takeoff weight limit of 126,000 pounds. This limitation would also make the aircraft being used in commuter slots more likely to fit into the short- and medium-haul categories. Several comments received while Amendment No. 93-62 was under consideration suggested using weight, wake turbulence, or performance criteria to determine the appropriate class of aircraft. In Amendment No. 93-62, the FAA acknowledged that, from an air traffic standpoint, no significant differences separated aircraft in the 100 to 110 seat range, such as the F-100, from the slightly larger jets such as certain Boeing 737 and DC-9 series. The FAA went on to say that expanding the rule to include slightly larger aircraft

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would be considered in future rule changes. (56 FR 41201.)

Upon reviewing the performance data of aircraft currently in service in the United States, the FAA concludes that, as a complement to the 110-seat restriction, a maximum certificated takeoff weight limit of 126,000 pounds would further inhibit the use of long-range aircraft in commuter slots. The FAA recognizes that some aircraft meeting this weight limit may have long-range capability, but they are unlikely to have as few as 110 passenger seats. Thus, the combination of 110 seats and 126,000 pounds maximum takeoff weight should effectively limit the aircraft being used in commuter slots to short- and medium-haul capability. Moreover, the weight limit would preclude heavy jets that would require greater in-flight separation, which could lead to air traffic congestion and delays.

In response to the City of Chicago's comments concerning the possible environmental effects of the use of the larger aircraft, the FAA is seriously considering limiting in a subsequent final rule the types of larger aircraft that may operate in commuter slots to those that meet Stage 3 noise levels. Without a Stage 3 restriction on the larger aircraft, the Day Night Average Sound Level 65 dB contour could increase up to 5 percent. The Stage 3 restriction would reduce this potential increase to less than 1 percent. While the use of the larger aircraft may improve service to smaller communities, that improvement should not be compromised by any environmental degradation at O'Hare or the surrounding communities if it can be avoided. A Stage 3 restriction should not prove burdensome to the carriers wishing to use larger jets in commuter slots, because those carriers are already using, are planning to use, or have available to use Stage 3 aircraft in their fleets.

Under this proposal, therefore, a carrier would be allowed to use, in half of its commuter slot holdings at O'Hare, any aircraft with a certificated seating configuration of 110 or fewer passengers, so long as the aircraft has a maximum certificated takeoff weight less than 126,000 pounds. Even though a Stage 3 requirement is not specifically stated in this Notice, the FAA may consider in any subsequent final rule requiring that any larger aircraft using the commuter slots meets the Stage 3 noise levels as defined in 14 CFR part 36. For that reason, the FAA is specifically requesting comments on the Stage 3 limitation.

As mentioned previously, the City of Chicago supported AAL's petition if the

larger jet aircraft operating in commuter slots were restricted to an operational ceiling of 24,000 feet MSL. The proposed ceiling restriction ostensibly seeks to address concerns about delays in traffic at higher altitudes, where jets normally operate, as jets are substituted for turboprops, which normally operate at lower altitudes.

A similar 24,000 foot MSL restriction was proposed by AAL and supported by the City of Chicago as part of the rulemaking proceedings for the last amendment of the High Density Rule. As the agency observed in promulgating Amendment No. 93-62, a significant amount of enroute traffic uses altitudes below 24,000 feet MSL, and the Chicago Center controls aircraft beginning at 12,000 feet MSL on handoff from Chicago Radar Approach Control in the O'Hare area and at lower altitudes elsewhere. Operations below, as well as above, 24,000 feet MSL affect the efficiency of enroute, arrival, and departure operations at and in the vicinity of O'Hare.

By September 1, 1992, AAL had increased its F-100 jet operations in commuter slots to 47. Many of these flights have been operating above 24,000 feet MSL in the Chicago Center airspace. No air traffic control operational problems have resulted due to the addition of these turbojet operations. Air traffic data (collected under the "OPSNET" system) indicate that delays have been decreasing at O'Hare, notwithstanding jet substitutions under Amendment No. 93-62. While favorable weather conditions account partly for the lack of negative impact, also contributing are the FAA's efforts to enhance traffic management resources to improve efficiency in the air traffic control system.

