

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9974; Amdt. 22-83]

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

High Density Traffic Airports

The purpose of this amendment to Part 93 of the Federal Aviation Regulations is to extend for one year the special air traffic rule for High Density Traffic Airports which would otherwise expire on October 25, 1972, and to delete the flight plan and transponder provisions of that rule. This amendment was proposed in Notice No. 72-24, issued on September 12, 1972 (37 F.R. 18744).

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented. At the close of the comment period on October 11, 1972, 18 comments had been received in response to the proposals contained in Notice No. 72-24. Five comments were received from trade associations, two from citizens' associations, 10 from individuals and one from the New York Port Authority.

Eight of the comments from individuals indicated that the rule is no longer needed and that it should be terminated. The AOPA and General Aviation Manufacturers Association (GAMA) also opposed continuation of the rule on the basis that the rule erodes flexibility in the use of general aviation aircraft at the affected airports. Their contention appears to be that there have been system improvements and substantially fewer delays since the issuance of the rule and that since delays are now reduced to those attributable to weather, the quota system should be dropped. According to GAMA, the FAA should depend upon flow control to maintain a balance between traffic demand and prevailing weather conditions.

If the quota rule expires, incentives would be created to move a considerable number of schedules back to the primary airports and reschedule many flights into prime time hours. It is argued that if that kind of situation did develop, flow control procedures can be used to preclude a repetition of the massive delays of 1968-1969. The FAA disagrees with this argument. Metering traffic by flow control merely causes delays to occur at some point prior to destination, whereas the quota restrictions have been successful in leveling off peak traffic loads. Although it is a problem for the airlines, they have been successful in managing their collective scheduling to stay within the quotas and they believe, for the present time, the system is necessary and the rule should be extended for another year.

The arguments against further extension of the rule were repetitions of those given in response to previous proposals concerning this rule. To a large degree they did not adequately recognize the pressure for IFR slots at these airports during controlled hours. As stated in the NPRM, there is a strong likelihood that without these restraints the improvements in the delay problem would evaporate.

Operational data show that utilization of air carrier slots is near 100 percent from 7 a.m. to 10 p.m. at both La Guardia and National Airports. The same is true at O'Hare during the controlled hours, 3 p.m. to 8 p.m. In order to stay within the quota limitations the airlines are forced to schedule a great many flights in off-peak hours which were lightly used prior to this rule. They are also scheduling to airports which are second choice, i.e., Newark, Midway, and Dulles.

Continuation of the rule for another year was supported by the Air Transport Association, the National Air Carrier Association, the Airline Pilots Association, and the Port Authority of New York and New Jersey. The Port Authority stated that the conditions which required adoption of the rule and subsequent extensions still exist in such a magnitude, that its continued effectiveness is required. The NACA comment is similar. The ATA noted that increased capacity of airports and total system capacity has not materialized to the degree where current demand can be accommodated without restraint, and that, therefore, unacceptable congestion at the High Density Traffic Airports cannot be avoided unless the limitations and quotas are continued.

The ATA and NACA recommended a change in the JFK quota during the 3-hour period between 5 p.m. and 8 p.m. daily. They proposed that the 80 air carrier operations per hour permitted now between 7 p.m. and 8 p.m. daily be shifted to the 4 p.m. to 5 p.m. time period, and the 70 operations permitted between 4 p.m. and 5 p.m. be shifted to 7 p.m. to 8 p.m. They state that the peak demand for service has shifted during the last 4 years so that the daily peak (at JFK) now should be from 4 p.m. to 7 p.m. rather than from 5 p.m. to 8 p.m. FAA believes that this requested change, if appropriate, should be the subject matter of a separate rule making action.

Two other changes to the rule were proposed in Notice 72-24. The first one would eliminate a duplication in the rules by deleting the transponder requirement which is adequately covered in the Terminal Control Area rules for the airports concerned. The other proposed change would delete the flight plan requirement from the quota rule, since VFR flight plans have been found to be unnecessary and the IFR flight plan requirement is covered elsewhere in the rules. There was no objection to these proposals. This amendment therefore deletes § 93.127 and the flight plan requirement of § 93.125.

The notice also proposed to delete the provisions for issuance of letters of agreement in § 93.129(c), both because the elimination of § 93.127 removes the need for any relief from transponder requirements within Part 93, and because the letter of agreement provisions are rarely used and could be accomplished by issuance of certificates of waiver under § 91.63 of Part 91 under appropriate conditions. No public comment was received on these proposals. Section 93.129(c) is therefore deleted.

Since the present High Density Traffic Airport rule terminates on October 25, 1972, to provide continued and uninterrupted effectivity good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, Part 93 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER as hereinafter set forth:

1. Section 93.125 is amended to read as follows:

§ 93.125 Arrival or departure reservation.

Except between 12 Midnight and 6 a.m. local time, no person may operate an aircraft to or from an airport designated as a high density traffic airport unless he has received, for that operation, an arrival or departure reservation from ATC.

§ 93.127 [Deleted]

2. Section 93.127 is deleted.

§ 93.129 [Amended]

3. Section 93.129 is amended by deleting paragraph (c) thereof.

4. Section 93.131 is amended to read as follows:

§ 93.131 Termination date.

The provisions of §§ 93.121-93.131 and 93.133 terminate October 25, 1973.

(Secs. 103, 307, 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348, 1354(a) and 1421); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and section 1.4(c) of Part 1 of the Regulations of the Office of the Secretary (49 CFR 1.4(c))

Issued in Washington, D.C., on October 20, 1972.

J. H. SCHAFFER,
Administrator.

[FR Doc. 72-18227 Filed 10-24-72; 8:49 am]

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