(ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–OCC–2006–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2006–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submission should refer to File No. SR–OCC–2006–12 and should be submitted on or before November 3, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16948 Filed 10–12–06; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 5565]

Arms Control and Nonproliferation Advisory Board (ACNAB) Meeting Notice

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(a)(2), the Department of State announces a meeting of the Arms Control and Nonproliferation Advisory Board (ACNAB) to take place on November 6, 2006, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(d) and 5 U.S.C. 552b (c)(1), it has been determined that this Board meeting will be closed to the public in the interest of national defense and foreign policy because the Board will be reviewing and discussing matters classified in accordance with Executive Order 12958.

The purpose of the ACNAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament and international security, and related aspects of public diplomacy. The agenda for this meeting includes classified discussions related to the Board's on-going studies on current U.S. policy and issues regarding the National Strategy to Combat Weapons of Mass Destruction, Counter-Terrorism, and Space Policy.

For more information, contact Matthew Zartman, Deputy Executive Director of the Arms Control and Nonproliferation Advisory Board, Department of State, Washington, DC 20520, telephone: (202) 736–4244.

Dated: September 29, 2006.

George W. Look,

Executive Director of the Arms Control and Nonproliferation Advisory Board, Department of State.

[FR Doc. E6–17022 Filed 10–12–06; 8:45 am]

BILLING CODE 4710–27–P

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending September 29, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq*.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2006–25982.

Date Filed: September 28, 2006.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 19, 2006.

Description: Application of Avior Airlines, C.A. requesting a foreign air carrier permit in order to engage in scheduled foreign air transportation of persons, property and mail between Venezuela and the United States.

Renee V. Wright

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–16993 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2004–16944]

Operating Limitations at Chicago O'Hare International Airport; Notice of Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Order.

SUMMARY: On September 22, 2006, the FAA issued an order to show cause, which solicited written views on modifying the August 2004 Order temporarily limiting scheduled operations at O'Hare International Airport (O'Hare) to allow carriers to trade and transfer scheduled arrivals for consideration for the remaining duration of the Order. The FAA is

issuing a final modification to the Order based on the proposal.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Office of the Chief Counsel, Regulations Division, AGC–240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Order To Show Cause

Under the August 2004 Order, as amended, (the Order), the FAA may modify or withdraw any provision in the Order on its own or on application by any air carrier for good cause shown. On September 22, 2006, the FAA issued an order to show cause (71 FR 56213, September 26, 2006), which solicited written views on modifying the Order temporarily limiting scheduled operations at Chicago O'Hare International Airport (O'Hare). The order to show cause proposed to eliminate the August 2004 Order's prohibition on trading or transferring Arrival Authorizations during the duration of the order.

The August 2004 Order made effective a series of schedule adjustments that the air carriers individually agreed to during a scheduling reduction meeting convened under 49 U.S.C. 41722. These agreements, in general, resulted in a voluntary O'Hare peak-hour arrival rate of eighty-eight scheduled flights, with the exception of the 8 p.m. hour—the final peak hour of the day—when the rate would not exceed ninety-eight scheduled arrivals. The Order followed a period during which O'Hare operated without any regulatory constraint on the number of aircraft operations, and O'Hare experienced significant congestion-related delay. The Order took effect November 1, 2004, and was subsequently extended three times. It terminates at 9 p.m., Central Time, October 28, 2006.

The Order was intended to establish a short-term regime limiting O'Hare flights while the FAA developed a longer-term solution through a rulemaking. The FAA is allowing the Order to terminate an October 28 because the FAA has adopted a final rule regulating arrivals rights at O'Hare. That rule, the August 29, 2006, Final Rule, Congestion and Delay Reduction at Chicago O'Hare International Airport, becomes effective on October 29, 2006 (Final Rule). 71 FR 51382.

The FAA has decided to amend the Order as proposed, with one change. We have decided to specify in the Order that transactions permitted by this modification to the August 2004 Order must be completed prior to the October 28, 2006 expiration of this Order and that the air carrier acquiring the arrival must commit to commencing operations resulting from the sale, lease, trade or transfer no later than January 27, 2007. We had proposed such operations begin no later than December 31, 2006 in the order to show cause and received no objection to that proposal. However, the FAA recognizes that placing the restriction in the Order could arguably permit the Order to continue after it has expired. As discussed below, a carrier acquiring an Arrival Authorization will be required to commit to the FAA that it will conduct operations using the arrival authorization no later than January 27, 2007. Additionally, we are amending the Final Rule to specify that initial allocations under the rule require operations to commence no later than January 27.