A ceiling restriction thus offers no meaningful benefit to the air traffic control system; instead, it would create unwarranted complications. AAL and other carriers use jet equipment at O'Hare that meet the current and proposed criteria for use with commuter slots. These operations are conducted using air carrier slots that would not be subject to the proposed 24,000 foot ceiling. If the ceiling restriction were adopted, some aircraft would then be subject to flight restrictions that identical aircraft of the same company would not be, complicating the operating environment for airline pilots, dispatchers, and air traffic controllers. The controller would be burdened with the responsibility of knowing which aircraft are subject to the restriction and, constrained by the ceiling for those operations, lose flexibility in assigning altitudes for aircraft.

No operating restrictions would be needed if two requirements are retained that have helped avoid exacerbating congestion at O'Hare in the implementation of Amendment No. 93-62. The first requirement is that carriers wishing to use larger aircraft in commuter slots submit their proposed schedules to Air Traffic Control (ATC) for its approval. ATC's review of these requests has included an analysis of all scheduled operations during the specific 5-minute period within which each operation is proposed. ATC has denied requests for an operation during a period when scheduled operations were so compressed that they exceeded airport capacity. So long as ATC retains this authority and exercises it as necessary, permitting up to 50 percent of the commuter slots to be used with larger aircraft and eliminating the 30- and 60-minute restrictions on the number of commuter slots that could be used for larger aircraft currently contained in 14 CFR part 93, Appendix B, should not result in additional delays at O'Hare. Therefore, the FAA proposes to retain the approval authority of ATC and eliminate the hourly and half-hourly restrictions found in 14 CFR part 93, Appendix B.

The second requirement is that an arrival gate be available without any planned waiting time. If an aircraft arrives without having a gate available, the ground controller typically must direct the aircraft to a holding area located away from the gate area and then clear the aircraft back into the gate area when a gate becomes available. Depending on the area used, this process may involve directing the aircraft across active runways and taxiways, further increasing controller workload and impeding other operations. Additionally, holding areas at O'Hare are limited and will be further limited when certain holding areas are designated for use as secondary deicing facilities, as currently planned.

The advance notice and certification of gate availability requirements contained in Amendment No. 93-62 have helped prevent the bunching of additional operations at peak periods. These requirements are integral elements of the proposal to increase to 50 percent the number of commuter slots for which larger aircraft could be used. Therefore, the FAA proposes to retain the requirement that gates be available to service these operations.

Finally, one commenter suggested dedicating certain slots for service to secondary hubs with connections to outlying small communities in their region. Most of the service to small communities out of O'Hare is short-

haul, raising a question as to how useful access to O'Hare via a connecting point would be in these short-haul markets. Except for slots that are expressly designated for Essential Air Service at the direction of the Department of Transportation, the FAA does not require or restrict the use of a slot for service to a specific market. Therefore, the FAA is not proposing to establish a secondary hub slot requirement.

C. Make Amendment 93-62 "Permanent"

All of the comments in support of AAL's proposal to eliminate unconditionally the commuter slot restrictions also support its proposal to "make Amendment No. 93-62 a permanent rule." MDOT comments that the decision to revoke the temporary trail provision contained in the amendment should wait until an evaluation can be performed toward the end of the trial period. United and Delta similarly assert that AAL's proposal is premature and lacks supporting data.

AAL has incrementally added F-100 service at O'Hare in place of turboprop operations in commuter slots. These jets were being operated in 47 commuter slots as of September 1, 1992; no other carrier had substituted larger jet equipment for turboprops in commuter slots. AAL's additional F-100 operations have caused no additional delays or congestion. In fact, air traffic data indicate that the incidence of delays at O'Hare has been decreasing slightly, despite the substitution of jets for some turboprop operations.

