

agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it establishes and amends airspace in Dallas, GA, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2022-1505 in the **Federal Register** (87 FR 74332, December 5, 2022), to establish Class E surface airspace for Paulding Northwest Atlanta Airport, Dallas, GA, to accommodate aircraft landing and departing this airport, as well as amending Class E airspace extending upward from 700 feet above the surface to accommodate RNAV GPS standard instrument approach procedures (SIAPs) serving this airport.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace designations are published in Paragraphs 6002 and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace surface airspace for Paulding Northwest Atlanta Airport (formerly Paulding County Regional Airport), Dallas, GA, as the airport now qualifies for surface airspace, and amends Class E airspace extending upward from 700 feet above the surface by increasing the airport radius from 6.5-miles to 7.0-miles and updating the airport's name. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6002 Class E Surface Airspace.
* * * * *

ASO GA E2 Dallas, GA [Established]

Paulding Northwest Atlanta Airport, GA
(Lat 33°54'43" N, long. 84°56'26" W)

That airspace extending upward from the surface within a 4.5-mile radius of the Paulding Northwest Atlanta Airport

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Dallas, GA [Amended]

Paulding Northwest Atlanta Airport, GA
(Lat 33°54'43" N, long. 84°56'26" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Paulding Northwest Atlanta Airport.

Issued in College Park, Georgia, on March 17, 2023.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

Staffing Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, LaGuardia Airport, and Newark Liberty International Airport, May 15, 2023, Through September 15, 2023

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Limited waiver of the slot usage requirement.

SUMMARY: This action announces a limited, conditional waiver of the minimum usage requirement that applies to Operating Authorizations or "slots" at John F. Kennedy International Airport (JFK), New York LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA) due to post-pandemic effects on Air Traffic Controller (ATC) staffing at the New York Terminal Radar Approach Control (TRACON) facility (N90). Carriers will be permitted to voluntarily turn in up to 10 percent of their slots held at JFK and LGA as well as impacted slots at DCA for the period from May 15, 2023, through September 15, 2023, subject to the conditions and limitations in this document. In addition, this action announces a limited policy for prioritizing returned operations at Newark Liberty International Airport

(EWR) due to post-pandemic effects on ATC staffing at N90 for purposes of establishing a carrier's operational baseline in the next corresponding season. Carriers will be permitted to voluntarily turn in up to 10 percent of their approved operating timings at EWR for the period from May 15, 2023, through September 15, 2023, subject to the conditions and limitations in this document. Carriers seeking to take advantage of this relief must identify the slots and approved operating timings they wish to turn in before April 30, 2023. This relief is being provided to give carriers the ability to reduce operations during the peak summer travel period, which are likely to be exacerbated by the effects of Air Traffic Controller (ATC) staffing shortfalls.

DATES: This action is effective March 27, 2023.

ADDRESSES: Requests may be submitted by mail to the Slot Administration Office, System Operations Services, AJR-0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: 7-awa-slotadmin@faa.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this notice contact: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR-G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202-267-2822; email al.meilus@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The New York Terminal Radar Approach Control facility (N90) provides ATC services to overhead flights in the North East corridor and to the New York airports—JFK, LGA, and EWR. The airspace complexity resulting from the close proximity of the major commercial airports serving the New York City region is a significant contributing factor to delays at JFK, LGA, and EWR. Against this already challenging backdrop, according to FAA data, nationwide Certified Professional Controller (CPC) staffing averages 81 percent while N90 is maintained at about 54 percent of its CPC staffing target. FAA acknowledges that temporary safety mitigations put in place in response to the COVID-19 pandemic impacted controller training. Dedicated training initiatives have been successful in reducing most of the training backlog with the exception of N90. The staffing shortfalls at N90 limit the FAA's ability to provide expeditious services to aircraft operators and their passengers that traverse this airspace.

