

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 93

[Docket No. 21215; Amdt No. 83-40]

**Special Air Traffic Rules and Airport
 Traffic Patterns; Flushing (N.Y.)
 Interim, Special Airport Traffic Rules**

AGENCY: Federal Aviation
 Administration (FAA), DOT.

ACTION: Interim rule; request for
 comments.

SUMMARY: This amendment prescribes interim, special air traffic rules for persons operating aircraft under Visual Flight Rules (VFR) to or from Flushing Airport, N.Y., in a designated airspace area immediately east of LaGuardia Airport and beneath the floor of the New York Terminal Control Area (TCA). The rule establishes requirements for communication and navigational equipment, prohibits student-pilot and training operations in the affected area, and provides improved separation between LaGuardia and Flushing Airport operations. This amendment is issued without prior notice and public procedure to immediately rectify an air traffic situation which presents an unacceptable risk of a mid-air collision between uncontrolled and controlled aircraft operating at LaGuardia and Flushing Airports. The objective of this amendment is to increase the level of control over VFR traffic in the Flushing area while accommodating the legitimate concerns of the airspace users, and to provide the highest degree of safety for passengers in public transportation.

EFFECTIVE DATE: January 8, 1981.

ADDRESSES: Send comments on the amendment in duplicate to: Rules Docket (AGC-204), Room 916, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

The official docket may be examined in the Rules Docket on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION, CONTACT: Harold W. Becker, Acting Chief, Air Traffic Rules Branch, AAT-220 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3656; or Alfred J. Reale, Airspace Section Chief, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Federal Building, John F. Kennedy Airport, Jamaica, N.Y. 11430; telephone (212) 995-3390.

SUPPLEMENTARY INFORMATION:

**Request for Comments on the
 Amendment**

Although this action is in the form of an amendment which involves flight procedures and requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the amendment. Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address indicated above. All communications received on or before March 8, 1981, will be considered. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the amendment. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the amendment that suggest a need to modify the amendment. Commenters wishing the FAA to acknowledge receipt of their comments in response to this amendment shall submit with these comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21215." The postcard will be date/time stamped and returned to the commenter.

Additional rulemaking action is being prepared which would include the Flushing Airport within the boundary of the New York TCA. The proposed change to the New York TCA will be published in the Federal Register as a notice of proposed rulemaking (NPRM). The final determination to include Flushing Airport within the TCA will be made after a thorough analysis of the comments to this amendment, comments to the NPRM, and the effectiveness of this special air traffic rule during the interim.

Background

Flushing Airport is a general aviation airport with one active runway. An FAA survey of operations at Flushing indicated an annual activity level of approximately 20,000 operations. All landings at Flushing are conducted under VFR, although there are a limited number of Instrument Flight Rules (IFR) departures coordinated through LaGuardia Departure Control.

Flushing Airport is currently the only general aviation airport in the five boroughs of New York City. The primary advantage to users of the airport is the ability to operate general aviation aircraft into a location which is nearly

as close to mid-town Manhattan as is LaGuardia Airport. Additionally, since Flushing Airport is not included within the New York TCA airspace, general aviation pilots are able to operate to or from Flushing without entering the TCA.

The proximity of Flushing and LaGuardia Airports, and the various types of aircraft using the airspace combine to create an increased collision potential between controlled and uncontrolled aircraft. It has become apparent that there are increasing numbers of incursions of Flushing traffic into the TCA airspace near LaGuardia, necessitating the immediate implementation of this amendment.

Between January 1979 and December 1980, there have been 43 reported incursions into TCA airspace by aircraft operating to and from Flushing Airport. It should be noted that only the more serious penetrations are reported, and the FAA estimates that for every reported incursion, at least two others occur.

When LaGuardia-bound aircraft are landing on Runway 31, Flushing Airport usually is using Runway 36. In that configuration, when Flushing traffic is on its base leg, the aircraft are on converging courses with LaGuardia traffic at about the same altitude. The greatest number of incursions occurs when those runways are in use. In that situation, only 3500 feet separate aircraft on the base leg to Flushing and the extended centerline of LaGuardia Runway 31. A similar set of circumstances exists when Flushing departures are using Runway 18.

Alternate Approaches

The FAA considered four different options to alleviate the identified safety problem:

(1) Recommend to the City of New York the closing of Flushing Airport, or FAA prohibition of operations to and from the airport through rulemaking action. This option would have negated the benefits of the airport to the metropolitan area as well as Flushing Airport's potential for relieving LaGuardia of some general aviation traffic.

