

RULES and REGULATIONS

DEPARTMENT OF TRANSPORTATION

14 CFR Part 93

[Docket No. 22471; Amdt. 93-46]

High Density Traffic

Tuesday, March 6, 1984

***8237** AGENCY: Federal Aviation Administration (FAA), Transportation (DOT).

ACTION: Interim final rule; requests for comments.

SUMMARY: This amendment revises the "High Density Traffic Airport Rule" or "High Density Rule" insofar as it applies to O'Hare International, Kennedy International, and LaGuardia Airports. The amendment increases the hours in which limitations at O'Hare Airport are applicable and increases the number of operations permitted at the airport. The amendment slightly increases the number of operations allowed at LaGuardia and Kennedy Airports. The distribution of the operations among the various classes of users are also ***8238** amended. This amendment results from a review of capacity at the affected airports, air traffic and airport data, and experience levels of air traffic control personnel. This amendment is being issued as an interim action and will be reviewed again in the fall of 1984, with further action becoming effective January 1, 1985.

DATES: Effective Date: April 1, 1984.

Comments concerning this amendment must be submitted by March 10, 1984.

A public hearing will be held on March 13, 1984.

ADDRESSES: Send comments on the issues presented in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 22471, 800 Independence Avenue, SW., Washington, D.C. 20591

or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

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

The public hearing will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., Third Floor Auditorium, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

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Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

20591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this regulatory action by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22471." The postcard will be date/time stamped and returned to the commenter. All communications received between the specified opening and closing dates for comments will be considered by the Administrator before taking action on any further rulemaking. Also, this rule may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

In addition to seeking comments on this amendment, the FAA will hold a public hearing to allow additional public input. The hearing will be held on March 13, 1984, at the Federal Aviation Administration, 800 Independence Avenue, SW., Third Floor Auditorium. This meeting will maximize the ability of those affected by the amendment to participate in the rulemaking.

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, D.C. 20591; or by calling (202) 426-8058. Communications must identify the amendment number of the document.

Meeting Procedures

Persons who plan to attend the hearing should be aware of the following procedures to be followed:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under [14 CFR 11.33](#). Each participant will be given an opportunity to make a presentation.

(b) The hearing will begin at 9:00 a.m. (local time). There will be no admission fee or other charge to attend and participate. All sessions will be open to all persons on a space available basis. The presiding officer may accelerate the meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) All meeting sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the presiding officer. Participants submitting handout materials must present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Hearing Schedule

The schedule for the meeting is as follows:

March 13, Washington, D.C.

9:00 to 9:15--Presentation of Meeting Procedures.

9:15 to 10:00--FAA Presentation of Amendment.

10:15 to 12:15--Public Presentation and Discussion.

1:30 to 5:00--Public Presentation and Discussion.

Background

Federal Aviation Regulations (FAR) Amendment No. 93-13, effective April 27, 1969 (33 FR 17896, December 3, 1968), designated Kennedy, O'Hare, LaGuardia, Washington National, and Newark Airports as high density airports and prescribed special air traffic rules, known as the "High Density Rule," that apply to operations at those airports. The High Density Rule (FAR Part 93, Subpart K) was imposed on a trial basis with the general support of the air carriers in response to rapidly growing problems of congestion and delays at those airports. The rule established limitations (quotas) on the number of Instrument Flight Rule (IFR) reservations per hour that would be accepted at those airports and allocated the hourly reservations among the three classes of users: air carriers except air taxis, scheduled air taxis (commuter airlines), and all other operators--primarily general aviation operators but also charter operators. In 1973, the High Density Rule was made permanent, subject to continuing FAA review (38 FR 29463, October 25, 1973).

The hourly quotas were set at the predominant IFR capacity for each airport, as determined by the FAA. The predominant IFR capacity is the airport's capacity under the circumstances and configurations most frequently encountered when weather conditions preclude Visual Flight Rule (VFR) operation. In accordance with the policy announced by the FAA at the time the High Density Rule was adopted, the rule has been periodically reviewed to ascertain whether a continuing need for the quotas existed and whether the *8239 quotas should be modified to reflect changing circumstances. In the course of these reviews the quotas at Kennedy and O'Hare Airports were removed, except for a peak period from 3:00 p.m. to 7:59 p.m., local time. In addition, the entire quota at Newark was suspended indefinitely, and the procedures applicable to Washington National Airport were modified.

