

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Agency Information Collection Activity Seeking OMB Approval**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 15, 2007, Vol. 72, No. 157, page 45863. This report is necessary to establish qualifications of eligibility to receive voluntary psychological training with the U.S. Air Force and will be used as proper evidence of training.

**DATES:** Please submit comments by December 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Carla Mauney at [Carla.Mauney@faa.gov](mailto:Carla.Mauney@faa.gov).

**SUPPLEMENTARY INFORMATION:****Federal Aviation Administration (FAA)**

*Title:* Physiological Training.  
*Type of Request:* Extension of a currently approved collection.  
*OMB Control Number:* 2120-0101.  
*Form(s):* There are no FAA forms associated with this collection.

*Affected Public:* An estimated 5,500 Respondents.

*Frequency:* This information is collected on occasion.

*Estimated Average Burden Per Response:* Approximately 8 minutes per response.

*Estimated Annual Burden Hours:* An estimated 733 hours annually.

*Abstract:* This report is necessary to establish qualifications of eligibility to receive voluntary psychological training with the U.S. Air Force and will be used as proper evidence of training. The information is collected from pilots and crewmembers for application to receive voluntary training.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 2, 2007.

**Carla Mauney,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.*

[FR Doc. 07-5573 Filed 11-07-07; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Agency Information Collection Activity Seeking OMB Approval**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 15, 2007, vol. 72, no. 157, pages 45861-45862. The FAA collects information from airport sponsors and planning agencies in order to administer the Airports Grants Program.

**DATES:** Please submit comments by December 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Carla Mauney at [Carla.Mauney@faa.gov](mailto:Carla.Mauney@faa.gov).

**SUPPLEMENTARY INFORMATION:****Federal Aviation Administration (FAA)**

*Title:* Airports Grants Program.  
*Type of Request:* Revision of a currently approved collection.  
*OMB Control Number:* 2120-0569.  
*Form(s):* Forms 5100-100, 5100-101, 5100-108, 5100-126, 5100-127, 5370-1.  
*Affected Public:* An estimated 1,950 Respondents.

*Frequency:* This information is collected on occasion.

*Estimated Average Burden per Response:* Approximately 8.6 hours per response.

*Estimated Annual Burden Hours:* An estimated 78,017 hours annually.

*Abstract:* The FAA collects information from airport sponsors and

planning agencies in order to administer the Airports Grants Program. Data is used to determine eligibility, ensure proper use of Federal Funds, and ensure project accomplishments.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

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

Issued in Washington, DC, on November 2, 2007.

**Carla Mauney,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.*

[FR Doc. 07-5574 Filed 11-7-07; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[Docket No. FAA-2006-25755]

**Operating Limitations at New York LaGuardia Airport; Notice of Order**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of order.

**SUMMARY:** On August 7, 2007, the FAA proposed amendments to the December 12, 2006, order (the Order) that temporarily limits flight operations at New York's LaGuardia Airport (LaGuardia). Under the Order, the FAA limited scheduled and unscheduled operations at the airport to prevent congestion-related delays associated with LaGuardia's limited runway capacity. The FAA is issuing amendments to the Order as proposed with little modification.

**FOR FURTHER INFORMATION CONTACT:** Komal K. Jain, Office of the Chief

Counsel, Regulations Division, AGC-240, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3073.

#### SUPPLEMENTARY INFORMATION:

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

On August 7, 2007, the FAA proposed to modify its December 12, 2006, Order that temporarily limits the flight operations at LaGuardia pending the promulgation of a long-term regulation to manage congestion at the airport. 72 FR 44214. The Agency proposed to (1) provide an approval process for Operating Authorization (OA) transfers for "day-of" carrier substitutions; (2) amend provisions affecting the 80 percent minimum use requirement by adding a waiver for holiday periods and providing the Administrator greater discretion to suspend the requirement under certain conditions; and (3) provide a mechanism for withdrawal of OAs for FAA operational reasons.

#### I. Background

LaGuardia's runway capacity cannot accommodate the number of arrivals and departures that carriers would like to operate without the development of significant congestion. Until January 1, 2007, the FAA limited the number of operations at the airport through implementation of the High Density Rule and the Buy-Sell Rule (or slot rules), 14 CFR part 93, subparts K and S. In 2000, out of concern over the collateral effects of the slot rules at LaGuardia on airport access and competition, Congress included a provision in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) that terminated the LaGuardia slot rules as of January 1, 2007.<sup>1</sup> In anticipation of the HDR's expiration, the FAA proposed a long-term rule that would limit the number of scheduled and unscheduled operations at LaGuardia.<sup>2</sup> Because the FAA could not complete that rulemaking by January 1, the FAA

issued the Order and adopted temporary limits that will remain in place until the rulemaking is completed. Without such operational limitations, the FAA expected severe congestion-related delays would occur, both at LaGuardia and at other airports throughout the National Airspace System (NAS) as a result of capacity constraints at LaGuardia.

