



'High Density' Rules Riddled With Contradictions

AN AOPA PILOT SPECIAL REPORT

The FAA's "high density traffic airports" regulation recently was modified to the point where AOPA officials said it had been rendered practically useless as an anti-congestion measure, the alleged reason for its adoption by Federal regulators last December (see January PILOT).

Recent changes primarily benefited the airlines and provided private and business aircraft operators with little measurable relief from the actual and inherent restrictions contained in the original regulation, according to the AOPA.

The revised regulation now allows the airlines to have "extra sections of scheduled air carrier flights without regard to established quotas at all airports except Kennedy."

This change ripped the guts out of the regulation which initially was predicated on the need for setting specific limits on the hourly number of takeoffs and landings at Kennedy and the remaining four public airports affected by the rule. Excessive delay last year of airline flights at all five airports was the reputed reason for initiating the restrictive regulation.

"Extra sections" now allowed the airlines by changes in the regulation are nothing more than additional aircraft which are rolled out of hangars to carry any actual or anticipated overflow of passengers seeking space on any regularly scheduled flights. "Extra sections" are considered the airlines' version of "on-demand" service.

Prior to the recent changes in the regulation, the airlines were to have been allowed "extra sections" service only at Washington National Airport. Use of additional aircraft to supplement regularly scheduled flights at all but one of the remaining four airports provides the airlines with unrestricted opportunities to increase the number of aircraft they want to send into or out of the airports.

Further diluting and mocking the value of the regulation as an anti-con-

gestion measure is the fact that charter flights or other nonscheduled flights of all scheduled and supplemental air carriers may be conducted at Washington National without regard to the hourly reservation limitations.

AOPA officials charged that by opening the door for the airlines to schedule unrestricted numbers of "extra sections," the FAA knowingly or unknowingly erased the alleged anti-congestion reasons for passing the regulation in the first place.

The association contended that the recent changes in the regulation further exposed underlying intentions of some airline-oriented politicians and Federal regulators to give the major airlines almost exclusive use of a number of the nation's largest and most expensive public airports.

AOPA immediately filed a new petition with the FAA requesting the rule be reconsidered, and began preparatory work to legally challenge it in court. The association also placed a five-column by 15-inch advertisement in the Washington (D.C.) Evening Star newspaper, calling attention to the apparent conflict between stated reasons for the regulation and its actual effect as amended.

Besides addition of the "extra sections" benefit for airlines, the FAA increased the number of hourly operations

to be allowed at Kennedy between 5 p.m. and 8 p.m. daily. The old quota for this period was 80 per hour, all allocated to the airlines. The figure was raised to 90 during these peak traffic hours, with 80 still allocated to the airlines and five each allotted to scheduled air taxis and "other" aircraft. "Other" includes all private and business aircraft, military, Government, and non-scheduled air taxis.

The previously exclusive use of Kennedy by the airlines during the peak traffic period was attacked earlier by AOPA and others as being discriminatory and illegal. AOPA President J. B. Hartranft, Jr., suggested the FAA had recognized that such a provision would be considered discriminatory and illegal in a court test and therefore had eliminated it.

AOPA's new petition for reconsideration of the regulation was the second petition submitted to the FAA in as many months. The earlier petition requested outright revocation of the regulation, which is expected to all but prohibit private air travelers from using "high density" public airports desired by the airlines for picking up and delivering their passengers and cargo.

Besides Kennedy and Washington National, other airports initially affected by the new regulation are LaGuardia in New York, Newark, N.J., and Chicago's

AOPA officials state amendments to regulation erase the original justification for establishing restrictions and setting quotas at five public airports

O'Hare. The five public airports currently generate about 1.5 million passengers each week for the major airlines, according to the FAA.

In addition to expanding the "extra sections" provision and striking the exclusive use clause for Kennedy, recent changes in the regulation also postponed its effective date from April 27 to June 1, plus established a termination date of Dec. 31, 1969.

When announcing reasons for allowing the airlines to add "extra sections" service at all airports except Kennedy, the FAA said, "This amendment is based upon analysis which indicates that at O'Hare, National, Newark and LaGuardia airports there will be less than a 5% increase in airline flights resulting from the operation of extra sections."