During the period of May 2022 through September 2022, the total number of instances of delay to operations from JFK, LGA, and EWR totaled 41,498, with effects throughout the NAS and for which staffing was a contributing factor. Notwithstanding FAA's efforts to address N90 CPC staffing, the staffing rate for N90 has not improved and at the same time early carrier schedules indicate an increase in operations. This being the case, for summer 2023 the FAA expects increased delays in the New York region over summer 2022. Specifically, ATO modeling indicates operations at the New York airports is projected to increase by seven (7) percent, which FAA projects will result in overall delays increasing by 45 percent.¹ These projections are consistent with the 50 percent increase in the number of ground delay programs (GDPs) observed in January and February 2023 compared to the same months in 2022 at the same airports.² The FAA is progressing towards a solution to the N90 staffing issues, based on moving responsibility for the Newark, New Jersey radar sector from N90 to the Philadelphia TRACON (PHL). Training for this sector move is slated to begin in September of this year and will take time to complete for cutover of responsibilities to PHL. Accordingly, this solution will not resolve the anticipated operational impacts in the summer 2023 scheduling season.

Standard

At JFK and LGA, each slot must be used at least 80 percent of the time.³ Slots not meeting the minimum usage requirements will be withdrawn. The FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding air carrier and which affects carrier operations for a period of five consecutive days or more.⁴

¹ ASV studies are conducted by the Slot Administration and Capacity Analysis Group (AJR-G5) at the FAA's William J. Hughes Technical Center. ASV analysis considers multiple runway configurations, weighted by the frequency of occurrence, and utilizes an estimation of weather conditions for each configuration in its calculation. The resulting demand-delay curve can be used to estimate the average delay that results at a given level of demand.

² Aviation System Performance Metrics (ASPM): Key Advisories: GDP & GS Report. ASPM data can be viewed on the FAA Operations & Performance Data website (<http://aspm.faa.gov/>).

³ Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 (Oct. 28, 2022); Operating Limitations at New York LaGuardia Airport, 87 FR 65159 (Oct. 28, 2022).

⁴ At JFK, historical rights to operating authorizations and withdrawal of those rights due

At DCA, any slot not used at least 80 percent of the time over a two-month period will also be recalled by the FAA.⁵ The FAA may waive this minimum usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding carrier and which exists for a period of nine or more days.⁶

When deciding historical rights to allocated slots, including whether to grant a waiver of the usage requirement, the FAA seeks to ensure the efficient use of valuable aviation infrastructure and maximize the benefits to both airport users and the traveling public. This minimum usage requirement is expected to accommodate routine cancellations under all but the most unusual circumstances. Carriers proceed at risk if they decide slot usage in anticipation of the FAA granting a slot usage waiver.

Analysis

Due to the amount of connecting flights in the New York region as well as the interdependency and complexity of the airspace surrounding EWR, JFK and LGA, delays caused by N90 staffing shortfalls could have significant impacts in the upcoming Summer traffic season. Absent increased flexibility, there exists a high probability congestion and delay at JFK, LGA, and EWR during significant NAS impact days (*e.g.*, holiday travel spike, adverse weather) could be exacerbated by N90 staffing shortfalls.

Typically, cancellations due to ATC staffing delays are accounted for by the 20 percent non-utilization allowed under the minimum usage requirement; however, due to the extent of N90 staffing shortfalls and the increase in scheduled operations, the effects of N90 staffing shortfalls are a highly unusual and unpredictable condition beyond the control of carriers that will impact operations through the summer 2023 scheduling season. A waiver of minimum slot usage requirements at JFK and LGA, and a similar policy of prioritizing returned operations at EWR, is necessary to allow carriers to reduce operations to enable scheduling and operational stability during significant NAS impact days through the summer

to insufficient usage will be determined on a seasonal basis and in accordance with the schedule approved by the FAA prior to the commencement of the applicable season. See JFK Order, 87 FR at 65163. At LGA, any operating authorization not used at least 80 percent of the time over a two-month period will be withdrawn by the FAA. See LGA Order, 87 FR at 65160.

⁵ See 14 CFR 93.227(a).

⁶ See 14 CFR 93.227(j).