Under the Order, the FAA (1) maintains the current hourly limits on scheduled (75) and unscheduled (six) operations at LaGuardia during peak period; (2) imposes an 80 percent minimum usage requirement for OAs; (3) provides for a lottery to reallocate withdrawn, surrendered or unallocated OAs; and (4) allows for trades and leases of OAs for consideration for the duration of the Order.

On August 7, 2007, the FAA proposed to modify the Order to (1) provide an approval for OA transfers for "day-of" carrier substitutions; (2) amend provisions affecting the 80 percent minimum use requirement by adding a waiver for holiday periods and providing the Administrator greater discretion to suspend the requirement under certain conditions; and (3) provide a mechanism for withdrawal of OAs for FAA operational reasons (August 2007 notice). The FAA requested written comments to its proposed changes. The comment period closed on September 6, 2007.

#### II. Discussion of Written Submissions and the Final Order

In response to a request for written comments, 12 respondents expressed views on the FAA's proposed amendments to the Order. The respondents included eight air carriers (American Airlines (American), US Airways, Delta Air Lines, Northwest Airlines, United Airlines, jetBlue Airways Corp. (jetBlue), Air Canada, and Pinnacle Airlines Group (Pinnacle)), three air carrier organizations (Regional Airline Association (RAA), Air Carrier Association of America (ACAA) and Air Transport Association of America (ATA)), and the Port Authority of New York and New Jersey (Port Authority).

Overall, the commenters supported the FAA's effort to address concerns that were overlooked or not identified at the time the Order was issued. Several commenters also raised issues that were beyond the scope of the proposed amendments, including elimination of the Perimeter Rule, creation of a buy/sell secondary market, and the withdrawals of OAs for immediate redistribution to limited incumbents. The FAA therefore is not responding to

those issues. The FAA, however, has chartered an Aviation Rulemaking Committee (ARC) to address the congestion at the New York City area airports, and these issues are expected to be part of the ARC deliberations. The FAA's discussion of remaining comments follows.

#### *Secondary Market: Approval Process for "Day-of" Transfers*

As discussed in the August 2007 notice, some air carriers have expressed concerns about the administrative burden associated with obtaining prior approval from the FAA for OA transfers when making "day-of" carrier substitutions between affiliated or regional carriers under the marketing control of a single air carrier. Due to the around-the-clock nature of an airline's operations, and the real-time nature of operational logistics, it is not unusual for an air carrier to make "day-of" flight service substitutions from one affiliated carrier to another to meet operational needs or to address schedule disruptions. The FAA recognizes that advance approval of an OA transfer for these last-minute carrier substitutions is not always possible, in part because of the coordination required between air carrier operation centers and scheduling or marketing departments and because the FAA Slot Administration Office is not open 24 hours a day. Therefore, it proposed to amend the Order to permit a transfer request to be submitted for FAA approval up to 72 hours after the actual operation.

While the FAA received general support for its efforts to streamline the reporting burden associated with obtaining approvals for transfers between marketing carriers and the operating carriers under their marketing control, several air carriers, ATA and RAA argued that it did not go far enough. ATA and RAA, among others, would have the FAA treat these transactions as "substitutions" rather than "transfers" among commonly owned and affiliated carriers and, therefore, take them out of the secondary market purview. US Airways further argued that "once [OAs] are obtained by a carrier, the FAA's only real concern ought to be ensuring compliance with the minimum usage requirements \* \* \* [T]racking of which individual carrier is operating under the "US" marketing code seems an unnecessary resource drain on both airlines and the FAA."

The FAA recognizes there is a significant paperwork responsibility associated with the transfer approval process, and is trying to lessen this burden on carriers while also

<sup>1</sup> 49 U.S.C. 41715(a)(2), enacted by Pub. L. No. 106-181, § 231, 114 Stat. 61, 106-10 (2000).