(2) Include Flushing Airport in the New York TCA airspace through direct rule action without a prior comment period. That action would have some immediate adverse impact on traffic at both LaGuardia and Flushing Airports. The amendment adopted here will not adversely affect LaGuardia traffic and the effect on Flushing traffic will be minimal. As discussed above, the FAA will publish an NPRM proposing such a rule to include Flushing in the TCA. After the close of the comment period on that notice and this action, the FAA will

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determine whether to finalize this interim amendment or to expand the TCA to include Flushing Airport.

(3) Allow the present situation to continue until a final decision is made on whether or not to include Flushing Airport in the New York TCA.

The FAA determined that the present margin of safety in the airspace between controlled and uncontrolled aircraft operating at LaGuardia and Flushing Airports is unacceptable and warrants the immediate implementation of this amendment.

(4) Establish a control tower at Flushing Airport to provide takeoff and landing clearances, establish an orderly flow of traffic for arrivals and departures and provide a certain measure of traffic discipline in the airspace. The primary FAA concern with Flushing Airport, however, is its proximity to LaGuardia and the unauthorized penetrations of the New York TCA by uncontrolled aircraft executing arrivals and departures at Flushing Airport. In order to prevent incursions, tower controllers at Flushing would need a radar display to monitor aircraft positions relative to the TCA. The FAA has determined that the level of traffic at Flushing does not justify the expense of a radar-equipped tower when similar monitoring services can be provided by LaGuardia Tower under the amendment implemented by this action.

Explanation of the Amendment

The purpose of this amendment is to establish a new Subpart P in Part 93 to prescribe a special air traffic rule for Flushing Airport. Subpart P contains the designation of the affected airspace and prescribes the air traffic rules that apply in that airspace. The FAA's primary concern is the inadvertent penetrations of the New York TCA by traffic arriving and departing Flushing Airport and the collision potential between Flushing and LaGuardia air traffic. This situation can be alleviated by placing requirements on pilot qualifications and aircraft equipment, prohibiting certain operations, establishing mandatory communications requirements, and prescribing aircraft operations and traffic patterns. Those requirements are discussed as follows:

Pilot Qualification and Equipment Requirements

To provide the required level of safety between operations at Flushing and LaGuardia Airports, LaGuardia Tower must be able to communicate with, and identify on radar, all aircraft flying to and from Flushing. In addition, the aircraft must adhere to prescribed traffic patterns and altitudes which requires a

certain level of pilot experience and skill. To satisfy these conditions, the rule, under § 93.183, requires that pilots flying to and from Flushing Airport, within the designated area, must have at least a private pilot certificate, and the aircraft must be equipped with two-way radio, an operable VOR receiver, and a Mode C transponder (with altitude reporting capability).

Prohibited Operations

The converging flight paths of certain arrival and departure configurations at Flushing and LaGuardia Airports requires that some restrictions be placed on the direction of traffic at Flushing. Also, uncontrolled training or proficiency flights in the affected airspace present the possibility of additional penetrations of the TCA because of the increased airspace and traffic pattern congestion. Thus, § 93.185 prohibits certain operations, including landing on Runway 36 or taking off on Runway 18 at Flushing when Runway 31 approaches or Runway 13 departures are being conducted at LaGuardia. It eliminates the most critical situation between the two airports where traffic converges with approximately 3500 feet between flight paths. The amendment further prohibits training and proficiency flights in the designated area, thereby eliminating the added potential for TCA penetrations resulting from such activity.

Communications and ATC Authorization

It is essential that Flushing Airport traffic establish communication with LaGuardia Tower prior to operating in the airspace designated in the amendment. Without this requirement, air traffic control (ATC) would not be able to provide an adequate margin of safety between operations at Flushing and LaGuardia. Furthermore, there is no control over the number of flights operating in the limited airspace excluded from the TCA for Flushing Airport. The arrival of several aircraft in the traffic pattern at the same time usually results in an expansion of the pattern as pilots maneuver to maintain an adequate landing interval. Such expansion makes TCA penetration almost inevitable because of the proximity of the TCA boundaries to the Flushing pattern. The rule (§ 93.187) requires that all Flushing traffic establish and maintain communications with LaGuardia Tower so that ATC can monitor and regulate the flow of Flushing traffic and provide advisory service or separation from LaGuardia traffic, if necessary. To reduce airspace congestion, the section also requires

aircraft inbound to Flushing to obtain authorization from LaGuardia Tower before entering the affected airspace; Flushing departures must obtain authorization prior to takeoff.

