

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 159

[Docket No. 19939; Amdt. 159-17]

Dulles Airport Access Highway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Carpools of four or more persons will be permitted to use the Dulles Airport Access Highway during the peak commuter hours. The highway had been restricted to airport traffic only. The following ramps will be open to carpools:

| | A.M. | P.M. |
|-----------------------|-----------|-----------|
| Reston Ave. Eastbound | 8:00-9:00 | 2:30-7:00 |
| Reston Ave. Westbound | 8:00-9:00 | 2:30-7:00 |
| Trap Road Eastbound | 8:00-9:00 | (1) |
| Trap Road Westbound | (1) | 4:00-7:30 |

*Closed.

The hours and 4 person limitation will be strictly enforced by the State of Virginia. FAA is relaxing its restrictions on the Dulles Airport Access Highway in order to promote energy efficient ride sharing.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dexter Davis, Manager Dulles International Airport, P.O. Box 17045, Washington, D.C. 20041, Telephone 471-7596, or Edward Faggen, Legal Counsel, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, D.C. 20001, Telephone 557-8123.

SUPPLEMENTARY INFORMATION: The FAA director of Metropolitan Washington Airports issued a Notice of Proposed Rulemaking on January 9, 1980 (Notice No. 80-1) which was published in the Federal Register on January 14, 1980 (45 FR 2861) in which FAA proposed to allow carpools to use the Dulles Airport Access Highway (Access Highway). With certain exceptions, use of the Access Highway is presently restricted to airport users. The proposal was to permit vehicles with four or more persons to have access to the highway in both directions during the peak commuter periods until January 1, 1985. Interested persons have been afforded an opportunity to participate in the making of this final rule. After consideration of comments received in response to the Notice, and after having completed an environmental assessment of the proposal, FAA has determined that the proposed rule should be finalized, as modified below, and made effective.

This amendment is part of the DOT/FAA continuing effort to improve transportation efficiency and to encourage ride sharing and other energy conservation measures. This amendment removes certain restrictions on the use of the Dulles Airport Access Highway and will enhance carpooling as an alternative to the existing modes of transportation for those who commute from or to the Dulles Airport Access Highway corridor.

Discussion of Comments

The FAA received approximately 80 comments predominantly from members of the general public who reside or work in the Access Highway corridor. Several comments were submitted by civic organizations on behalf of large numbers of individuals. Comments were also submitted by representatives of local government and by agencies of the Federal Government. Industry organizations such as the Air Transport Association and the American Motorcycle Association also expressed their views on the opening of the Access Highway to carpools.

Airport Access

The majority of the comments by far were in favor of opening the Access Highway to carpools. However, many of the comments expressed concern or sought clarification about the one aspect of the proposal or another. The comments in opposition expressed concern about access for the users of Dulles Airport. The Air Transport Association supports an exclusive airport use policy and objects to deviation from that policy, including the proposed carpool use. The ATA believes that if carpools are allowed, enforcement of the 4 person restriction should be on a full-time basis not on spot check basis. ATA also takes the position that the Highway should revert to the use for which it was authorized and constructed no later than January 1, 1985. Restoration to exclusive airport related use in 1985 should not be conditioned on the adoption of the Metropolitan Washington Airports Policy which appeared in the Federal Register on January 21, 1980. The ATA also expressed concern over the informal exemptions to the "airport only" policy that have developed over the years such as for the Reston Commuter Bus and for patrons of Wolf Trap Farm Park. One other commenter expressed concern about congestion on the Access Highway and was skeptical about FAA's ability to return the road to exclusive airport use.

The FAA's philosophy regarding the Access Highway has not changed. The Dulles Access Highway was built with Federal funds to provide airport users with a free flowing artery to the airport. It was designed to support use of Dulles Airport. The FAA remains committed to preserving the original intent of the Access Highway. The Secretary of Transportation's report to Congress entitled Carpool Access to Dulles Airport Access Road, July, 1979, in which the Department of Transportation recommended opening the Highway to four or more person carpools, clearly acknowledged that free flowing airport access is the overriding purpose of the highway and it recommended that carpools be allowed only until January 1, 1985.

