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Federal Register

Part II

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Part 93
High Density Traffic Airports Slot
Allocation and Transfer Methods; Final
Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 93**

[Docket No. 25758; Amdt. No. 93-59]

High Density Traffic Airports Slot Allocation and Transfer Methods**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation, (DOT).**ACTION:** Final rule: partial suspension of effective date.

SUMMARY: On August 22, 1989, the FAA published a final rule which made several technical amendments to the regulations pertaining to the allocation and transfer of air carrier and commuter operator slots at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. Among other revisions, the final rule changed the definition of aircraft authorized for operations in "scheduled commuter" slots from any aircraft with a maximum passenger seating capacity of less than 56 seats to propeller-driven aircraft with less than 75 seats. This action delays the effectiveness of the rule only insofar as it would prohibit turbojet aircraft with a maximum certificated seating capacity of less than 56 seats to operate the scheduled commuter slots.

EFFECTIVE DATE: September 21, 1989.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 Telephone: (202) 267-3491.

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

The High Density Traffic Airports Rule (14 CFR part 93, subpart K) limits the number of operations during certain hours or half hours at four airports: Kennedy International, LaGuardia,

O'Hare International, and Washington National. The final rule published on August 22, 1989, (54 FR 34904; corrected 54 FR 37303, September 8, 1989) amended § 93.123(c) of subpart K of the Federal Aviation Regulations to change the maximum passenger seating capacity authorized for operations in scheduled commuter slots from "less than 56 [seats]" to "less than 75 [seats]," with the addition of a limitation to reciprocating the turboprop aircraft.

After the publication of the final rule, the FAA received new information that certain aircraft manufacturers had plans to produce turbojet commuter aircraft with a 50 seat capacity. Such aircraft could have been operated using commuter slots under the old High Density Rule, but would be restricted under the Amendment 93-57 to operation with air carrier slots, even though the aircraft are intended for use in commuter markets.

In consideration of the commuter-oriented nature of the planned 50-seat aircraft, and the fact that such aircraft would have been permitted to use commuter slots under the prior rule, the FAA believes it appropriate to suspend the effectiveness of the new rule to the extent it would prohibit such operations, pending further review of this issue.

Regulatory Evaluation

The delay of effective date for the amended § 93.123(c) contained in this rulemaking with respect to the maximum passenger seating capacity authorized for operations using commuter slots preserves the status quo and will have no effect on the actual operations of carriers currently using aircraft having fewer than 56 seats in these slots. Accordingly, no further regulatory evaluation will be prepared.

Regulatory Flexibility Analysis

As discussed above under Regulatory Evaluation, the impact on all operators will be minimal, and there will be no disproportionate impact on smaller operators. Accordingly, the FAA has determined that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

For the reasons set forth above, the FAA has determined that this amendment is not a "major rule" under Executive Order 12291; and is not a "significant rule" under Department of Transportation Regulatory Policies and

Procedures (44 FR 11034; February 26, 1979). I certify that under the criteria of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 93

Aviation safety, Air traffic control.

Suspension of Effectiveness

Accordingly, part 93 of the Federal Aviation Regulations (14 CFR part 93) is amended as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. 106 (Revised Pub. L. 97-449, January 12, 1983).

§ 93.123 [Amended]

2. The effective date of Amendment 93-57, to the extent it relates to aircraft with a maximum certificated seating capacity of less than 56 seats, is suspended indefinitely. Amendment 93-57 retains an effective date of September 21, 1989, with respect to aircraft with a maximum certificated seating capacity of 56 or more seats. Therefore, the following note is added to the end of § 93.123:

Note: The effective date of paragraph (c), to the extent it defines turbojet aircraft with a maximum certificated seating capacity of less than 56 seats as air carrier aircraft, is suspended indefinitely.

Issued in Washington, DC, on September 21, 1989.

Samuel K. Skinner,

Secretary of Transportation.

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