

presented: (1) Existing methods to quantify the potential economic and environmental effects to complete the core analysis, (2) identification of and recommendations to address some of the challenges presented by the core analysis, (3) recommendations for a process to help identify priority issues and appropriate methodologies for a supplemental analysis of issues not treated in the core analysis, and (4) estimates of the resources necessary to perform the core analysis.

By itself, the proposed quantitative methodology will not constitute a comprehensive analysis of the FTAA's environmental effects; rather, the outcome of this effort is intended to feed into the larger environmental review process. In addition, the core quantitative analysis would help inform the selection of key economic sectors and geographic areas within the United States that may warrant further examination in the supplemental analysis. These issues may be analyzed in a qualitative or quantitative fashion, depending upon such factors as: the nature of potential environmental effects, data availability and the availability of methods to estimate environmental endpoints (positive or negative). As envisaged by the Working Group, once the additional issues have been identified in the core and supplemental analyses, specific recommendations can be developed regarding analytical methods. In addition, specific global and trans-boundary environmental effects that may emerge as potentially significant issues will be examined in the core and/or supplemental analyses and incorporated, as appropriate, into the environmental review. At a minimum, other components of the review will include a concurrent analysis of potential impacts on domestic environmental laws and regulations resulting from potential rules changes and changes in non-tariff barriers to trade which may result from the negotiations. In addition, specific global and trans-boundary environmental effects that may emerge as potentially significant issues will be examined and incorporated, as appropriate, in the environmental review.

The FTAA Environmental Group is favorably considering the advice and recommendations of the Working Group as presented in the proposed methodology. Following input from USTR's advisors, Congress, and the public, the Environmental Group will further refine its analytical strategy. Initiation of the entire analytical effort should take place as soon as possible to

ensure the timely consideration of the results in the negotiating process.

WRITTEN COMMENTS: Persons submitting written comments should provide twenty (20) copies no later than 5:00 PM January 19, 2001, to Gloria Blue at the address listed above. Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room (Room 101) at the address noted above. An appointment to review the file may be made by calling Brenda Webb at (202) 395-6186. The Reading Room is open to the public from 10:00 a.m. to 12 noon, and from 1 p.m. to 4 p.m. Monday through Friday.

Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof. If the submission contains business confidential information, twenty (20) copies of a public version that does not contain confidential information, must be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "confidential" at the top and bottom of the cover page (or letter) and each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2000-8278]

High Density Airports; Notice of Lottery of Slot Exemptions at LaGuardia Airport

AGENCY: Federal Aviation Administration.

ACTION: Notice of lottery for takeoff and landing times at LaGuardia Airport.

SUMMARY: This notice announces a Federal Aviation Administration (FAA)

lottery to reallocate exemption slots at LaGuardia Airport as authorized under the Wendell H. Ford Aviation Investment and Reform Act of the 21st Century. The FAA finds that this action is necessary to address the level of delays that are currently experienced as a result of the significant increase in operations authorized by that legislation, and to prevent an increase in delays from additional flights scheduled to begin in the near future.

DATES: The lottery will be held on December 4, 2000.

ADDRESSES: The lottery will take place in the FAA Auditorium, 3rd floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 at 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number 202-267-3053.

SUPPLEMENTARY INFORMATION:

Background

The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of the navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the navigable airspace. Also, under section 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace.

The High Density Traffic Airports Rule, or "High Density Rule," 14 CFR part 93, subpart K, was promulgated in 1968 to reduce delays at five congested airports: John F. Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, Ronald Reagan National Airport and Newark International Airport (33 FR 17896; December 3, 1968). The regulation limits the number of instrument flight rule (IFR) operations at each airport, by hour or half hour, during certain hours of the day. It provides for the allocation to carriers of operational authority, in the form of a "slot" for each IFR landing takeoff during a specific 30- or 60-minute period. The restrictions were lifted at Newark in the early 1970s.

“AIR-21”

On April 5, 2000, the “Wendell H. Ford Aviation Investment and Reform Act for the 21st Century” (“AIR-21”) was enacted. Section 231 of AIR-21 significantly amended 49 U.S.C. § 41714 and included new provisions codified at 49 U.S.C. §§ 41716, 41717, and 41718. These provisions enabled air carriers meeting specified criteria to obtain new slot exemptions at New York’s LaGuardia Airport (LaGuardia) and John F. Kennedy International Airport (JFK), Chicago’s O’Hare International Airport (O’Hare) and Washington DC’s Ronald Reagan Washington National Airport (National). As a result of this legislation, the Department of Transportation (Department) issued eight orders establishing procedures for the processing of various applications for exemptions authorized by the statute.