Also, the National Capital Planning Commission specifically endorsed the carpool proposal on the condition that carpool use be terminated in 1985. By that date Dulles Airport traffic is projected to have increased to the point that the carpool and other non-airport users will contribute to congestion on the Access Highway. However, FAA's traffic projections indicate that significant interference to airport patrons will not result before 1985 from implementation of the proposal. FAA's resolve to preserve the Access Highway for its principal purpose was stated in the Notice and is restated here. As congestion increases on the Highway, whether or not it is a result of efforts to promote Dulles Airport, efforts to minimize or eliminate non-airport related traffic will be considered by FAA.

As for informal exemptions, FAA has allowed very few exemptions in the 18 years that the Highway has been open. In addition to carpools, this regulation will give formal recognition to vehicles operated for the purpose of going directly to or from performances of Wolf Trap Farm Park, to buses operated in common carriage for which use of the Access Highway is appropriate, and to buses operated by the Fairfax County School systems.

Enforcement

Several commenters urged that if the carpool proposal is adopted a strong commitment to enforcement is essential to its success. FAA agrees, but has clearly stated from the outset, that enforcement is primarily a local government responsibility inasmuch as local citizens and employees derive the benefit from carpool use. FAA has sought and received the cooperation of the State of Virginia in this regard. FAA and the State have executed a Memorandum of Understanding in

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which the State has assumed the responsibility for the enforcement of the carpool restrictions. The enforcement plan involves having an attendant on duty on each of the ramps during the carpool operating hours. The attendant will operate the gates to permit entrance to the highway only by vehicles with four or more occupants. State or local police will provide the necessary law enforcement. FAA is taking the necessary steps to confer jurisdiction upon the State to enable the State police to enforce the carpool restriction on the ramps which heretofore have been subject to exclusive Federal jurisdiction. The carpool restriction will be posted on an official sign at the ramps. Violators will be subject to penalty under Virginia Code Sections 46.1-173. A violation is a traffic infraction subject to a fine of not more than one hundred dollars under Virginia code Section 46.1-16.01.

In addition, FAA police will continue to have jurisdiction over these ramp areas. Since this regulation is enacted pursuant to the authority of the FAA granted in the Second Washington Airport Act, 64 Stat 770, violations may be prosecuted as a Federal misdemeanor offense under Section 159.19 and subjected to a fine to be determined by the Federal Court. Operation of a vehicle in violation of an operating sign is also a violation of the regulation under section 159.35(c)(6). If violations become excessive, stricter enforcement measures will be taken. If ineffective enforcement of these restrictions occurs which would jeopardize the primary purpose of the Highway, the FAA will have to consider closing it to carpools.

Hours of Operation

A considerable number of commenters requested FAA to modify the proposed hours for carpool access. As proposed in Notice 80-1, the carpools would be allowed to operate between 6:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 7:00 p.m., Monday through Friday. Many employees at the United States Geological Survey in Reston, Virginia requested that the ramps at Reston Avenue be open at 3:30 p.m. instead of 4:00. FAA has inquired at the Geological Survey and has been advised that more than 2,000 employees complete their work day at 3:30 p.m. and that the vast majority of these employees commute by private automobile. Many carpools already exist and would use the Access Highway westbound in the morning but would be precluded from using them in the afternoon without enduring a half-hour delay that more than offsets the benefits from carpool use of the Access Highway.

FAA agrees that the ramps at Reston can be opened at 3:30 p.m. The State of Virginia has also concurred and will provide law enforcement and an attendant at this hour. Therefore the Reston Avenue ramps will be open in both directions from 6:00-9:00 a.m. and from 3:30-7:00 p.m.

The ramps at Trap Road are not expected to generate as much traffic as Reston Avenue. The Trap Road ramps will be opened in the peak direction only. That is, in the morning the westbound exit ramp from the Access Highway onto Trap Road will be closed. The eastbound entrance ramp onto the Highway will be opened to carpools from 6:00-9:00 a.m. In the afternoon, the eastbound ramp will be closed. Westbound carpool traffic will be able to exit from 4:00-7:00 p.m.