Experience in implementing and working with Amendment No. 93-62 indicates that the agency can remove the trial basis provision the amendment contained. The use of commuter slots as proposed herein should not exacerbate delays because ATC would retain its authority under the notice provisions of existing 14 CFR 93.223 (e)(5); that authority permits ATC to ensure that the scheduling of additional arrivals and departures with larger aircraft will be distributed to avoid bunching of operations with resulting congestion and delays. If further experience indicates a need for adjustment, however, the rule can be amended to resolve any unforeseen circumstance that may arise.

Removing the expiration date of 14 CFR 93.221 (e)(3) would subject any future changes to notice and comment procedures. This would provide some stability upon which the airlines can rely in developing their long-term schedules to maximize the use of O'Hare's capacity.

D. Establish Slots at Midway

AAL's proposal to bring Midway Airport under the High Density Rule gathered no support beyond those commenters supporting all aspects of the petition. Of the commenters—other than AAL—addressing this point specifically, only the Mayor of Chicago declines to oppose it, saying that it deserves further study. The Airplane Owners and Pilots Association (AOPA), the National Business Aircraft Association (NBAA), the City of Kansas City, Southwest Airlines, and Trans World Airlines submitted comments that opposed this proposal and spoke to little or nothing else. MDOT and WDOT also oppose imposing slots at Midway.

The FAA sees no public benefit from this proposal. Although O'Hare and Midway do share some of the same enroute structure, the arrival and departure routes are distinct and O'Hare's ground congestion is totally unaffected by Midway's operations. The FAA proposes to deny this part of AAL's petition.

E. Revise AAL's Selection of Commuter Slot Times

In its petition, AAL asks that it be allowed to shift its "conversion slot authorities" to different time periods. AAL's request to shift its slot times seeks relief specific to AAL and is inappropriate for general rulemaking. The requested action is also inconsistent with the general purpose of the existing rule to control distribution of additional operations with larger aircraft throughout the day. This proposal would, however, relax the hourly restrictions on the use of the larger aircraft but retain the approval by ATC and gate availability requirements. The FAA does not propose rulemaking, therefore, to implement this aspect of AAL's petition.

The Proposal

For the reasons mentioned above, the FAA proposes to amend part 93 of the Federal Aviation Regulations (14 CFR), subpart S, to permit, in up to 50 percent of each carrier's commuter slot holdings at O'Hare International Airport, the operation of aircraft satisfying the following three criteria: (1) Having an actual seating configuration of 110 or fewer passengers; and (2) having a maximum certificated takeoff weight of less than 126,000 pounds. The cap would limit potential effects on airport operations and preserve at least 50 percent of existing commuter slots for operation with smaller aircraft that might include service to small communities. No matter which carriers

held or operated commuter slots, no more than 50 percent of any carrier's commuter slot base or of the total number of commuter slots at O'Hare could be used for larger aircraft. The FAA also proposes to remove the limits on the number of operations per half hour and consecutive half hour periods set forth in 14 CFR 93.221(e)(3) and (e)(5) and 14 CFR part 93, appendix B, and allow the continued use of larger aircraft in commuter slots by removing the trial period provision of 14 CFR 93.221(e)(8).

The FAA anticipates a substantial increase in requests to use larger aircraft in commuter slots if this proposed rule is adopted. This increase would add to the workload of ATC in analyzing each requested operation's impact on air traffic movement and would require more time to process the requests. Since the carriers have informed the FAA that they need as much notice as possible to schedule aircraft and crews, the FAA proposes to amend the notice provision of 14 CFR 93.221(e)(4) to require that a carrier notify ATC 75 days in advance of the planned operation of a larger aircraft in a commuter slot, enlarging by 15 days the current advance notice requirement. ATC would have the authority to disapprove a request based on actual conditions at the time of the request or anticipated at the planned start date. As under the current rule, ATC's approval, conditional approval, or disapproval would be issued more than 45 calendar days before the planned start date stated in the notice to allow requesting carriers time to make operational and marketing preparations. ATC approval for a specific operation would be valid for 30 days after the planned start date, and then would expire if the operation had not commenced.