Specifically, Order 2000-4-11 implements 49 U.S.C. 41716(a), which provides in pertinent part that an exemption must be granted to any airline using Stage 3 aircraft with less than 71 seats that proposes to provide nonstop service between LaGuardia and an airport that was designated as a small hub or nonhub airport in 1997, under certain conditions. The exemption must be granted if: (1) the airline was not providing such nonstop service between the small hub or nonhub airport and LaGuardia Airport during the week of November 1, 1999; or (2) the proposed service between the small hub or nonhub and LaGuardia, exceeds the number of flights provided between such airports during the week of November 1, 1999; or (3) if the air transportation pursuant to the exemption would be provided with a regional jet as replacement of turboprop service that was being provided during the week of November 1, 1999.

According to AIR-21 and the Department’s Orders, air carriers meeting the statutory tests delineated above automatically receive blanket approval for slot exemptions, provided that they certify in accordance with 14 CFR 302.4(b) that they meet each and every one of the statutory criteria. The certification must state the communities and airport to be served, that the airport was designated a small hub or nonhub airport as of 1997, that the aircraft used to provide the service have fewer than 71 seats, that the aircraft are Stage 3 compliant, and the planned effective dates. Carriers must also certify that the proposed service represents new service, additional frequencies, or regional jet service that has been upgraded from turboprop service when compared to service for the week of

November 1, 1999. In addition, carriers must state the number of slot exemptions and the times needed to provide the service.

Order 2000-4-10 implements the provisions of 49 U.S.C. 41716(b), which states in pertinent part, that exemptions must be granted to any new entrant or limited incumbent airline using Stage 3 aircraft that proposes “* * * to provide air transportation to or from LaGuardia or John F. Kennedy International Airport if the number of slot exemptions granted under this subsection to such air carrier with respect to such airport when added to the slots and slot exemptions held by such air carrier with respect to such airport does not exceed 20.” Applications submitted under this provision must identify the airports to be served and the time requested.

Section 231 of AIR-21, 49 U.S.C. 41715(b)(1) expressly provides that the provisions for slot exemptions are not to affect the FAA’s authority for safety and the movement of air traffic. The reallocation of exemption times by the lottery procedures described in this Notice is based on the FAA’s statutory authority and does not rescind the exemptions issued by the Department under Orders 2000-4-10 and 2000-4-11. As provided in those orders, carriers that have filed the exemption certifications also need to obtain an allocation of slot exemption times from the FAA. The limiting and reallocation of these exemption slots is in recognition that it is not possible to add an unlimited number of new operations at LaGuardia Airport, especially during peak hours, even if those operations would otherwise qualify for exemptions under AIR-21.

Lastly, section 93.225 of Title 14 of the Code of Federal Regulations sets forth the process for slot lotteries under the High Density Rule. The process described in the regulations is similar to the process described herein and allows for special conditions to be included when circumstances warrant special consideration.

Actions of the Port Authority of New York and New Jersey

In response to a significant increase in exemption operations under AIR-21 beginning in late summer (from 53 operations in August 2000 to 192 operations at the end of September), the Port Authority of New York and New Jersey (Port Authority) issued a letter on August 2 to all carriers filing for AIR-21 exemptions requiring 45 days advance notice of new operations at the airport under AIR-21. On August 21, the Port Authority issued a second letter to carriers planning to initiate service

under AIR-21 exemptions requesting that the carriers schedule their flights outside of the most congested hours in order to mitigate the delays generated by additional flights. On September 19, the Port Authority announced a temporary moratorium on new flights. In that letter, the Port Authority stated its intent to replace this moratorium as soon as possible with a measure that will prevent an unlimited increase in operations at LaGuardia, and at the same time fairly accommodate Federal interests in competition and in service to small hub or nonhub airports as provided in AIR-21. To that end, the Port Authority has proposed to the FAA the imposition of a limit on the number of AIR-21 exemption flights at LaGuardia, and the allocation of those flights to eligible carriers through a lottery procedure to address, in the short-term, the current situation at the airport.

The following factors describe the current operating conditions experienced at LaGuardia:

- There were more than 9,000 flight delays at LaGuardia in September 2000, up from 3,108 in September 1999. In September 2000, 25% of the flight delays in the U.S. were at LaGuardia. In September 1999, the figure was 12%.
- Average delays for many afternoon flights at LaGuardia in September 2000 exceeded 48 minutes. The average delay for all flights that month was 43 minutes.
- LaGuardia has recently experienced as many as 600 delayed flights on a day when there is good weather and no other significant problems in the air traffic control system.
- Some flights at LaGuardia have experienced average ground delay time that exceeds scheduled flight time.
- Air carriers routinely cancel scheduled flights, especially in afternoon and evening hours, due to aircraft positioning and other operational issues related to excessive delays.