The hours are summarized as follows:

| Ramp | A.M. | P.M. |
|-----------------------|-----------|-----------|
| Reston Ave. Eastbound | 6:00-9:00 | 3:30-7:00 |
| Reston Ave. Westbound | 6:00-9:00 | 3:30-7:00 |
| Trap Road Eastbound | 6:00-9:00 | (1) |
| Trap Road Westbound | (1) | 4:00-7:00 |

(1) Closed.

Furthermore, FAA wants to keep a degree of flexibility in the hours of operation of the ramps. Therefore, the final regulation will not prescribe the hours which would necessitate regulatory action to make even a minor adjustment. Instead, these vehicles may operate in the hours prescribed by the signs posted on the Access Highway. Enforcement action is not dependent on the hours being prescribed by regulation. FAA will, in cooperation with the State of Virginia, see to it that the hours of operation are set forth on a highway sign at each of the ramps. Once posted, the hours will be enforced as any other Access Highway operating sign pursuant to Section 159.35(c)(6). However, the hours of operation may only be changed by order of the Director of the Metropolitan Washington Airports.

Wolf Trap Farm Park

The Department of Interior, National Park Service, which operates Wolf Trap expressed concern about the use of the Trap Road ramps. During the summer month when the park is open, matinee performances are conducted which generate considerable traffic during the early part of the rush hour. To expedite the traffic from the park, the Trap Road is operated in a one way mode south from the park towards the Access Highway for the time necessary to clear the parking lots. Carpools arriving at the Westbound exit ramp of Trap Road at 4:00 p.m. on the matinee days may encounter delays up to 30 minutes in exiting the ramp.

FAA does not intend to interfere with the efficient operation of Wolf Trap. Neither does FAA believe that carpooling should be disallowed on the westbound Trap Road ramps or that the hours of operation should differ significantly from the other ramps. FAA has discussed the matter with the Park Service and has decided that the Westbound ramp should be available to carpools from 4:00 to 7:00 p.m. in the afternoon, as proposed. Carpoolers are advised that they may encounter significant delays on matinee performance days during the Wolf Trap performance season.

The Park Service's other principal concern is that the parking lots at Wolf Trap might be used by commuters for carpool formation. FAA does not condone or encourage in any way, the use of Wolf Trap parking lots by commuters. However, the park police, as opposed to FAA or State Police, are in the best position to enforce the Park Service parking policies. Should unanticipated conflicts with Park operations arise, further carpool management action may be undertaken in consultation with the National Park Service. Such action could include, if necessary, changing carpool operating hours at Trap Road or closing the Westbound ramp to carpools during the Park season.

"Backtracking"

Backtracking is the term applied to those commuters who enter on the road, proceed west to the Airport only for the purpose of making a U turn and proceeding back to the east. The maneuver evidently results in some time saving for commuters, its circuitous nature notwithstanding. The practice has become widespread; as many as 3500 cars make U turns at Dulles Airport in a typical peak period. The practice has led to considerable congestion on the Access Highway from Route 28 west to the Airport. Furthermore the practice is not legal as the road is intended to be an "airport only" highway and its use is restricted by regulation. The regulation is, today, clarified in this regard by the addition of the phrase "on airport related business" to 159.35(a). Unless one of the exceptions apply, private vehicles are permitted to use the Access Highway only for the purpose of going to, or leaving, Dulles Airport on Airport related business.

Several commenters were concerned that FAA is cracking down on this illegal use as part of implementing the carpool proposal. This is not the case. FAA will engage in random enforcement of the traffic restrictions on the Access Highway. However, the advent of carpooling does not require or signal any change in the FAA's position on backtracking. Carpooling offers

commuters a legal alternative to backtracking and the FAA is hoping that the number of backtrackers will be diminished. This is the only relationship between the carpool proposal and backtracking.

Number of Occupants

A significant percentage of the commenters urged FAA to lower the vehicle occupancy requirement to three or two persons because such carpools are easier to form and could ultimately take more cars off congested alternative routes than four person carpools.

