

Comments received on the proposed AC may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date will be considered by the Director of the Aircraft Certification Service before issuing the final Advisory Circular.

Background

When following the guidance and procedures outlined in RTCA/DO-254, Design Assurance Guidance For Airborne Electronic Hardware, dated April 19, 2000, you are assured that the hardware design will perform its intended functions in its specified environment, and will meet its airworthiness requirements. RTCA/DO-254 distinguishes between complex and simple electronic hardware; recognizes five levels of failure effects ranging from catastrophic to no effect; and provides guidance for each hardware design assurance level. Although the guidance in RTCA/DO-254 is applicable to five categories of hardware items (e.g., Line Replaceable Units (LRUs), Circuit Board Assemblies, etc.), this AC recognizes the guidance in RTCA/DO-254 is applying specifically to custom micro-coded components, rather than LRUs and other types of electronic hardware items described in RTCA/DO-254.

How to Obtain Copies

You may get a copy of the proposed AC from the Internet at: www.airweb.faa.gov/rgl. Once on the RGL Web site, select "Advisory Circular", then select the document by number. See section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES**. Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc., 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: <http://www.rtca.org>.

Dated: Issued in Washington, DC, on June 29, 2004.

Susan J. M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2001-9852]

High Density Airports; Notice of Extension of the Lottery Allocation at LaGuardia Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of extension of the lottery allocation for takeoff and landing times at LaGuardia Airport.

SUMMARY: This notice announced a twelve month extension of the current slot exemption allocation at LaGuardia Airport (LaGuardia) through October 29, 2005. This action maintains the current operating environment at LaGuardia pending the adoption of a long-term solution for demand management, which the FAA and the Department of Transportation (Department) are undertaking in anticipation of the expiration of the High Density Rule at LaGuardia on January 1, 2007.

DATES: Effective upon July 6, 2004.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Operations and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone number 202-267-3134.

SUPPLEMENTARY INFORMATION:

Background

The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of the navigable airspace of the United States. In particular, 49 U.S.C. § 40103 authorizes the agency to develop plans and policies regarding the use of the navigable airspace and to assign by rule, regulation, or order the use of that airspace under such terms, conditions, and limitations as may be deemed necessary to ensure the safe and efficient use of the navigable airspace. Section 40103 also authorizes and directs the FAA to prescribe air traffic rules and regulations governing the efficient use of the navigable airspace.

In 1968, the FAA promulgated the High Density Traffic Airports Rule (High Density Rule), 14 CFR part 93, subpart K, to reduce delays at five congested airports: John F. Kennedy International Airport (JFK), LaGuardia, O'Hare International Airport (O'Hare), Ronald Reagan Washington National Airport, and Newark International Airport (Newark) (33 FR 17896; December 3, 1968). The regulation limited the

number of instrument flight rules (IFR) operations at each airport during certain hours of each day. It did so by allocating operational authority to air carriers in the form of a "slot," for each IFR takeoff or landing during a specified 30- or 60-minute period. The FAA lifted the restrictions at Newark in the early 1970s.

"AIR-21"

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) became law. Section 231 of AIR-21 significantly amended 49 U.S.C. 41714 and added a new section 41715. 49 U.S.C. § 41715 eliminated slots at O'Hare as of July 1, 2002, and will eliminate slots at LaGuardia and JFK on January 1, 2007. AIR-21 also included new provisions 49 U.S.C. 41716, 41717, and 41718 that enabled air carriers meeting specified criteria to obtain exemptions from the slot requirements of 14 CFR part 93, subparts K and S. As a result of this legislation, the Department issued eight orders implementing the slot exemptions authorized by the statute. DOT Order 2000-4-11 implemented 49 U.S.C. 41716(a) by providing that, under specific conditions, a slot exemption must be granted to any air carrier using Stage 3 aircraft with fewer than 71 seats for nonstop service between LaGuardia and an airport that was designated as a small hub or nonhub airport in 1997. The exemption must be granted if: (1) The air carrier was not providing nonstop service between the small hub or nonhub airport and LaGuardia during the week of November 1, 1999; (2) the proposed service between the small hub or nonhub airports and LaGuardia exceeds the number of flights provided between the airports during the week of November 1, 1999; or (3) if the air transportation pursuant to the exemption would be provided with a regional jet in replacement of turboprop service that was provided during the week of November 1, 1999.

Under AIR-21 and the related DOT Orders, an air carrier meeting one of the statutory criteria automatically received approval for a slot exemption, provided that the air carrier filed various certifications and a written request for authority to begin service. The air carrier was required to certify that the aircraft used to provide the proposed service would be Stage 3 compliant and would have fewer than 71 seats. The air carrier was further required to certify that the airport receiving service to or from LaGuardia was designated a small hub or nonhub airport in 1997. In addition, the air carrier was required to certify that the proposed service, when

compared to service provided during the week of November 1, 1999, was new service, was an additional frequency between the airports, or was regional jet service that replaced a turboprop flight. The air carrier was required to specify the number of slot exemptions needed, the slot times needed to provide the proposed service, the frequency of service and the effective date.