Since AIR-21 was enacted on April 5, 2000:

- Carriers have filed exemption requests for more than 600 new flights a day at LaGuardia.
- As of November 1, over 300 new flights are operating under AIR-21 exemptions.
- Carriers have published schedules for 28 new flights in December and 23 more new flights in January 2001.
- In April 2000, the number of scheduled operations at LaGuardia was 1064. As of November 1, that number was 1344.
- If the flights published for December and January began operation,

there would be approximately 1395 scheduled operations each day at the airport, an increase of 30% in less than a year at an airport that was already one of the top two delay airports in the U.S.

Notice of Intent To Conduct a Lottery

On November 9, 2000, the FAA issued a Notice of Intent to Conduct a Lottery seeking comment on the agency's proposed slot lottery at LaGuardia (65 FR 69126; November 15, 2000). The agency proposed that as of January 1, 2001, scheduled operations would be limited to 75 per hour to limit daily and hourly demand on airport facilities and the air traffic control system. The FAA believes that this number of flights can be accommodated in good weather conditions and at the same time, will provide access for AIR-21 exemption flights. (This number does not include extra sections of scheduled air carrier flights or the 6 reservations per hour for "Other" nonscheduled operations, including general aviation, charters and military flights.) As a result, the number of AIR-21 slot exemptions at LaGuardia would be limited to approximately 150 a day between the hours of 7:00 a.m. and 9:59 p.m. (the actual hourly total is 159). Also on January 1, 2001, the FAA would reissue AIR-21 exemption slots and operating times to eligible carriers in accordance with the results of a lottery. The FAA further proposed that carriers eligible for participation in the lottery would be those carriers that have applications on file with the Department, fulfilled the certification requirements articulated in OST Orders 2000-4-10 and 2000-4-11, received an FAA allocation as of the date of the notice, and would have commenced operations by January 1, 2001. Lastly, the agency proposed that independently owned carriers that had obtained AIR-21 certification in their own name could participate in the lottery separately, regardless of whether the service is under that carrier's name or under a code-share arrangement.

Discussion of Comments

After a seven-day comment period, which closed on November 20, the agency received 36 comments. Comments were submitted from 15 airlines, six airport authorities, two associations representing airports and small air carriers, private individuals and representatives from the City of Knoxville, Tennessee (Chamber of Commerce, Convention and Visitors Bureau, and Mayor's Office) and representatives from the State of Maine (Governor King, City of Portland, Department of Economic and Community Development). In addition,

comments were received from Senators Brownback, Roberts, Grassley, Harkin, Kohl and Feingold and Congressmen Barrett and Kleczka.

The comments discussed nine main issues: (1) Treatment of commuter affiliates; (2) elimination or reduction of service to small communities; (3) new entrant/ limited incumbent preference; (4) carrier eligibility for the lottery; (5) suspension of the use-or-lose requirement; (6) suspension of the extra section provision; (7) implementation date of the reallocation; (8) alternative allocation methods; and (9) trading of slot exemption times.

Treatment of Commuter Affiliates

The FAA proposed that independently owned carriers that had obtained AIR-21 certification in their own name could participate in the lottery separately, regardless of code-share arrangements with other operators at LaGuardia Airport. The basis for this proposal was a strict reading of the statutory language in AIR-21, which specifically provides that:

For purposes of this section and section 41716, 41717, and 41718, an air carrier that operates under the same designator code, or has or entered into a codeshare agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the 2 carriers at the airport exceeds 20 slots and slot exemptions. (49 U.S.C. 41714(k)).

The majority of comments on this issue opposed the FAA's proposal that the above provision only applies to new entrant/limited incumbents. The majority of commenters argue that by adopting the above interpretation, the code-share affiliates of the major incumbent carriers are being treated as individual carriers for the purpose of participating in the slot lottery, regardless of the fact that many of these carriers carry the same airline designator code. Consequently, the number of carriers eligible to participate in the lottery for slot exemptions to small hub and nonhub airports is inflated to 8 carriers versus 4 carriers-if affiliated carriers are aggregated.

This leaves less exemption slots available for new entrants during the lottery, particularly during the most desirable times and results in an inequitable and disproportionate weight toward incumbent carriers with multiple contracted codeshare affiliates. These commenters contend that this approach would enhance the dominance of the airlines that already dominate LaGuardia and are better able to complement their AIR-21 operations

with HDR slots, which is precisely contrary to the intent of AIR-21.

