

**14 CFR Parts 93 and 159**

(Docket No. 25143; Amdt. Nos. 93-54  
and 159-29)

**Metropolitan Washington Airports**

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

**ACTION:** Final rule.

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**SUMMARY:** This action increases the maximum permissible length of nonstop flights to or from Washington National Airport from 1,000 miles to 1,250 miles. The amendment also eliminates the procedures for reducing the number of air carrier slots at National Airport when the annual number of passengers at the airport reaches a certain level. Effective on the date of transfer of National Airport and Washington Dulles International Airport to the Metropolitan Washington Airports Authority, the amendment removes the prohibition on the operation of certain types of air carrier aircraft at National Airport and removes the provisions for enforcement of the airport regulations by the FAA. The limit for scheduled air carrier operations at National Airport remains at 37 per hour. All of the above actions are taken in consideration of provisions of the Metropolitan Washington Airports Act of 1986, enacted on October 18, 1986.

**EFFECTIVE DATE:** The removal of 14 CFR 93.124 and the addition of 14 CFR Part 93, Subpart T are effective on December 3, 1986. The revision of 14 CFR 159.59 and the removal of § 159.191 are effective on March 1, 1987.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**Availability of Document**

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the amendment number of the document.

**Background**

On November 27, 1981, DOT/FAA published the Metropolitan Washington Airports Policy and implementing regulations (46 FR 58036) to guide the future operation and development of Washington National and Washington Dulles International Airports. The implementing regulations made a

number of changes in the operational rules at National Airport, including the establishment of a 1,000-mile perimeter for nonstop operations to or from the airport (14 CFR 159.60).

A second change was the adoption of an annual passenger ceiling or "cap" at National Airport (14 CFR 93.124). The rule provided that each January the FAA would make a projection of the number of passengers to be enplaned and deplaned at National between the following April and April of the next year. When the projection showed more than 16 million passengers, the FAA would transfer one slot or more per hour, as required, from air carriers to commuter operations.

On October 18, 1986, the "Metropolitan Washington Airports Act of 1986" was effective. The Act provides for a long-term lease and transfer of the operation of National and Dulles Airports from the Federal Government to a regional authority, the Metropolitan Washington Airports Authority. In addition to the lease provisions, the Act contains several specific provisions relating to the operation of National Airport. Several of these provisions warrant immediate regulatory action on the part of the FAA.

First, section 6005(c)(5) of the Act provides for the continuation of certain Washington National and Washington Dulles International Airport regulations (14 CFR Part 159) after the airports are transferred to the Authority. However, subparagraph 6005(c)(5)(B) provides as follows:

(B) Exceptions.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14 Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

Paragraph 159.59(a) of the Federal Aviation Regulations (FAR) prohibits operation at National Airport of an air carrier aircraft of a type not regularly operated at the airport as of July 1, 1981, unless approved by the Administrator for safety considerations and by the Director, MWA, for considerations of groundside capacity. Removal of this provision will leave the Authority in the same position as other non-Federal airport operators with respect to control of the types of aircraft which serve the airports.

FAR § 159.191 provides for Federal criminal penalties for violation of airport regulations and for removal of a violator from the airport at the order of the airport manager. Upon the lease of the

airports to the Authority, the provisions of Part 159 will become the regulations of the Authority rather than the FAA. Therefore, it would be inappropriate to retain provisions for FAA enforcement of the airport regulations. Accordingly, Congress has provided for the repeal of the enforcement provisions effective on the date of the lease.

Because the Act provides that FAR §§ 159.59(a) and 159.191 will cease to be in effect on the date of the lease, the FAA is removing both sections effective on that date. Both sections must remain in effect until the transfer, however, to ensure that FAA retains jurisdiction to operate and administer the airports until the Authority is able to do so. The date planned for the lease to take effect is March 1, 1987, and that date is designated for the effective date for removal of the two sections. The revised effective date will be published in advance in the Federal Register.

In addition to removing § 159.59(a), this amendment revises the remaining sections of § 159.59 to redesignate paragraphs (b) through (d) as (a) through (c) respectively, and to eliminate certain errors in publication of § 159.59 contained in the Code of Federal Regulations. As revised, 14 CFR 159.59 will be identical to the provisions contained in § 159.59 of the Federal Aviation Regulations.