Evaluating the changes and their effect on the regulation, AOPA President Hartranft charged that "by eliminating the restrictions on extra sections of airline flights, the FAA openly admits that the number of aircraft operations is not the criterion for establishing the discriminatory rule."

"If unlimited flights can be handled at the affected airports, then it invalidates the purpose of the rule to restrict flights," he asserted. "If additional flights cannot be handled, there is no basis for permitting flights in excess of the [previously] established quotas."

The FAA's move to add 10 landing and takeoff slots per hour at Kennedy from 5 p.m. to 8 p.m. also was attacked by Hartranft. As a result of the change, hourly flights from 6 a.m. to 5 p.m. would be limited to 70 air carrier, five scheduled air taxi, and five "other." The allocation from 5 p.m. to 8 p.m. would be 80 air carrier, five scheduled air taxi, and five "other." From 8 p.m. to midnight, the allotments would revert to 70 air carrier, five scheduled air taxi, and five "other."

"It is difficult to understand how 10 additional movements can be accommodated at Kennedy International during the periods of greatest demand while fewer flights per hour are allotted during those periods of lesser demand."

"If this rule making is truly essential at these five airports," he continued, "then the FAA should immediately establish these same restrictions at other airports based on the airports' historic use."

Unlike the five airports initially affected by the new regulation, many of the nation's busier fields are dominated by general aviation traffic. The majority of these other public airports also handle more overall air traffic than four of the five "high density" airports. AOPA officials specifically pointed to airports at Columbus, O., Denver and Miami as airports now handling more traffic than any of the initially affected airports except Chicago's O'Hare.

"Including these and other busy airports on the restricted list now, and using the same historic-use formula applied to the five now affected, would at least provide general aviation with assurances of receiving most of the aircraft movement allocations at all but a

few of the nation's airports," Hartranft stated.

The AOPA chief charged that by limiting the new regulation to those airports most heavily used by the airlines, "the FAA either recognizes that the major cause of airport congestion at these locations is airline schedule bunching and not general aviation operations, or," he added, "this regulation is the beginning of a program to give public airports to the airlines and deny other citizens the use of these facilities."

Hartranft also questioned the FAA's reasons for postponing the effective date from April 27 to June 1. "The extension of the effective date to June 1 demonstrates that the rule is not needed," he said. "If the FAA was establishing this rule in the interest of efficiency rather than in an attempt to turn over public facilities to the airlines exclusively, the effective date would have remained the same."

In announcing postponement of the effective date, the FAA said only that "The effective date of the rule should be postponed to June 1, 1969, to provide additional time for the adjustment of operations by all users of the airport."

AOPA's five-column newspaper advertisement which pointed out inconsistencies in the alleged reasons for the regulation and its actual effects appeared in the Washington Evening Star March 4. The advertisement was in the form of an open letter to Department of Transportation Secretary John A. Volpe and carried the headline: "Five questions John Volpe Should Ask His Aviation Advisors About Public Airports."

The text of the advertisement-letter follows:

"Dear Mr. Secretary of Transportation: When you assumed office, one of the decisions you faced was to keep or remove the rules established by your predecessor which placed flight restrictions on five airports. Now, you have decided that—with slight modifications—these rules are to stand and become effective June 1. We respectfully suggest you ask your aviation advisors these questions:

"1. Is it in the public interest to create discrimination through Federal regulations? The priority use of public airports by the airlines discriminates against the people who, by choice or necessity, must use their own airplanes because airlines serve less than 4% of the nation's airports. Even the individuals who base their aircraft at the airports—and thereby contribute substantially to the direct support of the airport—have no assurance they can ever use their airplanes. This is discrimination by Federal edict. Would you dare ban automobiles from the streets and highways in a similar way?

"2. How can these rules be effective when there is an unlimited number of extra sections allowed to

all airlines? If the airlines may operate as many extra sections of flights as they desire into and out of these airports, the quota system is completely invalid. If unlimited flights can be handled, there is no basis for restrictions. If unlimited flights cannot be handled there is no basis for permitting flights in excess of established quotas. Or . . . does this clearly expose the truth: the restrictions are not necessary and this is merely a maneuver to give to the airlines the airport facilities which have been paid for by all the public.