The proposed amendment would also add to the notice provision the requirement to provide the series, type, and actual seating configuration of the aircraft to be used in the commuter slots. This information would be needed to ensure that the seat and weight limits are being met.

In making this proposal, the FAA emphasizes two areas of concern. The first concern is gate availability. The proposed amendment would not change the current requirement that any carrier intending to operate commuter slots with larger aircraft have sufficient gates available for those operations, to prevent ramp and taxiway congestion which could result from additional jet operations. This requirement appears to have helped avoid any adverse impact on ground congestion that might have resulted from Amendment No. 93-62.

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The second concern is the potential effect of the proposed rule on service to small communities. The majority of support for the petition came from representatives or residents of small and mid-size cities for which AAL has promised to continue or add jet service. Contrary to the belief of many of those commenters, no current government regulation prevents AAL or any other carrier from providing jet service to their communities, and this proposed rule would not require any carrier to fly to their cities, much less dictate the type of equipment to be used.

From the time Amendment No. 93-62 was adopted in August 1991 until September 1, 1992, only AAL had substituted larger jet equipment for turboprops in commuter slots. As of September 1, 1992, AAL was using larger jet equipment (F-100's) in place of turboprops in 47 commuter slots. Although AAL has filed two notices to discontinue Essential Air Services (one notice has since been withdrawn) during the period the amendment has been in effect, the FAA's analysis of AAL's pre-and post-Amendment No. 93-62 service pattern to small communities revealed no trend suggesting a general change in service to small communities since the amendment.

The Department of Transportation seeks to promote access by all communities to the air transportation system. The Department ensures that Essential Air Service is provided to eligible points and supports the availability of air service to other small communities. At the same time, the Department recognizes that the greatest utility of the finite capacity of high density airports such as O'Hare may favor the use of larger aircraft in higher density markets. To balance the interests of maximum economic use of a limited resource, on the one hand, and the Department's interest in preserving feeder service to smaller markets in the Chicago region, on the other, the FAA proposes to increase the number of commuter slots that can be operated with larger aircraft to 50 percent of the commuter lots held by each carrier at O'Hare, rather than eliminate the commuter slot restrictions entirely. Limiting seating to 110 passengers and maximum takeoff weight to 126,000 pounds would prevent the use of commuter slots with long-haul aircraft designated for higher demand markets. These limitations would preserve the category of commuter slots and mitigate the impact on commuter markets generally.

The Department will continue to monitor the use of commuter slots at

O'Hare. Further comments on the use of commuter slots with larger aircraft since the promulgation of Amendment No. 93-62 would be welcome. Should the use of commuter slots under Amendment No. 93-62 and this proposed rule, if promulgated, lead to unacceptable reductions in service to smaller communities in the region, the Department will reevaluate the use of larger aircraft in commuter slots.

This proposal raises a potential issue relating to slot withdrawals for international operations under 14 CFR 93.217. To date, no commuter slots have been withdrawn at O'Hare for international operations. The proposed expansion of the types of aircraft that may be used in certain commuter slots would include airplanes capable of being flown in international/transborder operations, and the number of slots in which they could be used would be substantially increased. Although these aircraft could be used in commuter slots under this proposed rule, under current practice only air carrier slots would be withdrawn for their use in international operations. The FAA is soliciting comments on whether and how commuter slots that a carrier designates for use with larger aircraft should be treated for withdrawal purposes or be merged with the air carrier slot withdrawal priorities.

This proposed action represents a partial grant of the petition for rulemaking filed by American Airlines on February 18, 1992.