A second provision of the Act which affects National and Dulles Airport regulations, section 6009(e)(2), reads as follows:

(2) Annual Passenger Limitations.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 CFR 93.124) shall cease to be in effect on the date of the enactment of this title.

Because the legislation was enacted on October 18, 1986, the current regulation is no longer in effect. Accordingly, the FAA is acting to delete § 93.124 from Part 93 of the Federal Aviation Regulations. Moreover, because the April 1983 notice and June 1984 supplemental notice relating to the number of air carrier slots at National Airport primarily concerned the provisions of § 93.124, those notices are no longer relevant to the future operation of the airport. Therefore, Notice 83-3 (48 FR 19174; April 28, 1983) and Supplemental Notice 83-3A (49 FR 14626; June 14, 1984) are hereby withdrawn by the agency.

Finally, section 6012 of the Act provides as follows:

Perimeter Rule.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than

1,250 miles away from Washington National Airport.

Section 6012 prohibits nonstop flights longer than 1,250 miles. It is clear from this language that it was the sense of Congress to replace the current 1,000 mile perimeter rule with a 1,250-mile rule. Accordingly, the FAA is increasing the limit on nonstop flights at National Airport to a 1,250-mile perimeter at this time.

This change will permit nonstop service to several cities which are beyond the current 1,000 mile perimeter. The availability of nonstop operations to additional points may result in the adjustment of schedules at National Airport by some carriers. However, the increases or reduction of flights in any particular market is not required by the amendment, and any such change in service patterns is exclusively a carrier marketing decision.

As noted above in this preamble, the Metropolitan Washington Airports Act of 1986 provides that, with a few exceptions, the airport operating rules in Part 159 of the Federal Aviation Regulations (FAR) will become regulations of the Authority upon the effective date of the lease. Because the perimeter rule established in section 6012 of the Act will continue to affect operations after the transfer to the Authority, the FAA believes that it is appropriate to incorporate the perimeter rule in FAR Part 93, Special Air Traffic Rules and Airport Traffic Patterns. FAR Part 93 will not be affected by the transfer of the airports.

#### Effective Date

The amendments adopted herein affecting FAR Part 93 and § 519.60 become effective upon publication in the Federal Register. The revision of FAR § 159.59 and the removal of § 159.191 take effect on March 1, 1987, to coincide with the effective date of the lease of National and Dulles Airports to the Metropolitan Washington Airports Authority. If the effective date of the lease is revised subsequent to issuance of this amendment, the effective date for revision of § 159.59 and removal of § 159.191 will be revised accordingly. The agency believes that circumstances warrant the adoption of the amendments without a period for public comment. With respect to the deletion of § 93.124 from FAR Part 93, the provisions of that section have already been eliminated by an act of Congress effective October 18, 1986. Similarly, the Act provides that §§ 159.59(a) and 159.191 will cease to be in effect on the date of the lease to the Authority. The removal of these sections, therefore, has

no effect other than to make FAA regulations consistent with the controlling statute.

The amendment to the perimeter rule, extending the maximum nonstop flight length to 1,250 miles, is also consistent with congressional intent as expressed in section 6012 of the Metropolitan Washington Airports Act of 1986. The amendment relaxes the restrictiveness of an existing regulation and does not impose new restrictions on any operator.

Also, while this action was not preceded by a specific notice of proposed rulemaking, the amendment to the perimeter rule was not adopted without the benefit of public comment on the nonstop perimeter issue. The issue was specifically addressed in the rulemaking conducted in connection with the development of the Metropolitan Washington Airports Policy, and comments on the National Airport perimeter were requested in prior agency notices of proposed rulemaking. The issues involved have not significantly changed from the time of that rulemaking action. As a result, the FAA was apprised of the potential impacts of this amendment and the views of affected segments of the public and the aviation industry prior to adopting the amendment.

In consideration of the above, I find that notice and comment on the amendments adopted are either unnecessary or impracticable and contrary to the public interest. I further find with respect to the removal of FAR § 93.124 and the amendment to the perimeter rule, that because these amendments relieve a restriction, publication is not required 30 days before the effective date, and the amendments are effective on publication.