As a result of the 1981 strike by air traffic controllers, the quotas at O'Hare and LaGuardia Airports are currently established under an Interim Operations Plan (Special Federal Aviation Regulation (SFAR)) No. 44-5 as amended (see 14 CFR Part 91), rather than the High Density Rule (the Interim Operations Plan restrictions at Kennedy were lifted last summer). The Interim Operations Plan was adopted to ensure safety of the air traffic system at its abruptly reduced capacity. Pending restoration of system capacity, the plan has required reduction in operations at congested airports, including those covered by the High Density Rule. The limitations imposed by the Interim Operations Plan are more stringent than the High Density Rule quotas. Complementary flow control has been used extensively to minimize airborne delays when congestion does develop. The Interim Operations Plan is currently being phased out on an individual airport basis as the air traffic system capacity at an airport is restored. All Interim Operations Plan restrictions have been lifted except at Denver Stapleton Airport (restrictions scheduled to be removed on April 1, 1984), Los Angeles International Airport (restrictions scheduled to be removed on August 26, 1984), O'Hare Airport and LaGuardia Airport. At LaGuardia Airport (where Interim Operations Plan restrictions were originally planned to be removed on March 15) and at O'Hare Airport the Interim Operations Plan will be removed on April 1 to be consistent with the effective date of this amendment.

On September 7, 1981, United Air Lines, Inc., filed a petition for rulemaking in accordance with the provisions of § 11.25 of the FAR requesting that O'Hare Airport be deleted from the list of airports subject to the High Density Rule. The FAA published a summary of the petition in the Federal Register on December 28, 1981 ([46 FR 62663](#)), and also invited comment on United Air Lines' petition in connection with the applicability of the rule at John F. Kennedy International Airport and LaGuardia Airport. Forty-two comments were received from air carriers, industry associations, State airport and governmental authorities, and local community associations. Most of the comments favored termination of the High Density Rule insofar as it applies to O'Hare Airport. Many of the comments also favored removal of the rule at the other airports subject to the rule. After review and analysis of the United Air Lines petition and the comments received thereon, the FAA determined that, except as it applies to the Washington National Airport, further comments should be sought on removal of the restrictions of the High Density Rule.

Accordingly, the FAA issued Notice of Proposed Rulemaking No. 83-2 on March 28, 1983, which was published in the Federal Register on March 31, 1983 ([48 FR 13434](#)). In Notice No. 83-2, the FAA proposed to rescind the High Density Rule insofar as it applied to O'Hare International Airport, John F. Kennedy International Airport, LaGuardia Airport, and Newark Airport. Public hearings on Notice No. 83-2 were held in Chicago and New York City.

Rationale for the Rule

Since the agency issued the Notice of Proposed Rulemaking in March of last year, the entire air traffic system, including recent increases in aircraft operations, has been monitored closely. The Notice stated that the agency believed that new airspace management programs under development would more efficiently manage and equitably distribute air traffic delays in the air and on the ground. The notice further stated that the existing rule may impose artificial restraints on the industry while the system is capable of handling increased traffic.

While these statements remain valid, the agency believes that the regulatory limitations of the High Density Rule must remain in effect for a time to maintain a safe and efficient airspace system. Use of this proven mechanism is essential while the current controller work force develops the necessary experience to handle the higher demands upon the system that may result from alternative regulatory methods of control.

If the Interim Operations Plan and the High Density Rule are withdrawn, there may be shifting of hundreds of operations within minimum time periods. Although the air traffic system is fully capable of handling the hourly total of these operations if spread throughout each hour and the entire day, the existing carrier scheduling practices if magnified by a large increase in traffic (if all limitations were eliminated) could place unnecessary burdens on the system and could result in major air traffic delays and diversions to unplanned airports.

Under the rule being adopted, the safety of the air traffic system will not be lessened. Air traffic procedures, including flow control, will ensure that aircraft will remain on the ground until they can be accommodated. Without a rule, ground delay, which could seriously impact ground facilities including gate and ramp congestion, would increase.

Large numbers of aircraft even if held at the departure airport, however, still could severely impact the efficiency of the air traffic system. An unrestricted increase in the number of aircraft held by air traffic control in the air is also not in the interest of air traffic safety and efficiency. As stated earlier in this document, existing air traffic procedures ensure that only the aircraft that can be safely and efficiently handled are accommodated. The ATC system, under the Interim Operations Plan currently in effect and flow control procedures at airports where the plan is not in effect, assures that aircraft are kept on the ground to the extent necessary to prevent an unsafe condition from developing due to air congestion at the destination airport. The agency must ensure that those involved in handling traffic focus on the actual movement of aircraft.

These temporary limitations must reflect the true capacity of the airports including the newer, more advanced equipment and facilities at those airports. The agency has and will continue to implement programs which provide for more efficient utilization of the airspace. Although those programs allow for an increase in capacity, they will not provide for the handling of an unlimited number of aircraft operations into an airport that can only accommodate a limited number.

The agency's concern is not only on the total number of operations at a particular airport but also on the concentration of a majority of those operations within a short period of time which is exacerbated by certain "hubbing" practices. Under the Interim Operations Plan, operations were spread out over a large portion of the day. Even with the Interim Operations Plan in effect, however, the following exemplifies airline scheduling practices:

O'Hare

Time period	Number of operations scheduled
11:00 a.m. to 11:30 a.m	32
11:30 a.m. to 12:00 noon	75
15:45 to 16:15	78
16:15 to 16:45	33
18:15 to 18:45	52
18:45 to 19:15	94

***8240** The agency recognizes that schedules listed in the Official Airline Guide do not always reflect actual time of departure or arrival. The scheduling set out above, however, is reflective of overall aircraft activity at O'Hare Airport.