"3. How can these rules be permitted to stand when they do not affect the busiest airports? There are 44 airports which handle more traffic than Newark; 23 busier than Washington National; 19 with more traffic than LaGuardia, and six busier than Kennedy International Airport. Only Chicago's O'Hare, among the five so-called high density airports to have restrictions, actually rates among the top five in the nation.

"4. Were busier airports omitted from the high density list because general aviation does not cause congestion? Airports at Denver, Miami, Columbus, O., and many other cities handle more airplane traffic than some of the airports now facing restrictions. These busier airports were omitted from the high density list. Were the five airports selected because airline schedule bunching is the cause of delays? And, if so, why is general aviation being restricted most severely?

"5. How can these rules be permitted when safety is not involved? The Federal Aviation Administration has repeatedly stated that the rules are NOT for the purpose of safety but are for convenience. Does not the convenience of individuals merit your concern?

"Mr. Secretary," the open letter concluded, "we urge you to recall your letter to your predecessor, written when you were Governor of Massachusetts, in which you said: 'I am satisfied that there are available and practical methods of increasing the capacity of the airport and airways areas involved to handle air traffic and that every effort should be made to try these out before arbitrary restrictions [rule making], which would be harmful to our business and industry, are imposed.'

"We agree with this position expressed by you before the election," AOPA said in its open letter. "This is why we are again petitioning the FAA to remove this rule which, as you said, 'would be harmful to business and industry.'"

The nearly full-page advertisement carried the public "signature" of AOPA,

"The people who use their own airplanes for the same reasons you use your automobile."

For the benefit of AOPA members requiring use of any of the five affected airports, AOPA Washington Counsel John S. Yodice prepared the following condensed summary of the rules as amended:

High Density Traffic Airports

On Feb. 24, 1969, D. D. Thomas, Acting Administrator of the FAA, issued an amendment to Part 93 of the Federal Aviation Regulations to the following effect:

In order to operate in or out of John F. Kennedy, LaGuardia, Newark, O'Hare, or Washington National airports (designated high density traffic airports), an aircraft operator must have an arrival or departure reservation issued by Air Traffic Control and must have filed an IFR or VFR flight plan for that operation.

Each of these airports is limited to a specified number of hourly IFR operations allocated to three classes of users in order of the following priorities: "air carriers, except air taxis," "scheduled air taxis," and "other." A transponder is required for IFR flight to or from any of these airports.

The hourly number of takeoffs and landings for IFR operations at each of the airports by class of user is: Kennedy—air carriers except air taxis, 70, except between 5 p.m. and 8 p.m. when the number will be 80; scheduled air taxis, 5; other, 5. LaGuardia—air carriers except air taxis, 48; scheduled air taxis, 6; other, 6. Newark—air carriers except air taxis, 40; scheduled air taxis, 10; other, 10. O'Hare—air carriers except air taxis, 115; scheduled air taxis, 10; other, 10. Washington National—air carriers except air taxis, 40; scheduled air taxis, 8; other, 12.

The allocations of reservations among the several classes of users do not apply from midnight to 6 a.m. local time, but the total hourly limitations remain applicable during this period.

There are two exceptions to the reservation limitation made expressly to serve the common carrier. Extra sections of scheduled air carrier flights may be conducted without regard to the reservation limitation at any of the airports except Kennedy. Charter flights or other nonscheduled flights of scheduled or supplemental air carriers may be conducted without regard to the reservation limitations at Washington National Airport.

Unused allocations may be utilized by the next class of user in order of priority: air carriers except air taxis; scheduled air taxis; other.

There are two further exceptions permitting operations additional to those allocated. One is that Air Traffic Control may grant a reservation to an IFR or VFR aircraft if "the aircraft may be accommodated without significant additional delay." The other is that ATC and the airport management may enter into a letter of agreement with an aircraft operator permitting IFR or VFR operations without reservation if the

operation is conducted "without interference with any other aircraft operation," Yodice concluded.

FAA officials earlier outlined a fairly complex system for providing reservations for private and business aircraft and all other aircraft lumped under the general heading of "other" users.