Environmental Review

In conjunction with Amendment No. 93-62, the FAA analyzed the environmental impact of allowing 25 percent of the 435 commuter slots at O'Hare to be used for operations with jet aircraft certificated to hold a maximum of 110 passengers. The FAA calculated that if all 108 commuter slots were used with turbojets, turbojet activity at O'Hare would increase by 6 percent during slot restricted hours. Using the Area Equivalent Method (AEM) computer model, the agency determined that the use of 25 percent of the commuter slots for turbojet operations would result in a 0.2 percent increase in the size of the Day Night Average Sound Level 65 dB contour at O'Hare. The agency concluded that permitting turbojet operations in 25 percent of the commuter slots at O'Hare was consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act (NEPA) and that it would not significantly affect the quality of the human environment or otherwise include any condition

requiring consultation pursuant to section 102(2)(c) of NEPA.

The FAA has conducted preliminary analyses of the potential environmental impact of this proposal using the AEM computer model. The first analysis factored in the use of larger aircraft in 50 percent of the commuter slots without any Stage 3 restriction. As a worst possible case scenario, it assumed that all of the affected slots would be used with B737-200's or DC-9-30's; these are Stage 2 aircraft that generate the most noise among the aircraft that the proposed rule, absent a Stage 3 restriction, would allow to operate in commuter slots. The analysis indicated a worst scenario increase of 5 percent in the Day Night Average Sound Level 65 dB contour.

The second analysis added the Stage 3 restriction. The added restriction brought the Day Night Average Sound Level 65 dB contour increase down to less than 1 percent. The FAA has therefore determined that this proposal, even without the Stage 3 requirement, is consistent with existing national environmental policies and objectives as set forth in section 101(a) of NEPA and would not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(c) of NEPA.

Comments on the potential environmental effects, if any, of the proposed rule are invited.

Initial Regulatory Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this proposed rule is not "major" as defined in the Executive Order; therefore, a full regulatory analysis, which includes the identification and evaluation of cost reducing alternatives to this proposed rule, has not been prepared. Instead, the agency has prepared a more concise document termed an initial regulatory evaluation that analyzes only this proposal without identifying alternatives.

Costs

This proposal is voluntary and would not impose any additional costs on Part 121 or Part 135 air carriers. This rule would allow them to use some of their commuter slots (up to 50 percent) at O'Hare Airport for operations with larger aircraft. The decision whether to use the larger aircraft rests, however, strictly with the operators, not the FAA. An increase from 108 to a maximum of 217 operations per day using larger aircraft would be permitted in commuter slots under this proposal.

The proposal would not significantly alter the operating environment at O'Hare for scheduled Part 121 or Part 135 air carriers. It is not expected that ground operations and departure and arrival procedures would be significantly affected if the rule's existing conditions are met.

This proposed regulation would have no effect on the safety of either air or ground operations. ATC would retain the ability to disapprove proposed arrival or departure schedules of additional larger airplane operations at O'Hare. ATC procedures will continue to maintain a high level of safety and efficiency.

Because AAL speaks in its petition about improving, not reducing, air service to small communities, the FAA assumes that promulgation of the rule as proposed would not diminish such service below current levels. This proposal would allow air carrier operators to substitute larger turbojet airplanes for turboprops and, thereby, improve service. However, the FAA recognizes that the ability to use jets in commuter slots may serve as an incentive to remove those slots from use in markets that cannot support jet service, and the FAA solicits public comment regarding this assumption. Especially helpful would be comments reflecting an analysis of the net national economic impact if service to small communities should decrease as a result of the use of the limited resource of slots for higher demand, and perhaps more profitable, routes.

Benefits

This proposal would reduce some of the current restrictions on the use of commuter slots at O'Hare and would permit air carriers holding commuter slots additional flexibility in the use of those slots. To the extent jet aircraft are substituted for commuter turboprops, the rule would benefit passengers flying in those aircraft to and from Chicago.