Both the Senate version (S. 82) and the House version (H.R. 1000) of AIR-21 contained language that aggregated commuter affiliates for purposes of applying for slot exemptions as new entrants or limited incumbents. The conference substitute stated that,

For purposes of determining whether an airline qualifies as a new entrant or limited incumbent for receiving slots exemptions, DOT shall count the slots and slot exemptions of both that airline and any other that it has a code-share agreement at that airport. Conference Report on AIR-21, H. Rep. 106-513, 106th Cong., 2d Sess. (March 8, 2000), p. 174.

Additionally, in the Senate debate, Senator McCain, chairman of the Senate Commerce Committee stated with respect to this provision that "It means the Secretary should consider commuter affiliates as new entrant or limited incumbents for purposes of applying for slot exemptions and interim access to O'Hare. A major airline should not be allowed to game the system and add to its hundreds of daily slots through its commuter affiliates and codeshare partners" (106th Cong., 1st Sess. Vol. 145, No. 134, S12096, October 6, 1999).

It is argued by the commenters, including all members of Congress that commented on this notice, that it was only necessary for Congress to address the commuter affiliates only with respect to new entrants and limited incumbents because those are the only circumstances in which AIR-21 exemptions would be limited by the status of the carrier. The statutory provisions governing slot exemptions for small or nonhub airports provide for automatic access upon meeting the stated criteria without regard to the status of the carrier. Consequently, it was not necessary for Congress to address the affiliated carrier issue with respect to these slot exemptions and the statute is silent.

The FAA does not dispute the above arguments. However, in ensuring that the proposed lottery meets the intent of AIR-21 to the greatest extent possible, the agency has to consider the effect of amending its interpretation of this provision and applying the commuter affiliate provision to both new entrants/ limited incumbents and carriers providing service to small and nonhub airports. As stated in the notice, in capping the number of slot exemptions, the agency is striving to strike a balance between new entrants/limited incumbents and carriers providing service to small and nonhub airports that provides a fair and equitable distribution between the two categories

of operations, consistent with the intent of AIR-21.

The FAA agrees with the comments that it was logical for Congress not to treat commuter affiliates as a single entity for purposes of obtaining slot exemptions for carriers providing service to small and nonhub airports. Since the statute does not provide for a cap on these exemptions nor any allocation framework, it is unnecessary to include the language specifically applicable to new entrants and limited incumbent carriers. However, given the circumstances today that warrant a limit of some sort on the total number of operations at the airport and the clear Congressional intent in cases where such limits applied, the FAA finds that it is reasonable to apply the commuter affiliate principle to the carriers providing service to small and nonhub airports. First, since AIR-21 is silent on this issue, in looking at the legislative history, the reading suggested by the commenters is consistent with the intent of the statute. Second, in adapting the use of the definition for the purpose of the lottery of FAA-issued operating rights, the FAA is dealing with a situation not contemplated by the drafters of AIR-21. The agency's procedure is for the allocation of limited operating rights, and attempts to comport with the intent of AIR-21 to the maximum extent possible. Accordingly, the list of eligible carriers set forth in this notice reflect an aggregation of commuter affiliates with their codeshare partners, *i.e.* all carriers sharing a common designator code will be considered a single carrier for the purpose of selecting exemption slots in the lottery.

Elimination or Reduction in Service to Small and Nonhub Airport

Comments were received from the Knoxville Airport Authority, Convention and Visitor Bureau, Mayor, the Charleston County Aviation Authority, Birmingham Area Chamber of Commerce, Lee County Port Authority, City of Portland, Maine, the Governor of Maine, State of Maine Department of Economic and Community Development, Piedmont Triad Airport Authority, Lebanon Municipal Authority, and the Charlottesville-Albemarle Airport Authority who object to the proposed lottery if it would result in any reduction or elimination of service to their communities. They urge the FAA to protect the needs of their individual communities and other communities that AIR-21 was intended to benefit. Colgan Air contends that it provides the only LaGuardia service to the markets it

serves. Without the AIR-21 exemption slots, Colgan states that its service to these small hub and nonhub markets will disappear. Similarly, Delta Air Lines comments that Congress encouraged airlines to institute new regional jet service between LaGuardia and underserved cities to redress the lack of air service from these communities to the New York market. As a result, Delta has already instituted nonstop LaGuardia service with regional jets to 14 small hub and nonhub markets (46 daily nonstop roundtrip flights). According to Delta, the proposed lottery would likely force Delta to cancel all but a few of these flights and impose hardships on these communities who are now using this new service. Delta also argues that the FAA does not properly balance regional jet service versus new entrant service, of which the regional jet service will endure most of the reduction in number of slot exemptions in the lottery.