According to the initial plan, procedures and requirements for getting an IFR reservation will be different from those for obtaining a VFR reservation. Procedures also will be different for obtaining a VFR arrival and a VFR departure reservation.

Basically, all IFR reservations will be doled out by a central "Airport Reservations Office" (ARO) to be set up in Washington, D.C. VFR arrival reservations will be handled by a specially designated FSS near the high density traffic airport, and VFR departure reservations will be handled by the control tower at the respective fields.

As outlined by FAA officials, aircraft operators seeking an IFR reservation will be allowed to place their request directly to the ARO by telephone or by telephoning any FSS. If the request is placed through an FSS, the FSS will relay it to the ARO by teletype, then await a reply. FAA officials estimated it would take at least 25 minutes to obtain a reply from the ARO if the request were made through an FSS.

The Federal regulators also indicated they would leave it up to the individual FSS's to determine the best way of notifying the pilot whether his request for a reservation had been accepted or rejected. "IFR requests may only be filed up to 30 days in advance," the FAA said.

As a supplemental aid for placing IFR reservations requests, the FAA said it planned to establish direct telephone communications between the ARO and New York City, Newark and Chicago. This would allow pilots in those areas to make "local" calls directly to the ARO through a leased telephone line system.

In addition to the minimal number of IFR reservation slots made available to all "other" users, times may arise when each of the airports could handle "additional" IFR traffic over and above the established quotas, the FAA said. Procedures for obtaining any of the "additional" slots will be the same as those for getting any of the allotted slots under the quota program. "Additional IFR allocations will not normally be made available to the ARO prior to six hours of intended operation," the FAA said.

Federal planners said telephone numbers to be assigned the ARO in the nation's capital as well as telephone numbers to be used in the areas around the affected airports would be published at an unspecified future date in an Advisory Circular (AC) and in the Airman's Information Manual (AIM). Regular IFR flight plans will not be processed by the ARO. "The flight plan should be filed in the normal manner after the reservation is obtained," the FAA said.

As stated earlier, the hourly quotas on takeoffs and landings refer only to IFR traffic. All VFR traffic to be allowed at the affected airports will fall under the "additional allocations" provisions and will be authorized only "when it will not cause significant additional delay to operations under the basic allotment and the weather is at least 1,000/3 [1,000-foot ceiling and three miles' visibility]," FAA officials said.

All VFR flights will be required to obtain a reservation and file a flight plan, officials emphasized. "Each high density traffic airport has designated an FSS to handle VFR arrival requests [reservations]," the FAA said. "The names of each designated FSS will be published in an AC and the AIM.

"When within 30 miles of the high density traffic airport, contact the designated FSS and request a VFR reservation," the FAA said in outlining requirements for general aviation aircraft and "other" users.

If a reservation is available, the FSS will advise the pilot to contact the airport tower by radio. If there is no opening, the "FSS will so advise" and notify the pilot to "proceed then to another airport of your choice." Should the airport of departure be within 30 miles of the high density traffic airport, the pilot can contact the designated FSS by telephone "no earlier than 15 minutes prior to departure."

"VFR departure reservations are allotted directly by the high density traffic airport tower," the FAA said in its outline of proposed procedures. "Arrangements are being made locally to provide information by telephone on the status of VFR departure reservations," the agency added. "These telephone numbers will be published in an AC and in the AIM.

"Pilots should first make the telephone contact to determine if VFR departures are a 'go' situation," the FAA said. "If VFR departures are 'go,' the pilot merely contacts the tower for his departure clearance. The tower contact and departure clearance constitute the flight plan and reservation as required by 93.125 and 93.129," the agency added.

The "flight plan" referred to under the VFR departure reservation provisions is not the same as a regular VFR flight plan which is filed for search and rescue purposes. Pilots desiring to file regular VFR flight plans for this purpose should do so in the normal manner, the FAA reported.

Under the heading of "important exceptions" to the new reservations system, the FAA listed the following:

"Emergency flights—Any flight involving a medical emergency to or from one of these airports will be handled within the ATC system without regard to the reservation service. Normal ATC procedures will be followed.

"Arrangements are being made directly with the operators involved to handle certain operations necessary to national defense and security without regard to the reservations system." □