The proposed rule could save time for the traveling public. For most commuter flights, which are short-range, turbojets

would not provide any significant time savings. Passengers on long commuter flights, however, would save time. The FAA estimates that about 20 minutes could be saved on a long commuter flight by using turbojet airplanes instead of turboprop airplanes. The FAA estimates that approximately 50 passengers would be on each turbojet commuter flight. The estimated passenger time saved is, therefore, 16.7 passenger-hours per commuter flight. The FAA estimates that the value of passenger time is \$42 per hour for 1992. Allowing turbojet airplanes to be used on long commuter flights would save \$701 in passenger time for each long commuter trip. This proposed regulation would allow an additional 109 commuter slots to be used in this way. Assuming half of the slots would be used for long commuter flights with turbojet equipment, this proposal would save about \$38,200 per day in passenger time. The FAA solicits public comment regarding the assumptions used in estimating the benefits of this proposal.

One commenter mentions that AAL's introduction of jet service of Fargo, ND, has increased competition resulting in lower fares. This benefit is not readily quantifiable, but similar results might be expected in other markets as a result of the promulgation of this proposed rule.

Some indirect benefits and costs have been suggested that cannot be considered because (1) The results are uncertain and (2) their realization is not dependent on any rule change. AAL supported its petition by saying that granting the petition would create 1650 jobs having an annual payroll over \$95 million and a positive economic impact of more than \$280 million in the Chicago area alone. It said that Amendment No. 93-62 has enabled it to create 550 jobs, and further relaxation of the commuter slot restrictions would bring about 1100 more jobs. AAL also said that more Fokker 100 service at O'Hare would translate to more opportunities for students at its Maintenance Academy at Midway Airport. As similar, indirect, and somewhat offsetting results, various Simmons pilots claimed they will lose their jobs if AAL's petition is granted. The FAA declines to consider these benefits and costs because they are not direct results of the proposed rule that are appropriate for consideration in this analysis.

The FAA invites comments, however, on the costs and benefits of any job loss or job creation that a commenter perceives as resulting directly from a rule change.

Comparison of Benefits and Costs

The FAA finds that there would be no significant costs to this proposed regulation. However, there are measurable benefits. As a result, the FAA has determined that the proposed regulation would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 requires Federal agencies to review rules that may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for determining if a proposed or existing rule has any significant economic impact on a substantial number of small entities.

The FAA defines a small entity as an operator who owns, but does not necessarily operate, nine or fewer airplanes. A substantial number of small entities is one-third of the small entities provided 11 or more small entities are substantially impacted. The FAA defines a significant economic impact as \$4,000 per year for unscheduled operators, \$57,000 per year for scheduled operators, and \$101,000 per year for scheduled operators with aircraft containing no less than 60 passenger seats.

No small entity owning or operating nine or fewer airplanes holds commuter slots at O'Hare. Thus, the FAA determines that this proposed rule would have no significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed regulation would only affect domestic operations at Chicago O'Hare Airport. Thus, it would not provide either an advantage or disadvantage to foreign air carriers providing service to and from the United States, nor would it provide either a trade advantage or disadvantage to United States air carriers providing foreign service.

Paperwork Reduction Act

This proposal, if adopted, provides for no changes to the required reporting of information by air carrier and commuter operators to the FAA. Under the requirements of the Federal Paperwork Reduction Act, the Office of Management and Budget has approved the information collection provision of subpart S through August 31, 1995. OMB Approval Number 2120-0524 has been assigned to subpart S.

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Federalism Implications

The proposal set forth herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation, if adopted, would not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this proposal (1) Would not be a "major rule" under Executive Order 12291; and (2) would be a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Further, I certify that under the criteria of the Regulatory Flexibility Act, this proposal would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 93

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

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, I propose to amend part 93 of the Federal Aviation Regulations (14 CFR part 93) as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

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

Authority: 49 U.S.C. App. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 *et seq.*; 49 U.S.C. 106(g).

§93.221 [Amended]

2. Section 93.221(e)(1) and (e)(2) are revised to read as follows:

§93.221 Transfer of slots.

- * * * * *
- (e) * * *
- (1) Air carrier aircraft that may be operated under this paragraph are limited to aircraft:
- (i) Having an actual seating configuration of 110 or fewer passengers; and
 - (ii) Having a maximum certificated takeoff weight of less than 126,000 pounds.
- (2) No more than 50 percent of the total number of commuter slots held by a slot holder at O'Hare International

Airport may be used with aircraft described in paragraph (e)(1) of this section.