We have expanded the contemplated time period to commence operations because the agency does not require a carrier to actually begin operations under the Final Rule until 90 days after it has acquired an Arrival Authorization by lottery or sale. This requirement is based on a recognition that some reasonable period of time must be provided to begin actually providing scheduled service. The proposed December 31 date is inconsistent with the FAA's assessment of the time necessary to begin operations articulated in the Final Rule. Although leases are not covered by a start-up waiver in the Final Rule, the short-term nature of the amended Order supports the same consideration.

The FAA also reviewed the August 2004 Order in regard to new entrants and other air carriers initiating scheduled service to O'Hare while this Order remains in effect. The FAA recognizes that carriers not currently serving the airport have a number of actions to complete prior to actual operation at an airport. In addition to obtaining operating authorizations at a capacity-constrained airport, such a carrier must obtain access to facilities, gates and terminal space; must establish check-in and baggage procedures, aircraft ground handling operations, and station staffing; develop flight schedules; and begin offering services to the public. The Order does not specify the steps an air carrier must accomplish prior to actually being granted authority to conduct scheduled arrivals during the peak hours. The FAA expects that new entrant/limited incumbent carriers requesting scheduled arrivals to ''initiate'' scheduled services under the Order must demonstrate an actual intention to conduct services at O'Hare even if the actual operation does not commence by the expiration of the Order. At a minimum, prior to the expiration of the Order, an air carrier must demonstrate that it is offering scheduled services to the public in the United States in accordance with applicable Department of Transportation and FAA rules and may be required by the FAA to provide evidence of additional actions it is taking to start operations. An air carrier must begin actual scheduled flight operations utilizing the assigned Arrival Authorizations no later than January 27, 2007, or they will be withdrawn.

Discussion of Written Submissions: Proposed Allowance of Trades and Transfers for Consideration

The order to show cause specifically requested written views on the FAA's tentative decision to eliminate, for the remainder of the Order, the prohibition on trading or transferring (buying, selling, or leasing) arrival authorizations for consideration. The FAA reached this tentative decision because it recognized that the limitation on trades and transfers under the Order could hamper the efficient transition from the Order to the Final Rule.

Five respondents filed written views on the FAA's proposed modification of the Order. The respondents included two air carriers (American Airlines and United Air Lines), one air carrier organization (The Regional Airline Association (RAA)), the City of Chicago, and Independence Air. American also filed a motion to leave to file and answer in response to Independence Air, which we grant. None of the respondents opposed the modification of the Order. American Airlines, RAA and the City of Chicago expressed full support, favoring a free and open secondary market for scheduled arrivals at O'Hare.

For the reasons set forth in the show-cause order, and in light of the commenters' support for the proposal, the FAA is amending the Order as proposed to allow trades and transfers of Arrival Authorizations. Two commenters—United Air Lines and Independence Air—have asked us to clarify or amend our proposal in some respects. We discuss their requests next.

Discussion of Written Submissions: United's Requests for Clarification and Technical Amendments

United Air Lines sought clarification with respect to leases entered into during the effective period of the Order. First, as requested by United Air Lines, the FAA confirms that a lease entered

into between two air carriers prior to the termination of the Order on October 28 can extend into the future during the effective period of the Final Rule. Under this modification to the Order, two parties can enter into a long-term lease agreement as long as the terms of the lease have been approved by the FAA. When approving a lease arrangement, the FAA will require the written consent of each party as to the specific authorization(s) at issue, the scheduled arrival time, the frequency, and the start and end dates of the lease. Similar information must be provided for sales or other uneven trades or transfers. Under this amendment to the Order, the FAA will approve a sale, lease, or trade involving consideration if the transaction is completed prior to expiration of the Order on October 28, and the air carrier acquiring the allocation commits to commencing operations resulting from the trade or transfer no later than January 27, 2007.

United Air Lines also asked the FAA to clarify that when the term of a lease expires (or otherwise terminates in accordance with the provisions of the lease), the Arrival Authorization will revert to the lessor-carrier without the need for any further approval or action by the FAA, as long as the lessor provides notice to the FAA of such expiration or termination. United Air Lines' assumption is correct. When a lease expires in accordance with the agreed upon end date, no further approval or action is required by the FAA, and the Arrival Authorization will revert back to the holder (lessor) of the authorization. If the lease is terminated prior to the scheduled end date (*e.g.*, because of a breach or a recall provision in the lease agreement), the FAA will require consent from both parties before transferring the Arrival Authorization back to the holder.