DOT Order 2000-4-10 implemented the provisions of 49 U.S.C. § 41716(b), which required that a slot exemption be granted to any new entrant or limited incumbent air carrier using Stage 3 aircraft that proposed to provide air transportation to or from LaGuardia if the number of slot exemptions granted under this subsection to an air carrier combined with the number of slots held at the airport by that carrier does not exceed 20. The order further required applications submitted under this provision to identify the airports to be served, the slot exemption times requested, the frequency of service and the effective date.

Despite the statute's exemption of certain flights from the FAA's regulatory slot limits, 49 U.S.C. 41715(b)(1) expressly provides that the slot exemption provisions are not to affect the FAA's authority over safety and the movement of air traffic. The reallocation of slot exemption times by the lottery procedures described in this Notice was based on the FAA's statutory authority and did not rescind the exemptions issued by the Department under orders 2000-4-10 and 2000-4-11. As provided in those orders, air carriers that filed the necessary certifications also needed to obtain an allocation of slot exemption times from the FAA. The FAA's limitation and reallocation of these slot exemptions recognized that it was not possible to add an unlimited number of new operations at LaGuardia during peak hours, even if those operations qualified for exemptions under AIR-21.

14 CFR 93.225 sets forth the process for lotteries under the High Density Rule. The process described in the regulations is similar to the lottery process followed for allocating AIR-21 slot exemptions and allows for specific conditions to be included when circumstances warrant special consideration.

Extension of Lottery Allocation

On June 12, 2001, the FAA published a Notice of Alternative Policy Options for Managing Capacity at LaGuardia and Proposed Extension of the Lottery Allocation in the Federal Register. Through the notice, the FAA sought comment on both long-term policy options and a short-term extension of

the cap on slot exemptions at LaGuardia (66 FR 31731). The notice proposed to continue a cap on scheduled flight operations that the FAA implemented in January 2001, limiting scheduled operations to 75 per hour between the hours of 7 a.m. and 9:59 p.m., in addition to the six reservations per hour for "other" nonscheduled operations, which included general aviation, charter, and military operations. The FAA achieved this operational cap by limiting the number of AIR-21 slot exemptions that could operate at the airport to 159 operations per day and allocated the slot exemptions via a lottery on December 4, 2000.

On August 2, 2001, the FAA extended the lottery allocation through October 26, 2002, set the date of August 15, 2001 for a second lottery, and established procedures for subsequent allocations of slot exemptions in the event that slot exemptions were returned or withdrawn by the FAA for non-use (66 FR 41294; August 7, 2001).

Following the terrorist attacks of September 11, 2001, and an ensuing downturn in commercial air travel, the FAA extended the closing date for the comment period regarding the Notice of Policy Alternatives for Managing Capacity at LaGuardia Airport (66 FR 52170; October 12, 2001). On March 22, 2002, the FAA announced that the comment period on the demand management alternatives for LaGuardia would close on June 20, 2002 (67 FR 13401). The FAA subsequently extended the limitation on AIR-21 slot exemptions through October 30, 2004, and proposed modifications to the allocation procedures (67 FR 45170; July 8, 2002). The FAA adopted these modifications on October 28, 2002 (67 FR 65826).

Even with the operational cap in place, LaGuardia is operating at its capacity. In April 2004, LaGuardia averaged 1,254 daily operations on peak weekdays. Despite the improvement brought about by the operational cap, delays at LaGuardia remain among the highest in the country and, recently, only two U.S. airports have incurred a higher percentage of delayed flights.

A long-term demand management solution cannot be implemented at LaGuardia prior to the expiration of the current AIR-21 slot exemption restrictions on October 30, 2004. As a result of the continuing flight delays, however, maintaining the cap on total operations at LaGuardia is imperative during the intervening period. If the cap on AIR-21 slot exemptions was lifted, it is anticipated that air carriers would add qualifying operations at the airport in such volume as to trigger a repetition

of the precipitous increase in exempted flight operations, in the fall of 2000, leading to an unacceptable level of delay. Significant delays and operational disruptions at LaGuardia have a negative effect on the national air traffic control system and result in a ripple effect on delays and operations nationwide. The airport cannot accommodate, nor can the FAA permit, such unconstrained growth in operations at this time.