<sup>2</sup> 71 FR 51360 (August 29, 2006); Docket FAA-2006-25709.

maintaining an accurate record of which air carrier is flying under each OA at any particular time. This is not simply a matter of monitoring operations for minimum use requirements, as US Airways suggests. Under this Order, the FAA limits the number of operations that can occur at LaGuardia and, therefore, has a significant interest and responsibility in ensuring that only carriers with OAs conduct flights at the airport during the allocated time periods. Air carriers may have marketing agreements with many other carriers to operate flights on their behalf, with varying degrees of scheduling or operational control. One carrier may even operate for multiple marketing carriers at the same airport. The FAA monitors operations through several mechanisms including usage reports, published flight schedules, and flight plans filed with FAA Air Traffic Control (ATC). Communication with ATC facilities, including flight plans, require authorized FAA identifiers and call signs that are unique to the operating carrier and do not signify information as to the marketing or selling carrier of the flight. In order for the FAA to have accurate record detailing which carriers are authorized to operate at the airport, approval requests for the transfer of OAs are generally required in advance if they are to be operated by a carrier other than the holder listed on FAA records. This amendment is adopting a very limited exception to provide flexibility for "day-of" operational needs.

However, as requested by US Airways under its comment submission, the FAA is willing to provide more time for carriers to inform the FAA of its transfers. Under the Order, the FAA provides carriers five business days, instead of the proposed 72 hours, to submit requests for OA transfer approvals for "day-of" transfers among commonly owned and affiliated carriers. This additional time also allows carriers to submit more transfer approval requests under one cover, thereby reducing the number of transactions with the FAA.

As proposed, to support any request, carriers must provide flight information, including flight number, origin, destination and scheduled time of operation. While United commented that this is more information than is required by the FAA under the "use or lose" reports, the FAA distinguishes the two reporting requirements. Under this provision, in order to approve an after-the-fact transfer request, the FAA must verify that the substitution from one carrier to another resulted from the express need to conduct a specific

flight. Without the above mentioned information, the FAA could not validate the request.

#### *Minimum Usage Requirements and Waivers*

##### *Holiday Waiver*

In response to the January 9, 2007, petition submitted by ATA,<sup>3</sup> the FAA proposed to treat as used any OA held by a carrier at LaGuardia on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January. Most respondents supported the amendment, but Pinnacle and US Airways, asked that this provision be expanded to apply on the 4th of July, Memorial Day and Labor Day. JetBlue and ACAA, on the other hand, did not believe that waivers should be provided for any holiday periods. They argued that the FAA should "encourage the efficient use of scarce air traffic system capacity", and if holders of OAs do not fully maximize use of their OAs during holidays, they should be returned to the FAA for temporary redistribution. ACAA would further have the temporary OAs be made available to limited incumbents first.

The FAA first rejects the notion that the holiday waiver to the minimum use requirements be extended to additional days. In establishing the 80% minimum use requirement, the FAA specifically accounted for days in the year where there are drops in service, for planned and unplanned events, including holidays. The FAA, however, has traditionally provided the waiver for the days of Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January because of reduced passenger demand at all airports and because they fall within the same 2-month reporting cycle for usage. Therefore, a majority of carriers would not meet the minimum requirement of 80 percent without potentially operating uneconomic flights.

To the extent that there are carriers that hold OAs during holidays and do not anticipate full usage and there are other carriers who desire OAs during those same days, the FAA suggests carriers avail themselves of the secondary leasing market. The FAA is not compelled to increase our management of OA usage and allocations under the Order during holiday periods. The Agency fully believes that a viable and practical solution already exists, and it urges

carriers to take advantage of the leasing market.

##### *Start-up Waiver*

The FAA did not receive any adverse comments to the proposed amendment to waive the minimum use requirement for 120 days following the allocation of an OA by lottery. The provision is included in this amendment.

##### *Administrator's Waiver Authority*

Under the Order, the FAA Administrator can "waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which exists for a period of 5 consecutive days or more." The FAA proposed the Administrator be given greater discretion to issue a waiver if the *impact* of a particular event is five consecutive days versus the duration of the event existing for more than five days. This provision recognizes that carrier operations may require several days to return to normal after significant disruptions to service.

Commenters supported this proposal, and the provision is included in this amendment.

##### *Reversion and Withdrawal of Operating Authorizations*

The Order currently does not provide a process for the FAA to reduce flight operations at the airport to meet operational needs or to recognize reductions in available airport capacity. The FAA, therefore, proposed to include such a mechanism and use a weighted lottery system. The Agency received a number of comments in response.