Aircraft Operations

Transient pilots, in general, are not familiar with the landmarks that can be used to avoid the TCA; most of the reported TCA incursions were transient aircraft. The rule designates traffic flow for Flushing arrivals and departures, thereby providing all pilots with information necessary to avoid TCA airspace.

ATC Authorized Deviations

The FAA recognizes that certain deviations from the provisions of the rules should be authorized to prevent undue hardship on pilots and aircraft owners, and to avoid imposing unnecessary restrictions on Flushing operations. The rule, therefore, allows ATC, in accordance with § 91.191, to authorize deviations from the aircraft equipment requirements in the case of equipment failure while an aircraft is in flight or on the ground at Flushing. Also, ATC may authorize deviations from the prohibition on operations on Runways 36 and 18 prescribed under § 93.185. Those deviations, however, may be authorized only for individual flights when traffic conditions permit.

Effective Date

This amendment is effective on January 8, 1981. The FAA has determined that the immediate necessity for alleviating the potential hazard of a mid-air collision in the affected area makes a notice and public procedure impracticable in this instance. As discussed above, there have been 43 reported incursions into TCA airspace by aircraft operating to and from Flushing Airport from January 1979 to December 1980. FAA data indicates that 17 of those incursions occurred in the 8-month period between April 1980 and December 1980. Those incursions are continuing despite a vigorous enforcement policy which the FAA had hoped would alleviate the problem. Since January 1979, FAA enforcement elements have issued 16 warning notices, 7 \$100 civil penalties, and suspended 13 pilots' licenses as a result of incursions into TCA airspace near LaGuardia. Enforcement actions are pending for each of the remaining reported incursions, unless the aircraft operator was not identified. FAA does not feel that more stringent enforcement action would alleviate the frequency of violations, since nearly all incursions are made by transient aircraft, whose

operators would probably not be aware of any intensive enforcement effort.

To illustrate the seriousness of the incursions, three of the reported incidents are summarized below:

(1) On September 26, 1980, LaGuardia Tower observed an aircraft, both visually and on radar, proceeding southeast from Flushing Airport into the TCA. The aircraft crossed the final approach course of Runway 31 at LaGuardia, reversed course, and recrossed the final approach course; finally landing on Runway 36 at Flushing. LaGuardia traffic was landing and departing on Runway 31, and at no time did the Flushing pilot establish communications with LaGuardia Tower.

(2) On October 27, 1980, LaGuardia Tower observed an aircraft crossing the Runway 22 final approach course to LaGuardia. The aircraft passed beneath a Boeing 727 that was on a two-mile final approach to LaGuardia. Separation between the two aircraft was estimated to be 500 feet vertical and one-half mile horizontal. The aircraft then turned onto the final approach course to Runway 18 at Flushing Airport and landed. The pilot never contacted LaGuardia Tower.

(3) On October 30, 1980, an aircraft was sighted visually from the LaGuardia Tower penetrating the TCA, two miles southeast of LaGuardia Airport. The aircraft crossed the LaGuardia Runway 31 final approach course and appeared to make a low approach to Flushing Airport. The aircraft then entered a right-hand traffic pattern for Runway 36 at Flushing, crossing the LaGuardia Runway 31 final approach course a second time. At no time did the Flushing pilot establish communication with LaGuardia.

Incidents similar to those described above are continuing, and create the necessity for the immediate implementation of this rule. This was highlighted by a report completed by the Eastern Region on November 26, 1980. Public comments will be considered in determining whether this interim rule, the expansion of the TCA, or some other measure will serve as the permanent solution. Thus, I find that prior notice and public procedure is impracticable. I further find that good cause exists for making this interim rule effective in less than 30 days after publication.

Adoption of the Amendment

Accordingly, Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is amended, effective January 8, 1981, by adding a new Subpart P to read as follows:

Subpart P—Flushing (New York) Airport Traffic Rule

Sec.

93.151 Applicability; designated airspace.

93.153 Pilot qualifications and aircraft equipment requirements.

93.155 Prohibited operations.

93.157 Communications and ATC authorization.

93.159 Aircraft operations.

93.191 ATC authorized deviations.

Authority: Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Subpart P—Flushing (New York) Airport Traffic Rule

§ 93.151 Applicability; designated airspace.