Lastly, United Air Lines points out that in modifying the Order, the FAA also must amend 14 CFR 93.25 regarding the initial assignment of Arrival Authorizations under the Final Rule. Under this section, Arrival Authorizations subject to the Final Rule to O'Hare are assigned (1) based on published scheduled service during the 7-day period of November 1 through 7, 2004 or (2) if the carrier did not publish a scheduled service during the 7-day period of November 1 through 7, 2004, the scheduled service the carrier is entitled to publish under the August 2004 Order, as long as the carrier is conducting scheduled service at O'Hare on the effective date of the Final Rule.

We recognize § 93.25 raises questions of proper implementation in light of the potential adjustments that carriers may make under this Order, as amended. The FAA will recognize the transfer of holder status among air carriers that may now occur under the Order. The FAA expects this to resolve issues of initial assignment under the rule, and furthermore, if necessary, the FAA could invoke paragraph (e) of § 93.25 to resolve any conflicts that may arise in the assignment of arrivals by carrier at the termination of the Order. Because § 93.25 anticipates a carrier will actually be conducting scheduled operations at O'Hare on October 29, we are amending the final rule to clarify that operations need not begin prior to January 27, 2007 as long as the FAA has approved a transaction under the Order, as amended, prior to expiration of the Order. This change is necessary to fully effectuate the amended Order.

Similarly, because of the amendment to the Order and the ability of carriers to change their holder status of scheduled arrivals prior to the effective date of the rule, the FAA also must clarify that in applying the definitions of ''new entrant,'' ''limited incumbent'' and ''incumbent,'' the FAA will look to any authorizations held or operated by an air carrier during the duration of the Order. Thus, for example, if a carrier held ten scheduled arrivals on October 1, 2006 and sold or transferred four of those arrivals to another carrier on October 15, 2006, the FAA will view that carrier has an incumbent, not as a limited incumbent, because, at one time, the carrier held more than eight authorizations to arrive at O'Hare.

Discussion of Written Submissions: Independence Air's Request To Reclaim Arrival Rights

Independence Air, while supporting the proposed modification of the Order, asked that the FAA revise its proposed language in paragraph 6 of the Order to permit any person previously allocated arrivals at O'Hare to enter into transactions with air carriers operating at O'Hare to sell, trade or lease such authorizations. Independence Air held ten Arrival Authorizations under the Order. Because Independence Air ceased all airline operations on January 5, 2006, it has not been using the Arrival Authorizations. The firm is now being liquidated. Independence Air claims that because the FAA has neither withdrawn its O'Hare authorizations nor reallocated them to another carrier, Independence Air's estate is entitled to the scheduled arrivals allocated to Independence Air in August 2004, and if the FAA were to adopt its proposed amendment of this Order's paragraph 6, the estate could transfer the scheduled arrivals for consideration. American Airlines, in a late filing to the docket, submitted an answer to Independence Air's request which opposes the change proposed by Independence Air.

The change sought by Independence Air is not legally required and would be contrary to the public interest. Independence Air has been unable to use the arrival rights itself, and the Order barred Independence Air from selling or leasing them to any air carrier. As a result, Independence Air's interest in the rights long ago ceased to have any value.[1] Furthermore, in the March 31, 2006 order extending the Order, the FAA indicated that Independence Air's Arrival Authorizations could be reassigned to other carriers if the FAA found that doing so was in the public interest. Independence Air did not object to that determination.

The FAA additionally explained in the March 31, 2006 order that it would not reallocate Independence Air's Arrival Authorizations because they did not represent capacity available for use by other carriers without injuring O'Hare passengers and airlines. The FAA found it necessary to require Independence Air's Arrival Authorizations to remain dormant in order to mitigate congestion that occurred in the overscheduled peak afternoon hours. As we stated under the order to show cause, our primary purpose in proposing to lift the restrictions on transfers and sales of scheduled arrivals for the remaining duration of the Order is to facilitate the most efficient transition from the Order to the Final Rule. Because the Independence Air arrival authorizations were permanently withdrawn from the available pool of Arrival Authorizations over six months ago, the FAA again finds that reallocation of these retired authorizations would, in fact, be detrimental to efficiency. In any event, the Order applies only to air carriers conducting or initiating scheduled operations at O'Hare. Non-carriers are not permitted to hold authorizations under either the Order or the Final Rule. Independence Air ceased operations on January 5, 2006, and is no longer a certificated air carrier.