To the extent that certain respondents would have the FAA further refine this provision and have it affect operations at other airports in the New York area or commit to reducing the number of reservations made available to non-scheduled operators before scheduled operators, the FAA notes that these comments are outside the scope of this proposal and, therefore, will not be addressed.

Some carriers opposed the weighted lottery system. Delta argued that the proposal is "unfair to carriers that operate substantial levels of service, and have made significant investments in operations." The FAA believes, however, that through the following explanation, Delta and others will have a better understanding of why the FAA continues to support the proposal and has decided to include it in the Order subject to one modification related to the baseline protection of 20 OAs.

Under the weighted lottery system, a lottery would be implemented each time

<sup>3</sup> See Docket FAA-2006-25755.

we needed to withdraw on OA. All air carriers holding OAs at the airport would be included, regardless of what period of the day needed to be depeaked. In this way, any air carrier operating at LaGuardia assumes the risk, based on its share of operations at the airport, of having OAs withdrawn. Weights will be established based on the proportionate share of OAs the carrier holds at the airport. For example, if an air carrier has a weight equal to 30, the carrier's name will be placed in a random draw 30 times. The random draw by an FAA representative would establish the order in which carriers need to relinquish OAs. While there is more of a likelihood that a carrier with greater operations at LaGuardia will be randomly chosen first, any air carrier holding OAs, including carriers with limited presence at the airport, as explained below, could be chosen. Carriers would relinquish two OAs in each sequence until the FAA's reduced level of operations by half-hour or hour, as appropriate, has been achieved.

The FAA proposed that a withdrawal would not be made from any carrier if the result would reduce its holdings to less than 20 OAs on any weekday. However, upon reconsideration, the FAA believes that every carrier serving LaGuardia should carry the potential burden, proportional to its share of OAs, of a withdrawal. As such, American is correct in its assertion that the FAA should not provide a 20 OA baseline protection from potential withdrawal.

The following illustrates how weights would be assigned to each air carrier in the lottery. On a weekly basis, there are a total of 6,750 available OAs at LaGuardia. Assume Carrier A has 4,000 OAs, Carrier B has 2,000 OAs; and Carrier C has 750 OAs.

Carrier A's share is  $4,000/6,750 = .593$ .

Carrier B's share is  $2,000/6,750 = .296$ .

Carrier C's share is  $750/6,750 = .11$ .

Thus, the weight for each carrier rounded to the higher whole number is:

Carrier A =  $.593(100) = 60$ .

Carrier B =  $.296(100) = 30$ .

Carrier C =  $.11(100) = 11$ .

For these purposes, the FAA will consider commonly owned and affiliated carriers to be single air carriers.

Air Canada argued that their possible inclusion in a lottery violates the Air Transport Agreement between the Government of Canada and the Government of the United States and the 2005 US-Canada Open Skies Agreement in which the U.S. government agreed to provide Canadian carriers with a base level of 42 slots (OAs) at LaGuardia in the summer and

winter seasons. The FAA has reviewed these agreements and believes that, as long as the Canadian carriers are subject to the same, non-discriminatory regulations as U.S. operator, no violation of the agreements would occur. This withdrawal system is only to be used in the event of reduced capacity at the airport. The FAA would not be able to engage this mechanism and draw down OA holdings for purposes such as providing U.S. or foreign airlines with OAs for international services or providing OAs for "new entrants." Any OA that is withdrawn or temporarily suspended, if reallocated, will be reallocated to the carrier form which it was taken, provided that the carrier continues to operate scheduled service at LaGuardia.

### III. Conclusion: The Amended Order

On August 7, 2007, the FAA proposed amendment to the Order, and solicited written views on the FAA's tentative determination to provide an approval process for OA transfers for "day-of" carrier substitutions; to amend provisions affecting the 80 percent minimum use requirement; and to provide a mechanism for withdrawal of OAs for FAA operational reasons. After considering the responses, the FAA has determined to amend the Order and adopt the proposal with two minor modifications. The Order, as amended, is recited below in its entirety.

#### A. Scheduled Operations

With respect to scheduled operations at LaGuardia:

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

2. The final Order takes effect on January 1, 2007, and will expire at the first change of scheduling season, as defined in 14 CFR, part 93, subpart B, occurring no less than 90 days after the issuance of a final rule regulating congestion at LaGuardia.