This subpart prescribes special air traffic rules for persons operating under VFR to or from Flushing Airport and in that airspace from the surface up to, but not including, the floor of the New York TCA, within an area beginning at the north stanchion of the Throgs Neck Bridge; thence westerly to the Kennedy VORTAC 341°T radial 10-mile DME fix; thence southerly to the Kennedy VORTAC 340°T radial 9-mile DME fix; thence direct to the southern edge of Leavitts Park; thence direct to the south edge of Bowne Park; thence easterly to the intersection of the Clearview Expressway and the LaGuardia VOR 101°T radial; thence northerly along the Clearview Expressway to the point of origin.

§ 93.153 Pilot qualifications and aircraft equipment requirements.

Except as authorized under § 93.191, no person may operate an aircraft within the airspace designated under § 93.151 unless—

(a) The pilot holds at least a private pilot certificate; and

(b) The aircraft is equipped with—

(1) An operating two-way radio capable of communicating with ATC on the appropriate frequency;

(2) An operating VOR receiver; and

(3) The transponder equipment specified in § 91.24.

§ 93.155 Prohibited operations.

Except as provided under § 93.191, no person may—

(a) Conduct any flight training;

(b) Conduct touch and go landings, low approaches, or closed traffic pattern operations at Flushing Airport; or

(c) When Runway 31 approaches or Runway 13 departures are being conducted at LaGuardia Airport, land on Runway 36 or depart Runway 18 at Flushing Airport.

§ 93.157 Communications and ATC authorization.

No person may operate an aircraft within the airspace designated in § 93.151 unless—

(a) Two-way radio communication is established and maintained on the appropriate LaGuardia Tower frequency;

(b) *For departures*—Before taking off, ATC authorization has been received from LaGuardia Clearance Delivery by two-way radio communications, or from LaGuardia Tower by other means; and

(c) *For arrivals*—Before entering the designated area, ATC authorization has been received from LaGuardia Tower on the appropriate frequency.

§ 93.159 Aircraft operations.

Unless otherwise authorized by ATC, aircraft operators shall adhere to the following traffic flow—

(a) *For arrivals: (1) For Runway 18*—From over Fort Totten fly direct toward the Western Electric Building; cross Clearview Expressway below 1,200 feet mean sea level (MSL); turn downwind abeam the Whitestone Bridge at or below 800 feet MSL; turn left base leg south of the south tower of the bridge; and proceed over the Powell's Cove shoreline so as to avoid TCA airspace.

(2) *For Runway 36*—From over Fort Totten, fly direct toward the Western Electric Building; cross Clearview Expressway below 1,200 feet MSL; turn downwind abeam the Whitestone Bridge at or below 800 feet MSL; and execute right base leg turn to final approach, so as to avoid TCA airspace by not overshooting the Runway 36 extended centerline.

(b) *For Departures: (1) For Runway 18*—Execute a 90 degree left turn so as to avoid TCA airspace; proceed direct to Little Neck Bay south of Fort Totten; and cross Clearview Expressway below 1,200 feet MSL.

(2) *For Runway 36*—Execute a 90 degree right turn over the Powell's Cove shoreline; proceed direct to Little Neck Bay north of Fort Totten; and cross Clearview Expressway below 1,200 feet MSL, avoiding TCA airspace.

§ 93.191 ATC authorized deviations.

Notwithstanding the deviation authority under § 93.1(b), of this part, deviations from this subpart may not be authorized except from §§ 93.153(b) and 93.155(c), for individual flights when traffic conditions permit.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this document involves an emergency regulation under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket, otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final rule of the Administrator as defined by section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