Compliance with the High Density Rule must reflect the actual time of aircraft operation (arrival or departure). The agency expects that scheduling practices will be consistent with this rule. If overall scheduling is consistent with the actual aircraft operations, the agency will continue to use airline schedules to determine whether there is compliance with the rule. If, however, actual arrival and departure times consistently vary from published schedules, the agency will base compliance with the rule on actual arrival and departure times.

The limitations contained in this amendment are necessary for the safe and efficient utilization of the nation's airspace. The agency recognizes, however, that it is possible that alternative methods of accomplishing the same result may exist. The agency believes that those individuals in all segments of the industry and the public with vast expertise in aircraft scheduling and aircraft management should be given an opportunity to assist the agency in reviewing this issue. Therefore, the agency is requesting comments on this rule and will hold a public hearing.

In setting these restrictions, it is necessary to ensure that the impact on scheduled air carrier/commuter operations must be minimized. To accomplish this, the agency will closely monitor operations under the High Density Rule. All operations, including charters, general aviation, and extra sections, will be required to operate within the parameters of the rule. Appropriate action will be taken against any operator not operating in conformity with these regulations.

Rule Review

The agency will continue to examine other ways of responding to demands to ensure a safe and efficient system while providing maximum flexibility to users. The agency will reexamine within the next 6-9 months the capability of the air traffic control system to handle the unusual demands that a less constrained system may create, such

as significant airborne holding and multiple requests by operators for release from gates. This will be examined in connection with airport capacity and the experience levels of air traffic control personnel. At the completion of that review the FAA plans to eliminate all unwarranted restrictions, effective January 1, 1985.

The Rule

LaGuardia Airport and Kennedy International Airport

The agency has concluded that the High Density Rule must remain in effect at both LaGuardia and Kennedy Airports. Both airports are limited in their ability to handle increased traffic. Continuous delays at either airport would significantly affect the efficiency of the entire air traffic system.

The agency recognizes that the distribution of operations to the classes of users in the High Density Rule was set at a time when the air carrier and commuter industries were significantly different than they are today.

As a result of airport and system improvements, LaGuardia Airport is able to accommodate eight additional operations per hour. In determining the number of operations to be permitted at any airport, the agency performs an engineering analysis of each airport. The analysis considers a number of factors including all possible runway configurations under a variety of weather conditions. Also evaluated are types of aircraft utilizing the airport and ground capability as well as historical data.

Therefore, the total hourly number of slots to be available for allocation by air carriers and commuters will be 62. The agency will allocate those hourly slots as follows:

Air carriers	48
Commuters	14
Other	6
Total	68

This distribution will ensure that both commuters and air carriers will be able to increase operations above their current levels. The slot limitation applicable to the "other" class is not changed. This recognizes the ability of those operators to obtain additional VFR and IFR authorization, the need to minimize disruption of scheduled operations, and the availability of alternative airports for these operators. The increase in commuter slots to 14 recognizes the change in the number and nature of their operations since promulgation of the original High Density Rule. The agency recognizes that commuter operators have a high number of seasonal operations during the summer months at LaGuardia. The agency will review experience under the rule along with all available information to determine whether additional operations can be accommodated for the summer months. Comments are invited on this issue.

As explained earlier in this document, there is a tendency of carriers to bunch flights in certain half hours. The number of operations can be increased if those slots are more evenly distributed through each hour, thus, reducing the need to impose aircraft departure delays. Thus, the agency is increasing the allowable level of operations at LaGuardia to 68 per hour (48 for air carriers, 14 for commuters and 6 for "other"); however, the following limitations apply:

(1) There may be no more than 36 (26 for air carriers, 7 for commuters and 3 for "other") operations in any one 30-minute period.

(2) There may be no more than 68 (48 for air carriers, 14 for commuters and 6 for "other") operations in any two consecutive 30-minute periods.

The Port Authority, in its comments, suggested that further discussions be held between itself, the agency, and operators at the airport. The agency would like the views of the Port Authority, as well as those of other parties on these issues. In this connection, the FAA intends to meet with these parties to discuss their views in order to assure that the issues are fully developed and considered. It is anticipated that these discussions will take place during the next few weeks. Therefore, if any further adjustment need be made to this rule as it applies to LaGuardia and Kennedy Airports those adjustments will be completed so that a final rule will be effective as to both airports before April 1, 1984. The Agency particularly invites comments on the addition of a 30-minute limitation. This limitation was added to increase the overall number of hourly operations. If this limitation is withdrawn, the number of operations would have to be reduced by approximately 10%.