The FAA realizes that an approximate 44 percent reduction in the number of exemption slots available during peak hours is going to result in reduced service. The agency's foremost concern with this lottery, after establishing the limit on the number of operations, is how to make the resulting allocation as fair as possible among the competing entities and consistent with the purposes of AIR-21. As stated previously, the FAA believes that since the agency is imposing a cap on slot exemptions, it is appropriate to aggregate commuter affiliates with their codeshare partners. While this may reduce the number of slot exemptions available to the carriers providing service to small hub and nonhub airports, these carriers, by virtue of their codeshare arrangements have alternative sources of slots available to adjust their level of service. It is also noted that this action does not reduce the number of HDR slots or preclude the option to provide the small community service to other New York City area airports. Several of the incumbent carriers providing service under AIR-21 slot exemptions are the largest individual slot holders at the airport and previously served some of the same communities using HDR slots. These carriers may choose to continue providing service with a combination of AIR-21 exemption slots and HDR slots within the carriers' base. This notice will not require a carrier to continue or discontinue service to any eligible community. These decisions will be made by the individual carrier. In sum, the FAA is aware that some communities will not receive service to

LaGuardia Airport they may have expected under the provision of AIR-21, even if a carrier is willing to provide the service. LaGuardia Airport simply does not have the capacity for the unlimited addition of new flights.

New Entrants/Limited Incumbents

America West Airlines, Legend Airlines, Spirit Airlines, Shuttle America and the Air Carrier Association of America (ACAA) all raise issues concerning the impact of the lottery on new entrants/limited incumbents. These entities argue that the number of exemption slots operated by new entrants/limited incumbents pales in comparison to the number of exemption slots operated by carriers providing service to small hub and nonhub airports. These commenters believe that the proposed lottery is not structured so as to provide new entrants/limited incumbents with meaningful opportunities to promote competition, as intended by AIR-21. Several of the commenters requested that the FAA allocate additional slots to limited incumbents and new entrants to provide for expansion of their schedules in the next year, even if the slots would not be used immediately.

The FAA believes that the application of the commuter affiliate principle to carriers providing service to small and nonhub airports helps balance the two interests. However, the FAA also believes that while the lottery is intended to equitably address the needs of all carriers under the cap, it is necessary to ensure the competitive viability of new entrants, and still providing small hub and nonhub access granted under the statute. Consequently, the FAA finds that the lottery procedures described herein give equal weight to both categories of carriers for slot exemptions.

Carrier Eligibility

Sun Country states that it meets the definition of a "new entrant," but is not eligible to participate in the lottery because it did not apply for exemptions at the Department and receive allocations from the FAA by November 9. (Sun Country did file its application with the Department on November 17, 2000). Sun Country further argues that at the time that the deadline was published, it made it impossible for any new entrant to participate that had not yet filed with the Department. Shuttle America comments that it should be permitted to participate in all three initial rounds of the lottery because it is a new entrant and because it is providing service to a new and nonhub market, therefore uniquely qualifying

for inclusion in the first three rounds of the lottery under both categories of operations.

Due to the current operating environment at LaGuardia as described in the previous notice, the FAA finds that immediate action is necessary to prevent worsening of an already intolerable situation. As previously stated, the reallocation based on this lottery is an interim step and will only be in effect for the short-term, *i.e.* until September 15, 2001. After that date, the FAA and the Department of Transportation fully expect to have a long-term mechanism in place to better address congestion at the airport, developed with the participation of all interested parties. Because of the temporary nature of the allocation, and the fact that many of the carriers already operating AIR-21 exemption service will need to reduce their operations, the FAA did not open the lottery to carriers that had taken no steps to initiate AIR-21 flights at LaGuardia as of the date the notice was issued. It is incumbent that the FAA reduce the operations at the airport to an acceptable number. The FAA's immediate goal is to bring the current level of operations to a level that more appropriately recognizes airport capacity and to do so by addressing the operations that are already in place. If the FAA were to permit Sun Country to participate in the lottery, that decision would require further reduction of service that is already being operated by other carriers. We note that other carriers, some of whose current operations are being reduced, also have plans (and in some cases, have already received slot times by the FAA) to increase service after January 1, 2001, and prior to September 15, 2001, but are unable to do so. We note that Sun Country has previously filed for exemptions and initiated AIR-21 flights at JFK International Airport and O'Hare International Airport and is clearly benefiting from AIR-21 even if it is unable to begin LaGuardia service immediately. Also, as previously stated, the allocation of exemption slots by this lottery is for the short-term only and this action is not a permanent bar to Sun Country or other operators from commencing future AIR-21 operations.