#### Regulatory Evaluation

There is no economic impact as a result of the removal of § 93.124 from the Federal Aviation Regulations, because the regulation was invalidated by the Metropolitan Washington Airports Act of 1986 effective October 18, 1986. The same is true with respect to the removal of FAR §§ 159.59(a) and 159.191 effective on the date of the lease of the airports to the Authority.

The impact of increasing the National Airport perimeter to 1,250 miles cannot be determined. The change in the regulation itself, which was permitted if not directed by section 6012 of the Act, has no economic impact. It is likely that a few carriers will elect to avail themselves of the new 1,250-mile perimeter by inaugurating nonstop service to cities not previously eligible

for such service. Typically, these carriers now serve those cities, but make a stop at an intermediate airport such as Dulles International. In the event a carrier begins nonstop service, it may receive some financial benefit from the ability to adjust its schedule. In addition, cities affected by the decisions of carriers to adjust their schedules at National Airport may experience an increase or decrease in the quality or quantity of air service to Washington, DC. However, these impacts are speculative and do not inevitably result from the amendment. Rather, they result from future marketing decisions of air carriers serving National Airport. Only a relatively few carriers would be in the position to initiate nonstop service to cities between 1,000 miles and 1,250 miles from National Airport.

Because the impacts, if any, of the amendments adopted are speculative and not directly attributable to the regulation itself, I find that the economic impact of the amendments are minimal and, therefore, that further regulatory evaluation is not required. For the same reasons, I find that none of the amendments (1) is a "major rule" under Executive Order 12291, or (2) is a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11074; February 26, 1979).

#### List of Subjects

##### 14 CFR Part 93

Aviation safety, Air traffic control.

##### 14 CFR Part 159

Washington National Airport, Washington Dulles International Airport.

#### Adoption of the Amendment

For the reasons set out above, Parts 93 and 159 of the Federal Aviation Regulations (14 CFR Part 93 and Part 159) are amended as follows:

#### PART 93—[AMENDED]

1. The authority citation for Part 93 is revised to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), and 1424; The Metropolitan Washington Airports Act of 1986, Title VI of Pub. L. 99-500; 49 U.S.C. 106 (Revised Pub. L. 97-449, January 12, 1983).

##### § 93.124 [Removed]

2. Section 93.124 is removed.

3. A new Subpart T is added to read as follows:

**PART 93—SPECIAL AIR TRAFFIC  
RULES AND AIRPORT TRAFFIC  
PATTERNS**

Issued in Washington, DC, on November  
29, 1986.

Donald D. Engen,

Administrator.

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**Subpart T—Washington National Airport  
Traffic Rules**

Sec.

93.251 Applicability.

93.253 Nonstop operations.

**Subpart T—Washington National  
Airport Traffic Rules**

**§ 93.251 Applicability.**

This subpart prescribes rules applicable to the operation of aircraft to or from Washington National Airport.

**§ 93.353 Nonstop operations.**

No person may operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 miles away from Washington National Airport.

**PART 159—[AMENDED]**

4. The authority citation for Part 159 is revised to read as follows:

Authority: The Metropolitan Washington Airports Act of 1986; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

5. Section 159.59 is revised to read as follows:

**§ 159.59 Aircraft equipment and operation rules.**

(a) Except when authorized by the Airport Manager, no person may operate a fixed-wing aircraft on the Airport unless it has a tail or nose wheel and wheel brakes.

(b) If the pilot of an aircraft that does not have adequate brakes is authorized by the Airport Manager to taxi his aircraft, he may not taxi it near a building or a parked aircraft unless there is an attendant at the wing of his aircraft to help him.

(c) Notwithstanding paragraphs (a) and (b) of this section, an aircraft that has wings and tail higher than five feet from the ground and does not have adequate brakes may not be taxied on the Airport under any conditions and must be towed if it is necessary to move it.

**§ 159.60 [Removed]**

6. Section 159.60 is removed.

**§ 159.191 [Removed]**

7. Section 159.191 is removed.