The FAA and the Department have reviewed and analyzed all comments submitted by the public on the FAA's June 2001 notice of the policy options under consideration. Among the options under continuing review are long-term solutions that could introduce significant market-based elements into the allocation process. The development of such solutions requires further consideration of complex statutory, regulatory, and policy issues. Because some form of operational cap is necessary pending the FAA's implementation of a long-term solution to LaGuardia's congestion, the FAA is extending the current allocation and hourly limits an additional twelve months, through October 20, 2005.

Allocation Procedures

The reallocation procedures that the FAA previously adopted in the Federal Register notice published on October 28, 2002 (67 FR 65926) will be followed for the reallocation of returned or withdrawn slot exemptions and are restated as follows with one minor modification. In allocating AIR-21 slot exemptions in accordance with the provisions in paragraph 3 below, we are formalizing the current practice followed by the majority of the affected air carriers. New carriers eligible for slot exemptions that are not conducting service at the airport will now be required to file the certification with the Department in accordance with Order 2000-4-10 and to have a written request on file with the Slot Administration Office when seeking available slot exemptions. While carriers typically have filed this documentation with the Department and the FAA, these filings were not previously required for air carrier eligibility to receive an available slot exemption. We are now including this provision, and as it reflects current practice and represents minimal change, we are adopting this policy without public comment. We find that requiring this documentation is a minor administrative change and will provide the FAA with necessary information when slot exemptions become available for reallocation.

1. The cap on AIR-21 slot exemptions (7 a.m. through 9:59 p.m.) will remain in effect through October 29, 2005.

2. The FAA may approve the transfer of slot exemption times between carriers only on a temporary one-for-one basis for the purpose of conducting the operation in a different time period. Carriers must certify to the FAA that no other consideration is involved in the transfer.

3. If any slot exemptions become available for reallocation and there is an air carrier seeking slot exemptions that currently is not conducting operations at the airport, has certified to the Department in accordance with OST Order 2000-4-10 and has a written request on file with the Slot Administration Office, then the available slot exemptions would be offered to that carrier first, provided that the total number of slot exemptions allocated to carriers providing small hub/nonhub service is not fewer than 76. If an eligible new entrant air carrier does not select the slot exemptions, then the FAA will offer the slot exemptions to air carriers in the new entrant category or the small hub/nonhub service category, whichever AIR-21 category is below parity. Once parity is achieved, or the opportunity to achieve parity has been afforded, any remaining available slot exemptions will be offered to carriers in the same AIR-21 category from which the slot exemptions came. The FAA will follow the rank orders for each category, as established in the December 4, 2000, lottery for small hub/nonhub service and the August 15, 2001, lottery for new entrants, as amended.

4. An air carrier will have three business days after an offer from the Slot Administration Office to accept the offered slot exemption. The air carrier's acceptance must be in writing to the Slot Administration Office. If the Slot Administration Office does not receive an acceptance to an offer within three business days, the air carrier will be recorded as rejecting the offer and the FAA will offer the available slot exemptions to the next eligible air carrier.

5. Any air carrier that selects slot exemptions must file with the Department a current certification under Order 2400-4-10 or 2000-4-11, as appropriate, and prior to conducting any flight operations under the exemption. In addition, the FAA will not allocate a slot exemption time to an air carrier until the air carrier first provides the Department and the FAA with the markets to be served, the frequency of the service, the number of slot exemptions to be use, the time

when the operations will occur and the effective date.

6. All operations authorized under AIR-21 must commence within 120 days of a carrier's acceptance of an available slot exemption.

7. The Chief Counsel will be the final decisionmaker concerning eligibility of carriers to participate in the allocation process.

Issued on June 29, 2004, in Washington, DC.

James Whitlow,

Deputy Chief Counsel.

[FR Doc. 04-15250 Filed 7-2-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2004-54]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 26, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA-200X-XXXXX] by any of the following methods:

- **Web Site:** <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 29, 2004.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA-2004-17232.

Petitioner: Raytheon Aircraft Charter & Management.

Section of 14 CFR Affected: 14 CFR 91.501.

Description of Relief Sought: To permit Raytheon Aircraft Charter & Management to transport customers and aircraft parts for owners of Raytheon Aircraft Company-manufactured aircraft for a nominal fee.

Docket No.: FAA-2004-17666.

Petitioner: Gleim Publications, Inc.
Section of 14 CFR Affected: 14 CFR 141.45 and 141.55(c)(1).

Description of Relief Sought: To permit Gleim Publications, Inc., to apply for a part 141 provisional pilot school certificate without the need of a classroom since all the pilot training will be conducted via Internet.

[FR Doc. 04-15248 Filed 7-2-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Order 8110.ICA, Instructions for Continued Airworthiness, Responsibilities, Requirements, and Content.

AGENCY: Federal Aviation Administration, DOT.