The current high density limitations at Kennedy Airport, which are applicable from 3:00 p.m. through 7:59 p.m. (local time), are as follows:

Air carriers	[FN1] 70
Commuters	5
Other	5

1 The allocation for air carriers is 80 per hour from 5:00 p.m. through 7:59 p.m. (local time).

***8241** The agency, at this time, will not extend the hours of operation of the High Density Rule at Kennedy Airport. As is the case for the other high density airports, the slots available to the commuters and air carriers must be redistributed to reflect the changes in the industry since the rule was promulgated. In addition, some adjustments are necessary to reflect current scheduling practices and existing schedules. Therefore, the agency has set the appropriate hourly limitations at Kennedy as follows:

	Air carriers	Commuters	Other
1500	69	15	2
1600	74	12	2
1700	80	13	0
1800	75	10	2
1900	63	12	2

This adjustment reflects an increase in allowable commuter operations during the high density hours. In focusing on the hourly slot limitation, it should be noted that in accordance with [14 CFR 93.123](#) slots not utilized by air carriers may be utilized by commuters. In addition, operations can be moved to the nonhigh density hours. This adjustment also reflects a change in the allowable hourly operations conducted by "other" operators. Experience shows that these nonscheduled operations can be accommodated by the air traffic system under most weather conditions. In fact, larger numbers are accommodated during many hours. Since they are nonscheduled and since the unique nature of scheduled operations at Kennedy are such that demand varies from day to day, the current number of these operations should not be significantly affected. The agency may adjust these limitations after all comments have been reviewed.

Comments are invited on this issue. As is the case with LaGuardia Airport, the agency solicits comments from all affected parties. All parties are reminded that, as is the case at all high density airports, the limitations at Kennedy will be strictly enforced.

O'Hare International Airport

One hundred eleven comments, including those made or submitted at the public hearings, were received on the proposal to rescind the High Density Rule insofar as it applies to O'Hare International Airport. A majority of those comments favored rescinding the rule although a large number opposed the proposed action. The comments submitted basically reflect the comments made on the petition for rulemaking filed by United Air Lines. A summary of that petition was published in the Federal Register on December 28, 1981 (46 FR 82664), and the comments received were discussed in Notice No. 83-2.

Comments that supported the proposal to rescind the High Density Rule stated that the rule is outdated and no longer needed in view of the increase in capacity at O'Hare Airport and advancements in the ATC System since the High Density Rule was adopted in 1968, i.e., improved ATC programs and procedures predict and help reduce airborne delay, air traffic flow control management procedures now use ATC computers to predict airport congestion and effect flow control measures to minimize costly fuel consumption, and measures, such as en route metering and terminal spacing programs, gate holds, and preferential routings that have been implemented. In addition, airport improvements have increased ground capacity.

Commenters who favored rescission also stated that the rule is not needed for the safety of aircraft and efficient utilization of the navigable airspace. They also noted that the rule was never intended to correct any safety problem, and that air carriers now take steps to solve congestion/delays themselves in response to economic incentives. These commenters believe the High Density Rule does not reflect the true capacity of O'Hare Airport, inhibits the economic development of the regions and cities served by the airport, and masks problems which should be dealt with by alternative solutions, such as increased groundside capacity and installation of newer, more advanced equipment and facilities.

Representatives of three communities in the area surrounding the airport and a number of residents of the area opposed rescission of the rule because they believed it would result in additional noise in their homes, which they state is already unacceptable.

The noise analysis presented in the Finding of No Significant Impact (FONSI) filed in the docket determined that the change in area impacted by noise in 1985, compared with 1980, would most likely be reduced by 0.8 percent. In the "worst-case" situation, assuming an increase of 100 operations per day, the area impacted would be increased by 0.7 percent. This latter change falls well within the FAA's guidelines for an insignificant change in noise impact (less than 17 percent increase in impacted land area, or 1 decibel in cumulative noise level).

The above evaluation was made using the Civil Aeronautics Board (CAB) Noise Screening Test (14 CFR Part 312, Appendix I). One commenter stated that the new Area Equivalent Method, developed jointly by FAA and CAB, should have been used for determining the change in noise impact, inasmuch as the earlier CAB Noise Screening Test was too insensitive to detect changes in noise impact created by specific types of aircraft. In response to this comment, FAA recalculated the "worst-case" situation, using the new procedure. The increase in impacted area within the 65 dB average day-night sound level contour for the "worst-case" comparison was 1.5 percent, using the Area Equivalent Method. This increase remains well within the accepted criterion of a 17 percent increase in impacted land area for the threshold of significance, and represents an increase in cumulative noise level of 0.1 dB.

Another commenter asked if it were possible for the FAA to issue a "Finding of Significant Impact," i.e., a non-FONSI. Under appropriate conditions, the FAA routinely issues what could be termed a Finding of Significant Impact but the correct title for such a document is an Environmental Impact Statement (EIS). An EIS is issued in compliance with Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in regulations issued by the Council on Environmental Quality (40 CFR Part 1500) and FAA Order 1050.IC. These procedures provide guidance

for preparing EIS's and FONSI's.