3. The FAA will assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority under the High Density Rule of FAA slot exemption rules as of January 1, 2007; to the primary marketing air carrier in the case of AIR-21 small hub/nonhub airport slot exemptions; or to the air carrier operating the flights as of January 1, 2007, in the case of a slot held by a non-carrier. The FAA will not assign operating authority under the final

Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority under 14 CFR part 121, 129 or 135. The Chief Counsel of the FAA will be the final decision maker regarding the initial assignment of Operating Authorizations.

4. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

5. An air carrier can lease or trade an Operating Authorization to another carrier for any consideration, not to exceed the duration of the Order. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267-7277 or e-mail 7-AWA-Slotadmin@faa.gov, and must come from a designated representative of each carrier. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. However, the FAA will approve transfers between carriers under the same marketing control up to 5 business days after the actual operation. This post-transfer approval is limited to accommodate operational disruptions that occur on the same day of the scheduled operation.

6. Each air carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations actually operated for each day of the two-month reporting period within 14 days after the last day of the two-month reporting period beginning January 1 and every two months thereafter. Any Operating Authorization not used at least 80 percent of the time over a two-month period will be withdrawn by the FAA except:

- A. The FAA will treat as used any Operating Authorization held by an air carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.
- B. The FAA will treat as used any Operating Authorization obtained by an air carrier through a lottery under paragraph 7 for the first 120 days after allocation in the lottery.
- C. The Administrator of the FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the air carrier and which affects carrier operations for a period of five consecutive days or more.

7. In the event that Operating Authorizations are withdrawn for non-use, surrendered to the FAA or are

unassigned, the FAA will determine whether any of the available Operating Authorizations should be reallocated. If so, the FAA will conduct a lottery using the provisions specified under 14 CFR 93.225. The FAA may retime an Operating Authorization prior to reallocation in order to address operational needs. When the final Order expires, any Operating Authorizations reassigned under this paragraph, except those assigned to new entrants or limited incumbents, will revert to the FAA for reallocation according to the reallocation mechanism prescribed in the final rule that succeeds the final Order.

8. If the FAA determines that a reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the air carrier from which it was taken, provided that the air carrier continues to operate scheduled service at LaGuardia.

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

#### *B. Unscheduled Operations:*<sup>4</sup>

With respect to unscheduled flight operations at LaGuardia:

<sup>4</sup> Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, charter, ferry, and positioning flights. Helicopter operations are excluded from the reservation requirement. Reservations for unscheduled flights operating under visual flight rules (VFR) are granted when the aircraft receives clearance from air traffic control to land or depart LaGuardia. Reservations for

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

2. The final Order takes effect on January 1, 2007, and will expire at the first change of scheduling season occurring no less than 90 days after the issuance of a final rule regulating congestion at LaGuardia.

3. No person can operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operations, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO). Additional information on procedures for obtaining a reservation will be available via the Internet at <http://www.fly.faa.gov/ecvrs>.

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

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

6. Filing a request for a reservation does not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan can be filed. The IFR flight plan must include the reservation number in the "remarks" section.

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

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA can accommodate additional reservations

unscheduled VFR flights are not included in the limits for unscheduled operators.

over a specific period. Unused Operating Authorizations can also be temporarily made available for unscheduled operations. Reservations for additional operations would be obtained through the ARO.

9. Reservations cannot be bought, sold, or leased.

Issued in Washington, DC, on November 2, 2007.

**Kerry B. Long**

*Chief Counsel, Federal Aviation Administration.*

[FR Doc. 07-5583 Filed 11-2-07; 4:11 pm]

**BILLING CODE 4910-13-M**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **Notice of Final Federal Agency Actions on Proposed Highways in Texas**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to various proposed highway projects in the State of Texas. Those actions grant licenses, permits, and approvals for the projects.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on any of the listed highway projects will be barred unless the claim is filed on or before May 6, 2008. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Salvador Deocampo, District Engineer, Texas Division, Federal Highway Administration, 826 Federal Building, Room 826, 300 E. 8th Street, Austin, Texas 78701, 8 a.m. to 5 p.m. Monday through Friday, 512-536-5950, [salvador.deocampo@fhwa.dot.gov](mailto:salvador.deocampo@fhwa.dot.gov). Ms. Dianna Noble, P.E., Director Environmental Affairs Division, Texas Department of Transportation, 118 E. Riverside, Austin, Texas 78704; 512-416-2734; e-mail: [dnoble@dot.state.tx.us](mailto:dnoble@dot.state.tx.us). Texas Department of Transportation normal business hours are 8 a.m. to 5 p.m. (central time) Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other