We therefore reject Independence Air's suggestion that the proposed

[1] While there is no minimum use requirement under the Order, no air carrier is required to surrender its unused arrival authorizations to the FAA. Independence Air's assertion that it failed to do so provides it with a right to now claim the authorizations is therefore without merit. The Order did not contain a minimum use requirement because it did not create a means whereby other carriers could obtain unused Arrival Authorizations did not mean that a carrier not using its rights could nonetheless keep them for the duration of the Order.

language for paragraph 6 should be further revised.[2]

JetBlue Request

JetBlue has filed a request for Arrival Authorizations as a new entrant under the Order. United Air Lines has opposed that request. The FAA will address JetBlue's request in a later order.

Conclusion

The FAA proposed to modify the August 2004 Order temporarily limiting scheduled operations at O'Hare to allow carriers to trade and transfer scheduled arrivals for consideration for the remaining duration of the Order based on our tentative determination that there is merit to allowing carriers to modify their schedules for competitive or operational reasons through various market mechanisms prior to the effective date of the August 29, 2006 Final Rule regulating scheduled arrivals at O'Hare. After considering the responses, the FAA has determined to make this finding final.

Accordingly, with respect to scheduled flight operations at O'Hare under the August 2004 Order, as amended, *it is ordered that paragraph 6 be amended to state:*

6. An air carrier who is currently operating or has committed prior to the expiration of this Order to operate at O'Hare by January 27, 2007, may buy, sell, lease or otherwise transfer or trade any scheduled arrival from 7 a.m. through 8:59 p.m. to or from any other air carrier who is currently operating or has committed prior to the expiration of this Order to operate at O'Hare by January 27, 2007. Transactions permitted by this paragraph must be completed prior to the October 28, 2006 expiration of this Order. Each air carrier must receive advance written approval of the Administrator, or her delegate, of the trade or transfer. All requests to trade or transfer a scheduled arrival must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267–7277 or e-mail *7–AWA-Slotadmin@faa.gov,* and must come from a designated representative of the air carrier.

[2] We additionally reject Independence Air's arguments for the following reasons. First, we do not view the Arrival Authorizations created in the August 2004 Order to be ''property'' within the definition of the Bankruptcy Code. 11 U.S.C. 541(a). These Arrival Authorizations did not provide the opportunity to receive value through a purchase, sale or lease and without a market, had no value. *In re Gull Air,* 890 F. 2d 1255 (1st Cir. 1989). They were merely restrictions on the use of property—airplanes, not property in themselves. *In re Braniff Airways,* 700 F. 2d 935 (5th Cir. 1983).

Issued in Washington, DC, on October 6, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. 06–8658 Filed 10–10–06; 11:49 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: By **Federal Register** notice (See 71 FR 16610; April 3, 2006), the National Park Service (NPS) and the Federal Aviation Administration (FAA), asked interested persons to apply to fill six vacant positions on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). The vacancies represent general aviation (one vacancy), commercial air tour operators (two vacancies), environmental concerns (two vacancies) and Native American tribes (one vacancy), and invited interested persons to apply to fill the vacancies due to completion (October 9, 2006) of a three-year term appointment. This notice informs the public of the persons selected to fill the vacancies on the NPOAG ARC.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Executive Resource Staff, Western-Pacific Region Headquarters, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov*, or Karen Trevino, National Park Service, Natural Sounds Program, 1201 Oakridge Dr., Suite 350, Ft. Collins, CO 80525, telephone (970) 225–3563, or *Karen_Trevino@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Changes in Membership

Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation.

Richard Larew, Alan Stephen, and Elling Halvorson representing commercial air tour operations.

Chip Dennerlein, Don Barger, Charles Maynard, and Mark Peterson representing environmental interests.

Rory Majenty and Richard Deertrack representing Native American tribes.

To maintain the balanced representation of the group, the FAA and the NPS recently published a notice in the **Federal Register** (See 71 FR 16610; April 3, 2006) asking interested persons to apply to fill the following vacancies on the NPOAG as follows:

General aviation (one vacancy)

Commercial air tour operators (two vacancies)

Environmental interests (two vacancies)

Native American tribes (one vacancy)

New members beginning October 10, 2006, are Matthew Zuccaro and Dr. Gregory A. Miller, vice Richard Larew and Charles Maynard respectively; returning members selected to fill the vacancies for additional terms are Heidi Williams, Richard Deertrack, Chip Dennerlein, and Alan Stephen.

Issued in Hawthorne, California, on October 4, 2006.

Lynore C. Brekke,

Acting Regional Administrator, Western-Pacific Region.

[FR Doc. E6–17030 Filed 10–12–06; 8:45 am]

BILLING CODE 4910–13–P