One commenter noted that airport noise reduction has actually been accelerated more by fleet replacement and modernization, mandated by FAR Part 91, Subpart E, than by limited access restrictions. The newest technology aircraft are further accelerating noise reductions, as more and more models are designed to meet the Stage 3 noise standards of FAR Part 36. Thus, more airplanes can operate into O'Hare International Airport today, with less noise impact, than was possible when the rule was adopted in 1969. The commenter further noted that if fleet modernization is to continue with the resultant noise reduction benefits, aircraft operators must be rewarded for their investment in new, quieter airplanes by granting them an opportunity for increased airport access.

Notice No. 83-2 stated that: "While the City of Chicago strongly supports United's petition, the State of Illinois and a number of local communities *8242 surrounding O'Hare Airport objected to the removal of O'Hare Airport from the restrictions of the High Density Rule until an environmental impact assessment has been completed. However, these commenters subsequently agreed to the repeal of the High Density Rule insofar as it applies to O'Hare Airport." In its comments to Notice No. 83-2, one of the local communities stated that it signed the agreement to waive its right to object to the rescission of the rule so that suburban community interests would be recognized and considered in present and future development plans for O'Hare Airport and its operations. Nevertheless, it stated that this should not be construed to mean it favored rescission. Two of the three local governments that commented on the proposal were parties to the Consent Decree which was executed by the City of Chicago, the State of Illinois, the FAA and 17 suburban communities in the O'Hare Airport area. The City of Chicago, "to make sure that the record is clear" on the relationship between the proposed repeal of the rule and the proposed Phase II Development Program at O'Hare Airport, commented that, in accordance with the Consent Decree, the environmental assessment which it provides to the FAA and the public in support of Phase II projects will assume repeal of the High Density Airport Rule. The City further stated that the Draft Environmental Impact Statement (DEIS) which it has submitted for public hearings complies with the requirements of the Consent Decree. The City also stated that removal of the rule, in and of itself, will not allow significant increases in capacity because of other physical constraints at O'Hare Airport; that any significant increases in capacity will result primarily from the Phase II development program. Therefore, they included an analysis of the environmental impact of certain capacity increases in the DEIS for the development.

Several commenters recommended that consideration of the proposal be deferred until the ATC system has been returned to pre-strike status and/or it is actually capable of accommodating increased flight operations at major hub airports. They are concerned that there are still not enough experienced air traffic controllers to adequately staff all control positions on a continuing basis at some of the busier airports, and that if the rule is rescinded, it will tend to encourage the aviation community to place undue pressure on the FAA to prematurely handle increases in air traffic at the affected airports. To the extent that the commenter is concerned with safety issues, the FAA does not agree that it can be pressured into increasing air traffic beyond that which the ATC system can safely and handle efficiently.

To the extent that the commenters are concerned that increasing the number of operations allowed by the rule may result in airport delays and congestion after the Interim Operations Plan is terminated, it should be noted that neither the High Density Rule nor the agency's other air traffic control programs will eliminate all delays or congestion. Although the High Density Rule may reduce delays and congestion, the old limitations, which are being changed by this rule, impose undue restraints on the aviation community and the public since the system is capable of handling increased traffic. The ATC flow control program, which is utilized at all airports including the four airports subject to the High Density Rule, would be available to the extent necessary to dissipate airport delays and congestion which occur despite the high density limitations.

As a result of the airport and air traffic system changes since the rule was first

promulgated, capacity at O'Hare can be increased. However, that increase in capacity cannot be unlimited. After the new limitations being adopted here have been in place for 6-9 months, they will be further reviewed. Incorporation of the new limitations during the hours of 3:00 p.m.- 7:59 p.m., while leaving the remainder of the day without limitations, would result in many of the same problems that this rule is intended to eliminate. For this reason, the hours during which the rule is applicable are being expanded. The extension of the rule to additional hours should not affect any carrier. Data show that under the Interim Operations Plan, as well as prior to its implementation, the total of air carrier and commuter operations did not exceed the maximum allowed by any hour. In fact, during most hours there are a significant number of slots available for allocation.

As explained above, the agency is also increasing the number of operations allowed under the rule. The new hours of operations are 6:45 a.m. through 9:15 p.m. The new (except as described below) hourly limitations are as follows:

Air Carriers.....120
Commuters..... 25
Other..... 10

The distribution reflects a change in character of commuter and air carrier operations since the High Density Rule was first promulgated. In addition, as a result of a change in the definition of commuters (explained later in this document) a number of operations currently using air carrier slots will have to use commuter slots under the revised rule, thus, increasing the demand for commuter slots.

The number of commuter operations during certain hours of the day at O'Hare have historically been greater than in other hours. To compensate for this (particularly since these hours are ones in which air carrier demand is not as great), the rule being adopted increases the number of commuter operations in the 6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m., and 8:45 p.m. hours by 15 while reducing the air carrier limitations in those hours by 15. In addition, the number of commuter operations allowed in the 3:45 p.m. hour is increased by 5 while the number of air carrier operations in that hour is reduced by 5.