FAA considers it necessary to require carpools to have four or more persons in order to insure the free flow of traffic for airport users. A lower number may indeed attract more cars. It would also create a greater likelihood of congestion and therefore constitute a conflict with the FAA's airport only policy. The four person requirement is consistent with existing and planned carpool strategies for the metropolitan area. Less than four person carpools are not allowed on the I-395 carpool lanes, nor will they be allowed on the I-66 segment inside I-495 (the "Beltway"), nor on the Dulles Access Highway extension to meet I-66 when it is completed. These roads would become overly congested if the four person restrictions were relaxed. When the Access Highway and I-66 are connected, the Access Highway will conform to the traffic restrictions imposed upon I-66 by the Secretary of Transportation. It would not be good transportation policy to provide relaxed carpool requirements for the interim period until the Dulles Access Highway extension and I-66 are completed; this would encourage a commuter practice which will need to be stopped when the new facilities are opened.

Neither does FAA agree with those commenters who urged that carpools be given a pass so that on days when one, or more than one, member is absent, the vehicle and its remaining occupants may continue to use the highway. A pass system, though a convenience for some, is also subject to abuse when absenteeism becomes more the rule than the exception. An increased enforcement effort would be required in order to minimize the violation rate and to be fair to legitimate four-person carpools. Neither FAA nor the State is prepared to undertake the administrative tasks associated with issuing passes for the use of the Access Highway and assuring that the passes are not abused.

Motorcycles

Several commenters urged FAA to open the Access Highway to motorcycles on the theory that motorcycles provide an energy efficient form of transportation. FAA, however, is not prepared to allow vehicles onto the Access Highway based upon their passenger miles per gallon of fuel

consumed. If it did so, the same rationale would have to be extended to fuel efficient automobiles. The result would be a vehicle access plan that is difficult to administer and one that has a greater potential for adding congestion to the Dulles Airport Access Highway as well as to Reston Avenue and to Trap Road. The Department of Transportation and FAA's efforts are directed at promoting carpooling and ride sharing, and relaxing the restrictions on the Access Highway will achieve these objectives. Allowing motorcycles would not promote these objectives.

Metroraill

One citizen association expressed its opposition to the carpool access until such time as the Metrorail system replaces "other ground transportation systems" in the corridor such as the proposed Dulles toll road. FAA does not believe that Metrorail is a realistic short-term alternative to promoting carpooling. Metrorail is planned to serve Vienna, Virginia, and will eventually provide a transportation alternative to the automobile and bus in the area. Also, the median strip of the Access Highway is being preserved by FAA for Metrorail in the eventuality that the Washington Metropolitan Area Transit Authority concludes that an extension of Metrorail to Dulles Airport is feasible and prudent. Moreover, while the Department of Transportation is interested in the issue of Metro service to Dulles, that issue is not properly a subject of FAA rulemaking or one exclusively within FAA's authority.

New Ramps

The Board of Supervisors of Loudoun County, Virginia, endorsed the proposal to allow carpools to use the Access highway and, further, requested FAA to pursue the construction of access ramps at Route 28. At present access to or from Route 28 is permitted only to and from the airport. As a result Route 28 is heavily used by "backtrackers." Loudoun County carpools would have to travel to Reston Avenue to gain lawful access to the Highway. FAA recognizes this as a disincentive to Loudoun County commuters. Nevertheless, the FAA is not prepared to undertake the capital expenditures in excess of \$750,000 associated with the new ramp construction. Carpoolers will be allowed to turn around at Dulles Airport, since the number of carpools making the U turn is not anticipated to be so great as to cause significant delay to airport users. This approach will be beneficial to carpools composed of citizens from Loudoun County and from the Herndon area of Fairfax County.

Implementation at Reston, Va.

The Reston Community Association and the Reston Commuter Bus (RCB) organization generally endorsed the proposal and submitted a suggested plan to allow carpools to use the Reston Avenue ramps. These ramps are Federal property but were constructed at the expense of Gulf Reston. They have been used primarily to provide Highway access for Reston's commuter bus service. RCB is concerned that FAA not "arbitrarily assign priority to car and vanpools."