The FAA does not agree that Shuttle America should be able to participate in all rounds of the lottery as both a new entrant/limited incumbent and a carrier providing small hub and nonhub service. The FAA has listed Shuttle America as a new entrant (to which Shuttle America did not comment on) and eligible to select four slots in the first round, but ineligible for participation in the second and third

rounds for carriers obtaining AIR-21 authority on the basis of providing small hub and nonhub service.

The FAA also makes four corrections to the November 9 notice regarding the number of slot exemptions available during the lottery for Midway, Legend, American Eagle and Delta Connection. In the previous notice, the FAA incorrectly stated that Midway was eligible for 9 operations, Legend for 7 operations, American Eagle for 26 operations and Delta Connection for 81. The corrected numbers are 15, 8, 34 and 88 respectively. However, this notice clarifies that only slots between the hours of 0700-2159 are included.

Alternative Allocation Methods

A number of commenters proposed various alternative methods of allocation or variations of the lottery procedures proposed. These methods and variations include increasing the number of slots that new entrants may select in the first round; withdrawal and reallocation of 10 percent of all HDR slots; allocation of available slots among eligible carriers in proportion to the number of AIR-21 flights already implemented as of a certain date; allowing lottery slots to be traded freely as long as relevant city and aircraft requirements are met; allowing carriers to have a limited number of delay-free arrivals and to pick commercially viable times; rolling back the cut-off date for operations eligible for lottery to those operations operating on August 31, 2000; and use a rolling 3-hour limitation (do not exceed 225 operations in any three consecutive hours).

The FAA has reviewed each alternative and variation submitted and finds that the results of the lottery, if any of these suggestions were adopted, would favor one carrier or category of carriers over the others. It would also detract from the purposes of this lottery, which are to cap operations at an acceptable level for the short-term, and at the same time realize the benefits of AIR-21 to the extent possible at that level of operations. For example, if the number of slots were increased for new entrants in the first round, that would adversely affect the number of slots available for carriers providing service to small and nonhub airports, which has already been significantly reduced. Also, if the FAA were to change the cutoff date to August 31, 2000, this would disproportionately benefit incumbent carriers, which in some cases started the AIR-21 service only a few days before that deadline. If the FAA were to adopt a prorated method of allocation, then new entrants, whose presence at the airport is largely or

exclusively due to slot exemptions, would be disfavored.

Lastly, adoption of a 3 hour rolling limit would allow for further peaking of operations at certain times, which is inconsistent with an hourly cap. Consequently, the FAA believes that the lottery procedures proposed provide an approach that distributes the benefits and burdens of the allocation among carriers, and strikes a balance between the two distinct purposes of AIR-21: competition by new entrant and small incumbent carriers and service to small hub and nonhub airports by regional jets and other small aircraft. The FAA adopts herein the lottery procedures proposed, and as amended by this notice.

Suspension of the Use-or-Lose Requirement

Several commenters requested that the FAA temporarily suspend the minimum slot usage requirement for all operators at LaGuardia.

On November 13, 2000, the FAA issued a Statement of Policy, which set forth a temporary policy concerning the minimum slot usage requirement at LaGuardia (65 FR 69601; November 17, 2000). According to the policy statement, carriers are permitted to temporarily return slots or slot exemptions to the FAA in advance due to schedule planning or other decision by the carriers without fear of jeopardizing the permanent loss of the slot or slot exemptions. Additionally, this policy provided that the FAA will treat as used a slot or slot exemption if the flight was scheduled but canceled for operational reasons and the slot would not otherwise have been subject to withdrawal.

The FAA intends to issue a separate notice that clarifies the November 13 policy statement in view of the lottery and the reallocation of the AIR-21 exemption slots.

Suspension of Extra Sections

Several commenters stated that the extra section provision of the High Density Rule is either being abused and should be suspended or is contributing to the overall delay situation at the airport and that the FAA should suspend this provision.

The FAA is not suspending the use of extra sections at this time. However, based on the comments received, the agency will review extra section operations under current regulations and intends to monitor these operations in the future to determine whether further rulemaking or enforcement action is warranted.

Implementation Date

The FAA received comments regarding the proposed reallocation date of January 1, 2001. Several carriers stated that this date would be too soon after the lottery, in that it would not be possible to change published schedules, or that the date fell in the middle of the holiday travel time. In addition, several carriers cited operational problems with the proposed date since airlines already have posted crew bids for January before the lottery process is completed. Midway Airlines specifically stated that "If the lottery is not held until early December, which appears likely, then carriers will not have the time necessary to review and adjust fleet allocations and positionings in order to meet the deadlines for distributing bid packages to their crews on December 10."