The agency solicits additional comments on this increase and distribution of slots and will discuss this with all affected parties. The agency would particularly like comments on whether the slots available for allocation among air carriers and commuters should vary from hour to hour (the total hourly limitation would not change) to allow for better overall scheduling flexibility. It must be noted that this rule would allow for an increase of approximately 450 operations above those currently conducted by air carriers and commuters at O'Hare Airport.

As explained earlier in this document, the number of operations can only be increased to the extent that they are by this rule if those operations are more evenly distributed throughout each hour. Thus, the agency is increasing the allowable level of operations to 155 per hour, as described above; however, the following limitations apply:

- (1) There shall not be more than 80 (62 for air carriers, 13 for commuters, 5 for "other") operations in any one 30-minute period beginning at 6:45 a.m. (local time) and continuing for 30-minute periods until 9:15 p.m.
- (2) There shall not be more than 155 (120 for air carriers, 25 for commuters, 10 for "other") operations in any two consecutive 30-minute periods. This limitation is necessary to eliminate many of the problems of the concentration of operations previously identified.
- (3) For the hours in which commuter operations are increased (6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m. and 8:45 p.m.), there shall not be more than 155 (105 for air carriers, 40 for commuters, 10 for "other") operations in any two *8243 consecutive 30-minute periods. The maximum number of operations allowed in any 30-minute

period within these hours is 80 (55 for air carriers, 20 for commuters, 5 for "other"). [In the 3:45 p.m. hour, there should not be more than 155 operations (115 for air carriers, 30 for commuters and 10 for "other".) The maximum number of operations allowed in any 30-minute period within this hour is 80 (60 for air carriers, 15 for commuters and 5 for "other.")]

(4) For those 60-minute periods which include one 30-minute period in which commuter operations are increased and one 30-minute period without the commuter increase (8:15-9:15 a.m., 11:15-12:15 p.m., 12:15-1:15 p.m., and 7:15-8:15 p.m.) there shall not be more than 155 operations (113 for air carriers, 32 for commuters and 10 for "other".)

The agency would like the views of all parties on these restrictions. As is the case at Kennedy and LaGuardia airports, the FAA intends to meet with these parties to discuss their views in order to assure that the issues are fully developed and considered.

The following illustrates the requirement for O'Hare:

Examples

Example I

If the total number of operations is scheduled as follows:

	Air carriers	Commuters
5:45 to 6:15 p.m	65	13

Then, to ensure that operations do not exceed the total operations allowable in two consecutive 30-minute periods (120 for air carriers, 25 for commuters, 10 for "other"), the 30-minute periods immediately preceding and following 5:45-6:15 p.m. would be limited as follows:

	Air carriers	Commuters
5:15 to 5:45 p.m	55	12
6:15 to 6:45 p.m	55	12

Under this example the total number of air carrier operations in the 5:15-6:15 p.m. hour would not exceed 120 for air carriers and 25 for commuters and that number is not exceeded in any two consecutive 30-minute periods (during the 5:15-6:15 p.m. period the total is 120 for air carriers and 25 for commuters and during the 5:45-6:45 p.m. period the total is 120 for air carriers and 25 for commuters). To further exemplify these requirements, if the air carrier totals in the 5:45-6:15 p.m. period were 63, then the number of slots allowed in both 5:15-5:45 p.m. and 6:15-6:45 p.m. periods would be 57.

Example II

If the total number of operations is scheduled as follows:

	Air carriers	Commuters
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Continued increases once again could affect airspace efficiency. For this reason, this portion of the rule is not rescinded although the limitations contained in the rule for operations at Newark remain suspended.

Changes Applicable at Each Covered Airport

In order to ensure that the rule applies in an equitable manner, some additional adjustments must be made to the rule as it applies at the covered high density airports. Firstly, the definitions of air carriers and air taxis which apply at Washington National Airport are extended to all airports. Under this definition, operations conducted by scheduled operators in aircraft having a certificated maximum passenger seating capacity of 56 or more must be conducted using air carrier slots. Operations conducted with aircraft having a certificated maximum passenger seating capacity of less than 56 seats must be conducted using commuter slots. Some operators with both size aircraft will have to use both air carrier and commuter slots. In addition, the term "commuter" is inserted in lieu of the term "air taxi" which is currently used in the High Density Rule. This reflects the change in the industry since the rule was first promulgated. It also is consistent with the redistribution of slots among the classes of users. Secondly, the limitations on additional IFR operations which currently apply at Washington National Airport ([14 CFR 93.123\(c\)](#)) are extended to all scheduled operations at the covered airports. In addition, these limitations are also extended to VFR operations. Under these restrictions, "scheduled operations" may not take off or arrive at a high density airport without slot approval obtained in accordance with [Section 93.123](#) whether *8244 the operation is VFR or IFT. This will ensure that only those operations with appropriate approval will be conducted at the airports. This will greatly reduce the number of aircraft operating at the airports without authority and will lessen delays for scheduled operations.