The ramps have served as a convenient transfer point for bus riders and a staging area for the RCB. The compatibility of this practice with automobile use of the ramps concerns the FAA and the State of Virginia from a safety standpoint. Every effort should be made to retain the bus transfer location on the ramps. If that is not tenable, then a location in the immediate vicinity of the ramp will be pursued. FAA and the state have developed a plan for operating the ramp that does not contemplate relocating the bus operation unless operational problems develop that cannot be otherwise resolved. It is currently planned to widen the ramp approximately six feet opposite the bus shelter to allow automobiles to pass the stopped buses. Additional construction and the use of barriers will be considered if found necessary after the ramps are opened. Also, traffic signal lights will be installed at the intersections of the ramps and Reston Avenue. This is expected to moderate the speed of vehicles through the area and safely permit left turns from the westbound exit ramp onto Reston Avenue. After the opening of the ramps, further measures will be taken as needed.

Local Governments and Planning Organizations

Loudoun County and Fairfax County, Virginia have endorsed the proposal. The Council of Governments Transportation Planning Board (COG) and the National Capital Planning Commission (NCPC) have also endorsed the proposal. No opposition has been expressed by any local government or planning agency. NCPC's endorsement was conditioned on development of an acceptable enforcement program, termination of carpool use by January 1, 1985, and development of measures to avoid commuter parking at the Wolf Trap parking lots. The COG staff concurred with NCPC and, in addition, urged completion of the Dulles Access Highway Extension to join I-66.

An adequate enforcement program has been developed by FAA that is in accordance with all of the conditions expressed by NCP and COG. The FAA does not encourage or condone the use of Wolf Trap for parking and carpool formation. However, enforcement of the no parking restrictions will be the responsibility of the National Park Service.

Environmental Assessment

FAA has prepared and circulated for comment an environmental assessment. A number of comments have been received and on the basis of the study and the comments FAA has concluded that the proposal, if implemented, will not have a significant impact on the human environment.

The principal environmental concerns related to continued growth in western Fairfax County and Loudoun County and to the burden imposed on closer in jurisdictions by measures that encourage, rather than discourage, use of the automobile as means of commuting to the District of Columbia.

The FAA, on behalf of the United States, is a significant landowner and employer in western Fairfax and Loudoun Counties. It has an interest in land use and in planning for the areas surrounding Dulles Airport. Also, FAA has an obligation, when considering how to best use the land entrusted to it, to carefully weigh the impacts of its decisions on its neighbor's land. Therefore, in principle, FAA agrees with those comments that stress the complex interrelationship between certain transportation development projects and land development.

However, FAA does not believe that this carpool proposal is one of those projects. The carpool proposal is a transportation development much smaller in scale with significantly less impact than, for example, the plan for building a Dulles Toll Road. The carpool proposal will not provide increased access for commercial traffic and therefore the commercial growth planned for the Dulles corridor will continue to be restrained as it currently is. The Access Highway/Route 7 corridors are planned for substantial residential development and that development is occurring rapidly and without regard for the outcome of this proposal. Several of the projected carpools that will use the DAH are already formed and are either backtracking at the airport or using alternate routes. As the incentives for carpools increase when the Dulles Extension and I-86 are completed, new carpools will be formed from existing commuters now traveling alone or in

two or three passenger carpools. While the increase in carpools will result in some reduction in congestion in traffic on alternate routes, the reductions are not expected to be great enough to attract any significant growth in the corridor. While home/work trips constitute a large share of the through traffic on Route 7, the transportation problems in northwest Fairfax County frequently surface at times other than carpool peak periods such as on weekends, and holidays. The existence of the carpool access for limited weekday periods is not likely to draw any significant volumes of people to western Fairfax County or Loudoun County that would otherwise not relocate there.

Furthermore, this proposal is not expected to significantly change the volume of traffic passing through Arlington County, Virginia and into the District of Columbia. Any change that there is will be towards the reduction in total vehicle trips. There will be no significant secondary impacts on these areas as a result of this proposal.