Based on these comments, the FAA agrees that the January 1 date is not practicable to reallocate exemption slots and have carriers adjust schedules based on that reallocation without significant disruption. The carriers recommended implementation date of January 31, 2001, which will provide carriers with approximately seven weeks after the lottery to adjust schedules. This date addresses the situation at the airport in the most expeditious timeframe reasonable recognizing that airlines must take actions to reschedule flights, comport with their union contracts and accommodate passengers on alternative routings if necessary.

Trading of Slot Exemptions

Several commenters raised the issue of allowing the transfer of the slot exemption times among carriers consistent with industry practices and FAA regulations governing the transfer of slots.

Under the provisions of 49 U.S.C. 41714(j), carriers may not sell, trade, transfer, or convey the operating authorities granted by the Department's exemptions. Under certain conditions, the Department has allowed the temporary transfer of slot exemption times under its pre AIR-21 authority and AIR-21 when slot timings were limited. These conditions include that the transfer is for operational reasons, of a temporary nature, and on a one-for-one basis at the same airport. In addition, the carrier with the exemption must certify to the FAA that no other consideration is involved, which is consistent with the provisions of AIR-21.

Re-allocation of Slot Exemptions at LaGuardia Airport by Lottery

As stated in the November 9 notice, the FAA will proceed with the

development of new department policy on measures available at LaGuardia for management of congestion, with participation by all interested parties. However in the short term, the FAA finds that it is appropriate to limit the number of AIR-21 exemption operations at LaGuardia and allocate those operations by lottery to eligible carriers described herein. The agency reiterates that the limit will not be permanent and will remain in effect until September 15, 2001, when a permanent demand management policy for the airport, developed with the participation of all interested parties, can be implemented.

Reallocation of AIR-21 exemption flights at LaGuardia in accordance with the following conditions is in furtherance of the spirit and intent of AIR-21, and is consistent with the FAA's responsibility for the efficient use of the navigable airspace, which is articulated in 49 U.S.C. § 40103(b).

Effective January 31, 2001, the number of scheduled operations at LaGuardia will be limited to approximately 75 per hour. Consequently, the number of AIR-21 slot exemptions at LaGuardia is limited to approximately 159 per day between the hours of 7:00 a.m. and 9:59 p.m. Also effective January 31, 2001, all AIR-21 slot exemptions will be allocated in this lottery, and all carriers currently operating under AIR-21 exemption authority will be required to conform their schedules accordingly.

The number of AIR-21 slot exemptions that will be available during the lottery and consistent with an hourly total of approximately 75 scheduled operations is as follows (allocations will be made by 30 minute time periods):

Hourly period	Number of exemptions
0700	16
0800	11
0900	9
1000	8
1100	8
1200	13
1300	14
1400	8
1500	12
1600	7
1700	2
1800	7
1900	7
2000	6
2100	31

The following criteria, as proposed in the previous notice, are used to determine carrier participation. A carrier must have: (1) An application on file with the Department; (2) fulfilled

the certification requirements articulated in OST Orders 2000-4-10 and 2000-4-11 as of November 9, the date of the notice; (3) received an allocation of slot times from the FAA; and (4) commenced operations by January 1, 2001.

Carriers that meet this criteria under Order 2000-4-10 and eligible for a lottery of times between the hours of 0700-2159 are: Air Tran (11 operations), American Trans Air (6 operations), Legend (7 operations), Midway (15 operations), Midwest Express (8 operations), Spirit Airlines (12 operations), Shuttle America (14 operations), Southeast Airlines (4 operations) and Vanguard (2 operations).

Carriers that meet this criteria under Order 2000-4-11 for service for small hub and nonhub airports and would be eligible for a lottery of slot times between the hours of 0700-2159 are: American Eagle (32 operations), Continental Express (31 operations), Delta Connection (88 operations) and US Airways Express (82 operations).

Definitions for the terms "carrier," "new entrant," and "limited incumbent" for purposes of participation in the lottery, are proposed as set forth in 14 CFR 93.213, and amended by § 231 of AIR-21. The FAA has applied the "commuter affiliate" provision in 49 U.S.C. 41714(k) to carriers eligible for the slot lottery, both new entrants/limited incumbents and carriers serving small hub and nonhub airports, and is reflected in the previously mentioned list of carriers eligible to participate in the slot lottery.

The FAA advises all carriers that it will not allocate slot times for any request for slot exemption times between the hours of 0700-2159 received by the FAA Slot Administration Office prior to September 15, 2001, for operation after that date.