In order to conduct a nonscheduled operation at a high density airport, the operator must obtain a reservation from the Airport Reservation Office. The procedures for such reservations are contained in Advisory Circular No. 90-43. The agency is reviewing that Advisory Circular in order to revise it to be consistent with this rule.

Regulatory Evaluation

Because the Interim Operations Plan currently restricts operations at O'Hare International and LaGuardia Airports to levels below those contained in this amendment and no changes are proposed in the level of operations at the other airports subject to the High Density Rule, it will have no immediate overall economic impact on the public.

When the restrictions imposed by the Interim Operations Plan are removed, it is anticipated that operations will rise until the new higher hourly operations quotas for O'Hare International established by this amendment are reached. Since the High Density Rule was first implemented, improvements in facilities and ATC procedures have increased airport and air traffic system capacity at O'Hare International and LaGuardia Airports to levels proposed in this amendment. Therefore, this amendment will have no net adverse economic impact on the public. Rather, by enabling maximum utilization of current capacity and, therefore, more efficient use of scarce resources, it may, in fact, have a net positive long-range economic impact on the public.

Regulatory Flexibility Determination

This amendment does not impose any new requirements on small entities. It increases the number of hourly operations which may be performed by air carriers and commuters at O'Hare International and commuters at LaGuardia and Kennedy. Small operators will be permitted to operate more flights. They also may incur more delays. Small communities should benefit from added service. Overall, the FAA has determined that the amendment will not have a significant economic impact on a substantial number of small entities. The FAA has prepared and included in the regulatory docket a regulatory flexibility assessment for this amendment.

List of Subjects in 14 CFR 93

Aviation safety, Air traffic control.

The Amendment

PART 93-- [AMENDED]

Accordingly, Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) is amended as follows, effective April 1, 1984:

Subpart K--High Density Traffic Airports

1. By removing the words "air taxi" wherever they appear in this subpart and inserting in lieu thereof the word "commuter."

14 CFR § 93.123

2. By revising the chart in § 93.123(a) to read as follows:

14 CFR § 93.123

§ 93.123 High density traffic airports.

* * * * *

IFR Operations per Hour

Airport				
Class of user	LaGuardia [FN4]	Newark	O'Hare [FN2] [FN3]	Washington Nation [FN 1]
Air carriers	48	40	120	37
Commuters	14	10	25	11
Other	6	10	10	12

John F. Kennedy			
	Air carriers	Commuters	Other
1500	69		2
1600	74	15	2
1700	80	12	0
1800	75	13	2
1900	63	10	2
		12	2

- 1 Washington National Airport operations are subject to modifications per Section 93.124.
- 2 The hour period in effect at O'Hare begins at 6:45 a.m. and continues in 30-minute increments until 9:15 p.m.
- 3 Operations at O'Hare International Airport shall not--
 - (a) Except as provided in paragraph (c) of the note, exceed 62 for air carriers and 13 for commuters and 5 for 'other' during any 30-minute period beginning at 6:45 a.m. and continuing every 30 minutes thereafter.
 - (b) Except as provided in paragraph (c) of the note, exceed more than 120 for air carriers, 25 for commuters, and 10 for 'other' in any two consecutive

30-minute periods.

(c) For the hours beginning at 6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m. and 8:45 p.m., the hourly limitations shall be 105 for air carriers, 40 for commuters and 10 for "other," and the 30-minute limitations shall be 55 for air carriers, 20 for commuters and 5 for "other." For the hour beginning at 3:45 p.m., the hourly limitations shall be 115 for air carriers, 30 for commuters and 10 for "others", and the 30-minute limitations shall be 60 for

air carriers, 15 for commuters and 5 for "other."

4 Operations at LaGuardia Airport shall not--

(a) Exceed 26 for air carriers, 7 for commuters and 3 for "other" during any 30-minute period.

(b) Exceed 48 for air carriers, 14 for commuters, and 6 for "other" in any two

consecutive 30-minute periods.

* * * * *

14 CFR § 93.123

3. By removing § 93.123(b)(2) and marking it [Reserved].

14 CFR § 93.123

4. By removing the words "For operations at Washington National Airport" in paragraph § 93.123(c) and substituting "For purpose of this subpart" in lieu thereof.

14 CFR § 93.129

§ 93.129 [Amended]

14 CFR § 93.129

5. By removing the words "Washington National Airport" in the first sentence of § 93.129(a) and substituting "a high density airport" in lieu thereof.

14 CFR § 93.129

6. By revising the first sentence of § 93.129(b) to read as follows:

* * * * *

(b) VFR. The operator of an aircraft may take off and land the aircraft under VFR at a designated high density traffic airport without regard to the maximum number of operations allocated for that airport if the operation is not a scheduled operation to or from a high density airport and he obtains a departure or arrival reservation, as appropriate, from ATC.