Access by Handicapped Persons

FAA was requested by an individual to allow handicapped persons who are not in carpools to commute via the Access Highway. An exemption is not warranted. The purpose of the rule is to promote the use of carpools. An exemption for the commuter who is handicapped does not promote the carpool policy, nor is it consistent with the basic FAA policy on commuter use of the Access Highway. Commuters in private vehicles have not been permitted to use the Access Highway and handicapped individuals have not been exempt. The relaxation of the rule to permit carpools does not change the status of the individual commuter.

Editorial Revisions

The reference to "trespass" in section 159.35(a) is deleted as obsolete. Violators of the Access Highway regulation may be charged with a misdemeanor under the Second Washington Airport Act, 64 Stat. 770, and under these regulations, 14 CFR 159.191. The regulation will state that any person who enters upon the Highway for an unauthorized purpose shall be guilty of a criminal offense and subject to a penalty under these regulations.

Access "road" is changed to access "highway".

The phrase "on airport related business" is added to 159.35(a) to further underscore the original intent of the regulation that private vehicles may enter upon the highway only to travel to

the airport on airport related business, unless one of the exceptions apply.

Termination

The regulation provides that carpool access will terminate on January 1, 1985. The Agreement between the FAA and the State of Virginia Department of Highways and Transportation providing for enforcement and other responsibilities, also expires on January 1, 1985. Termination of that Agreement may occur prior to that date: (a) if a highway paralleling the Access Highway is completed by the State of Virginia and is open to the public; (b) if FAA determines that enforcement of the carpool restriction is not effectively achieving a high level of compliance; or (c) if FAA determines that the carpool traffic is interfering with Dulles Airport traffic; (d) if the State of Virginia determines that carpool access should be terminated due to a severe decrease in use, the State's inability to staff the ramps, or similar reason.

Termination of the Agreement with the State may cause FAA to amend its regulations to modify carpool access or prohibit carpool use of the access highway. The State has agreed that termination of the Agreement shall be effective only after public notice and an opportunity to comment. FAA regulations would not be amended without appropriate notice and opportunity for comment.

Effective Date

The rule will be effective upon publication in the Federal Register. Inasmuch as the rule operates to remove a restriction, the requirement for publication of the rule not less than 30 days before its effective date is inapplicable. 5 U.S.C. Section 553(d).

Adoption of Amendment

Accordingly, § 159.35 of Part 159 of the Federal Aviation Regulations is amended, effective April 1, 1980, to read as follows:

§ 159.35 Use of access highway to Dulles International Airport.

(a) Except in an emergency, and except as provided in paragraph (b) of this section, private vehicles may enter upon the Dulles Airport Access Highway only for the purpose of going to, or leaving, Dulles International Airport on airport related business, or, with the permission of the Airport Manager, to perform work on the Highway. Entry by any person upon the Dulles Airport Access Highway for a purpose not authorized by this section is a criminal offense. Violators are subject to a penalty under these regulations.

(b) **Exceptions.** Any person may enter upon and travel over the Access Highway in the following vehicles:

(1) Vehicles operated for the purpose of going directly to or from performances at the Wolf Trap Farm Park for the Performing Arts.

(2) Buses operated in common carriage of persons by companies holding a certificate of public convenience and necessity for an operation for which use of the highway is appropriate, and buses operated by the Fairfax County School System.

(3) Until January 1, 1985, vehicles occupied by four or more persons. These vehicles may operate as prescribed by signs posted on the Access Highway.

(c) Except in an emergency, no operator of a private vehicle may—

(1) Enter or leave the Access Highway through an entrance or exit road or ramp other than one constructed by the FAA as part of the Access Highway system;

(2) Make a U-turn on the Access Highway;

(3) Enter or cross the median strip of the Access Highway;

(4) Use an exit road or ramp to enter the Access Highway;

(5) Use an entrance road or ramp to leave the Access Highway; or

(6) Operate the vehicle in violation of speed limit signs and other operating signs posted on the Access Highway.

(Secs. 3 and 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 6, Department of Transportation Act (29 U.S.C. 1655))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is judged to be minimal and a detailed evaluation is not required.

Issued in Washington, D.C., on March 28, 1980.

Langhorne Bond,
Administrator.

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