The slot exemption lottery will be conducted in accordance with the following procedures:

a. Carriers will participate in a random drawing for selection order. Carriers will select in that order in each round. At the lottery, each operator must make its selection within 5 minutes after being called or it shall lose its turn.

b. No carrier may select more exemption times than it was allocated by the FAA to operate between 0700-2159 on January 1, 2001.

c. In the first round, only new entrants and limited incumbent carriers may participate. Each new entrant and limited incumbent carrier may select up to 4 slot exemption times, 2 arrivals and

2 departures. No more than one slot exemption time may be selected in any hour. In this round each carrier may select one slot exemption time in each hour without regard to whether a slot is available in that hour.

d. In the second and third rounds, only carriers providing service to small hub and nonhub airports may participate. Each carrier may select up to 2 slot exemption times, one arrival and one departure in each round. No carrier may select more than 4 exemption slot times in rounds 2 and 3.

e. Beginning with the fourth round, all eligible carriers may participate. Each carrier may select up to 2 of the remaining slot exemption times, one arrival and one departure, in each round, until a total of 159 slot exemption times have been selected.

f. If the last remaining slot exemption times available do not permit a reasonable arrival-departure turnaround, the FAA will take requests for limited trades among AIR-21 operators, or may make an adjustment to one of the times to assure that all slot exemption time pairs selected, combined with other slots and slot exemptions available to the operator, provide for a viable operation by the selecting carrier. In addition, the FAA may approve the transfer of slot exemption times between carriers only on a temporary one-for-one basis for the purpose of conducting the operation in a different time period. Carriers must certify to the FAA that no other consideration is involved in the transfer.

g. The Chief Counsel will be the final decisionmaker concerning eligibility of carriers to participate in the lottery.

h. The slot exemptions reallocated by lottery will remain in effect until September 15, 2001.

i. Carriers that participate and select exemption slots during the lottery must re-certify to the Department of Transportation in accordance with the procedures articulated in OST Orders 2000-4-10 and 2000-4-11, and provide the Department and the FAA with the markets to be served, the number of exemption slots, the frequency, and the time of operation, which is consistent with AIR-21 prohibition on the sale or lease of exemption slots.

Issued on November 29, 2000 in Washington, DC.

James W. Whitlow,
Deputy Chief Counsel.

[FR Doc. 00-30793 Filed 11-29-00; 4:18 pm]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Future Flight Data Collection Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for the Future Flight Data Collection Committee meeting to be held January 11, 2000, starting at 9 a.m. This meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will include: (1) Welcome and Introductory Remarks; (2) Review Meeting Agenda; (3) Review Previous Meeting Minutes; (4) Receive report on the deliberations of Working Group 1 (Data Needs); (5) Receive report on the deliberations of Working Group 2 (Technology); (6) Discuss Interim Report; (7) Review First Draft of Final Report Outline; (8) Presentations; (9) Other Business; (10) Establish Agenda for Next Meeting; (11) Date and Location of Next Meeting; (12) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements, obtain information or pre-register for the committee should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833-9339 (phone); (202) 833-9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 22, 2000.

Janice L. Peters,
Designated Official.

[FR Doc. 00-30775 Filed 12-1-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hattiesburg-Laurel Regional Airport, Hattiesburg, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 00-29918 appearing in the issue of Wednesday, November 22, 2000, under **SUPPLEMENTARY INFORMATION**, in the first column, in the fifteenth line, the date the FAA will approve or disapprove the application, in whole or part, no later than should read "March 15, 2001".

FOR FURTHER INFORMATION CONTACT: Patrick Vaught, Program Manager, FAA/Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208-2307, 601-664-9885.

Issued in Jackson, Mississippi on November 24, 2000.

Patrick Vaught,
Acting Manager, Jackson Airports District Office, Southern Region.
[FR Doc. 00-30774 Filed 12-1-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Transportation of Hazardous Materials; Designated, Preferred, and Restricted Routes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: This notice provides the current listing of all restricted, designated, and preferred road and highway routes for transporting radioactive (RAM) and non-radioactive hazardous materials (NRHM) that have been reported to the FMCSA by State and Indian Tribe routing agencies as of November 14, 2000. This listing has been extracted from the National Hazardous Material Route Registry (NHMRR). The information contained in this notice supersedes that published at 63 FR 31549 on June 9, 1998. The periodic updating and publishing of this listing is required by the Hazardous Materials Transportation Act of 1975 (HMTA), as amended (49 U.S.C. 5112). Also, the FMCSA's regulations include Federal standards and procedures which the States and Indian Tribes must follow if they establish, maintain, or enforce routing designations that: (1) Specify highway routes over which NRHM or RAM may, or may not, be transported within their jurisdictions; and/or (2) impose limitations or requirements with respect to highway routing of NRHM or RAM. States and Indian Tribes are also required to furnish updated route information to the FMCSA within 60 days of establishing or changing a route.