* * * * *

14 CFR § 93.129

7. By revising § 93.129(c) to read as follows:

* * * * *

(c) For the purpose of this section a "scheduled operation to or from the high density airport" is any operation regularly conducted by an air carrier or commuter between a high density airport and another point regularly served by that operator unless the service is conducted pursuant to irregular charter or hiring of aircraft or is a nonpassenger flight.

14 CFR § 93.129

8. By removing the words "Washington National Airport" in § 93.129(d) and substituting "a high density airport" in lieu thereof.

14 CFR § 93.133

9. By revising § 93.133 to read as follows:

14 CFR § 93.133

§ 93.133. Exceptions.

Except as provided in § 93.130, the provisions of § § 93.123 and 93.125 do not apply to--

- (a) The Newark Airport, Newark, New Jersey;
- (b) The Kennedy International Airport, New York, New York, except during the hours from 3:00 p.m. through 7:59 p.m., local time; and
- (c) O'Hare International Airport from 9:15 p.m. to 6:44 a.m., local time.

(Secs. 103, 307, 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348, 1354(a) and 1421(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.49 of the Federal Aviation Regulations (14 CFR 11.49))

Note.--For the reasons set forth in the preamble to this amendment: (1) The FAA has determined that the amendment does not involve a major rule under Executive Order 12291 and (2) is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this rule will not *8245 have a significant economic impact on a substantial number of small entities. A copy of the draft regulatory evaluation prepared for this action can be obtained from the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on March 1, 1984.

Michael J. Fenello,
Acting Administrator.

Attachment to Amendment No. 93-46

Note.--This attachment will not appear in the Code of Federal Regulations.

O'Hare Airport

The following chart sets forth the maximum number of operations allowed in any one or two 30-minute time period(s) at O'Hare International Airport as a result of this amendment. Both limitations must be complied with to be consistent with the rule.

Hours	Air carrier	Commuter	Other
6:45 to 7:15 a.m	105	40	10
6:45 to 7:45 a.m	55	20	5
7:15 to 7:45 a.m	55	20	5
7:15 to 8:15 a.m	105	40	10
7:45 to 8:45 a.m	105	40	10
7:45 to 8:15 a.m	55	20	5
8:15 to 8:45 a.m	55	20	5

8:15 to 9:15 a.m	113	32	10
8:45 to 9:45 a.m	120	25	10
8:45 to 9:15 a.m	62	13	5
9:15 to 9:45 a.m	62	13	5
9:15 to 10:15 a.m	120	25	10
9:45 to 10:45 a.m	120	25	10
9:45 to 10:15 a.m	62	13	5
10:15 to 10:45 a.m	62	13	5
10:15 to 11:15 a.m	120	25	10
10:45 to 11:45 a.m	120	25	10
10:45 to 11:15 a.m	62	13	5
11:15 to 11:45 a.m	62	13	5
11:15 to 12:15 p.m	113	32	10
11:45 to 12:45 p.m	105	40	10
11:45 to 12:15 p.m	55	20	5
12:15 to 12:45 p.m	55	20	5
12:15 to 1:15 p.m	113	32	10
12:45 to 1:45 p.m	120	25	10
12:45 to 1:15 p.m	62	13	5
1:15 to 1:45 p.m	62	13	5
1:15 to 2:15 p.m	120	25	10
1:45 to 2:45 p.m	120	25	10
1:45 to 2:15 p.m	62	13	5
2:15 to 2:45 p.m	62	13	5
2:15 to 3:15 p.m	120	25	10
2:45 to 3:45 p.m	120	25	10
2:45 to 3:15 p.m	62	13	5
3:15 to 3:45 p.m	62	13	5
3:15 to 4:15 p.m	118	27	10
3:45 to 4:45 p.m	115	30	10
3:45 to 4:15 p.m	60	15	5
4:15 to 4:45 p.m	60	15	5
4:15 to 5:15 p.m	118	27	10
4:45 to 5:45 p.m	120	25	10
4:45 to 5:15 p.m	62	15	5
5:15 to 5:45 p.m	62	15	5
5:15 to 6:15 p.m	118	27	10
5:45 to 6:45 p.m	120	25	10
5:45 to 6:15 p.m	62	13	5
6:15 to 6:45 p.m	62	13	5
6:15 to 7:15 p.m	120	25	10
6:45 to 7:45 p.m	120	25	10
6:45 to 7:15 p.m	65	13	5
7:15 to 7:45 p.m	65	13	5
7:15 to 8:15 p.m	113	32	10
7:45 to 8:45 p.m	105	40	10
7:45 to 8:15 p.m	55	20	5
8:15 to 8:45 p.m	55	20	5
8:15 to 9:15 p.m	105	40	10
8:45 to 9:15 p.m	55	20	5

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