3. Section 93.221(e)(3), (e)(5), and (e)(8) are removed.

4. Section 93.221(e)(4) is designated as (e)(3) and amended by removing, in the fifth line, the number "60" and inserting in its place the number "75", and in the ninth line, after the words "aircraft type" inserting ", aircraft series, actual aircraft seating configuration".

5. Section 93.221(e)(6) and (e)(7) are redesignated as (e)(4) and (e)(5), respectively.

Appendix B—[Removed]

6. Appendix B to part 93 is removed.

Issued in Washington, DC, on December 29, 1992.

Thomas C. Richards,
Administrator.

[FR Doc. 92-31941 Filed 12-30-92; 4:01 pm]

BILLING CODE 4910-13-M

Research and Special Programs Administration

14 CFR Parts 221 and 389

[Docket No. 48379; 48385; Notice 92-35]

RIN 2137-AC18

Electronic Filing of Property and Passenger Tariffs; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Reopening of comment period; notice of public meeting; request for comments on petition for rulemaking.

SUMMARY: On October 15, 1992, RSPA published a notice of proposed rulemaking (NPRM) in the *Federal Register* inviting comment on electronic filing of property and passenger tariffs. Improvements were proposed to the procedures for electronic filing of passenger fares that were implemented on December 18, 1989, that, among other changes, would allow electronic text submissions in addition to electronic price submissions. The electronic text would include price conditions or limitations. RSPA has received several requests asking for an extension of the comment period from the current 30 days to 90 days. RSPA concurs, in part, and has concluded that additional time for public comment and a public meeting should contribute to the public understanding of the proposals. RSPA is reopening the comment period, will hold a public meeting, and will accept comments

until March 5, 1993. RSPA also requests comments on a related petition for rulemaking.

DATES: Comments. The comment period is reopened, and comments will be accepted until March 5, 1993. **Public Meeting.** A public meeting will be held on February 3, 1993, at 10 a.m.

ADDRESSES: Comments. Five copies of any comments to this docket should be sent to the Documentary Services Division, C-55, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should refer to this Docket. Receipt of comments will be acknowledged if the commenter includes a stamped, self-addressed postcard, which the Docket Clerk will time- and date-stamp and return. **Public meeting.** A public meeting on the proposed electronic cargo and passenger tariff filing procedures will be held at the Department of Transportation NASSIF Building, 400 Seventh Street, SW., Washington, DC 20590, on February 3, 1993, at a room number to be provided later. The meeting will be transcribed. Those planning to attend should notify RSPA, by telephone or in writing, no later than January 22, 1993. To confirm plans to attend, and obtain the meeting room number, contact Mr. Dean L. Johnson or Mrs. Rita B. Clowes at (202) 366-2414.

FOR FURTHER INFORMATION CONTACT: Mr. Donald W. Bright or Mr. Dean L. Johnson, Office of Automated Tariffs, Research and Special Programs Administration (RSPA), Department of Transportation, at the address above. Telephone: (202) 366-4080.

SUPPLEMENTARY INFORMATION: On October 15, 1992, RSPA published a notice of proposed rulemaking (NPRM) in the *Federal Register* inviting comment on electronic filing of property and passenger tariffs (Docket 48385, Notice 92-19, 57 FR 47303). Improvements were proposed to the procedures for electronic filing of passenger fares that were implemented on December 18, 1989. The NPRM proposed to allow an air carrier to submit an all-electronic tariff filing that includes not only an electronic price, but also the conditions of service and limitations on the application of the price for travel and other purposes.

RSPA also proposed to eliminate excess filing of tariff information; prescribe the form and content of electronic fare rules; require a finished electronic tariff arrangement or format in addition to the existing subscription service for electronic raw tariff data; allow the filer to charge a fee to reproduce electronic tariffs in a finished