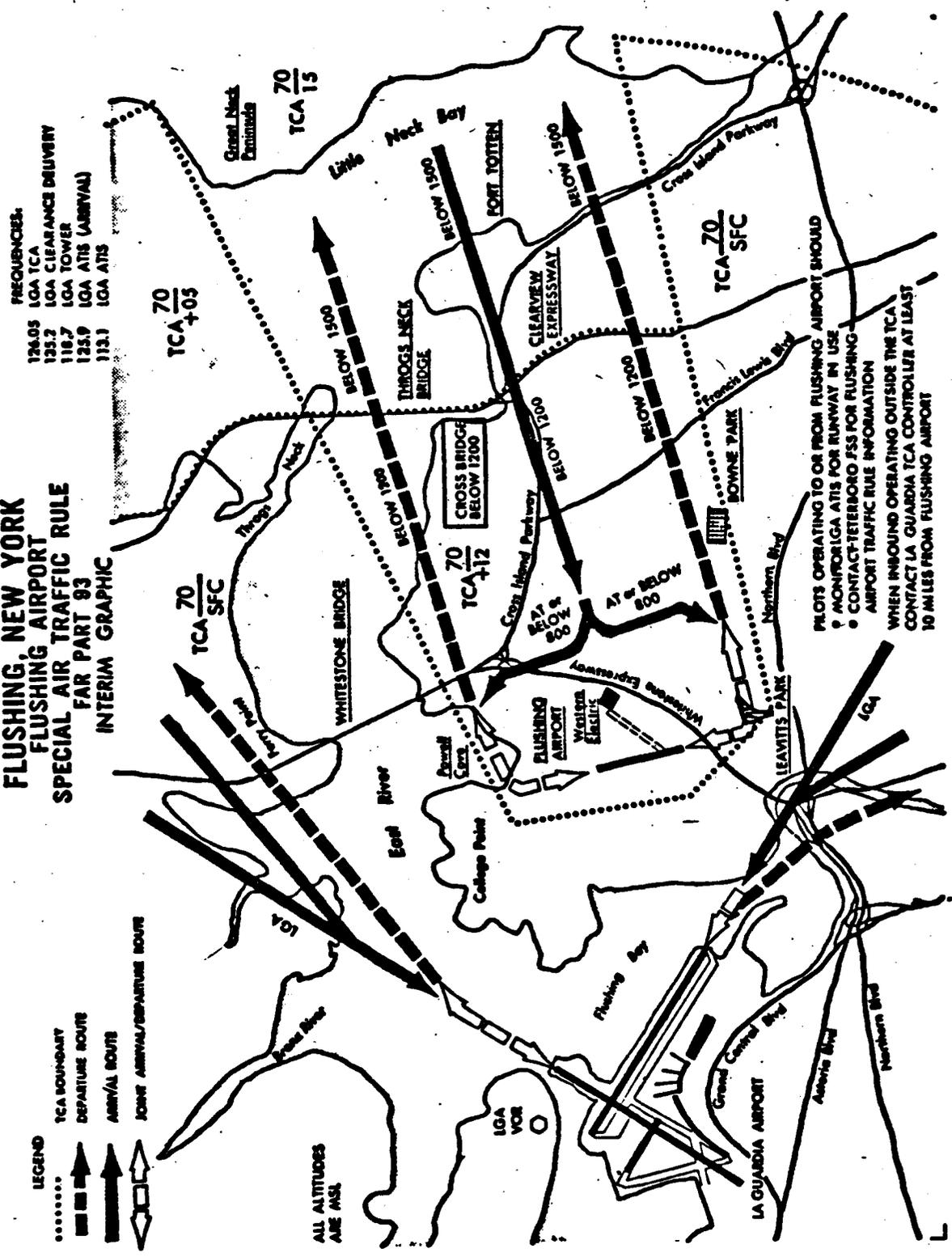
Issued in Washington, D.C. on December 19, 1980.

Langborne Bond,
Administrator.

SELLING CODE 0910-12-01

(NOT TO BE USED FOR NAVIGATION)

FLUSHING, NEW YORK FLUSHING AIRPORT SPECIAL AIR TRAFFIC RULE PART 93 INTERIM GRAPHIC



- FREQUENCIES:
- 126.05 IGA TCA
 - 125.2 IGA CLEARANCE DELIVERY
 - 118.7 IGA TOWER
 - 125.9 IGA ATIS (ARRIVAL)
 - 113.1 IGA ATIS

- LEGEND
- TCA BOUNDARY
 - DEPARTURE ROUTE
 - ARRIVAL ROUTE
 - JOINT ARRIVAL/DEPARTURE ROUTE

ALL ALTITUDES ARE MSL

PILOTS OPERATING TO OR FROM FLUSHING AIRPORT SHOULD

- MONITOR IGA ATIS FOR RUNWAY IN USE
- CONTACT TETERBORO FSS FOR FLUSHING AIRPORT TRAFFIC RULE INFORMATION

WHEN INBOUND OPERATING OUTSIDE THE TCA CONTACT LA GUARDIA TCA CONTROLLER AT LEAST 10 MILES FROM FLUSHING AIRPORT