2023 season. A reduction in the operational volume at the New York airports would also aid in reducing the severity of significant NAS impact days.

In addition, because New York-DCA is a high frequency market for multiple carriers, the FAA recognizes this market is a likely target for carriers to consolidate flights while retaining their network connectivity. If carriers choose to reduce their schedules in the New York-DCA market, the FAA encourages carriers to utilize their DCA slots to operate to other destinations, to the extent that is practical. However, if carriers are unable to utilize their DCA slots elsewhere, it would be necessary to provide relief to DCA slots that are impacted by the reduction in operations at the New York airports.

Finally, carriers should be aware that the N90 staffing shortfalls will not form a sufficient basis for relief going forward because carriers will have had sufficient opportunity to plan and take remedial action under this waiver policy. The FAA does not foresee providing additional *post-hoc* relief associated with ATC staffing given the extraordinary relief provided here. Given this relief, operational impacts associated with N90 staffing during the summer 2023 scheduling season will not have been beyond the carriers control and will not serve as a valid basis for a waiver.

Decision

The FAA has determined the post-pandemic effects on N90 staffing meets the applicable waiver standards and warrants a limited waiver of minimum slot usage requirements at JFK and LGA to allow carriers to return up to 10 percent of their slots at each airport voluntarily as well as impacted operations between DCA and the New York airports. In addition, the FAA has determined the post-pandemic effects on N90 staffing warrants a limited policy for prioritizing returned operations at EWR to allow carriers to return 10 percent of their approved operating timings voluntarily, for purposes of establishing a carrier's operational baseline in the next corresponding season. Carriers wishing to return their slots and approved operating timings voluntarily must do so before April 30, 2023 to be eligible for this waiver. If carriers participating in this limited waiver at EWR subsequently operate unapproved flights at that airport, those carriers will forfeit their scheduling preference to an equal number of returned approved operating timings chosen at the FAA's discretion for the subsequent equivalent traffic season. Additionally, any other

relief from minimum slot usage requirements or standard level 2 processes already in effect at JFK, LGA, or EWR will factor into the 10 percent of allowable returns. In other words, any returns made under a relief policy already in effect when this notice is published will count towards the carrier's 10 percent of allowable returns. Further, the FAA encourages carriers to up-gauge aircraft serving the affected airports to the extent possible to maintain passenger throughput and minimally impact consumers.

The FAA will not reallocate the returned slots or approved operating timings at JFK, LGA, or EWR, as the goal is to reduce the volume of operations in the New York region. Carriers are encouraged to utilize their DCA slots in other markets before returning them to the FAA. In the event DCA slots are returned under this waiver, other carriers will have an opportunity to operate the slots on an *ad hoc* basis without historic precedence to serve markets other than New York.

The FAA will treat as used the specific slots returned in accordance with the conditions in this document for the period from May 15, 2023, through September 15, 2023. The relief is subject to the following conditions:

1. The specific slots and approved operating timings must be returned to the FAA before April 30, 2023.
2. This waiver applies only to slots that have corresponding, scheduled operations during the period of the grant. A carrier temporarily returning a slot to FAA for relief under this waiver must identify corresponding scheduled operation. FAA may validate information against published schedule data as of March 14, 2023, and other operational data maintained by FAA. Slots returned without an associated scheduled and cancelled operation will not receive relief.
3. Slots or approved operating timings newly allocated for initial use before October 28, 2023, are not eligible for relief.
4. Slots authorized at DCA by Department of Transportation or FAA exemptions are not eligible for relief.

Issued in Washington, DC, on March 22, 2023.

Marc A. Nichols,
Chief Counsel.

Alyce Hood-Fleming,
Vice President, System Operations Services.
[FR Doc. 2023-06313 Filed 3-22-23; 4:15 pm]

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FEDERAL TRADE COMMISSION

16 CFR Part 1

Procedures for Oversight of the Horseracing Integrity and Safety Authority's Annual Budget

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") is issuing rules pursuant to the Horseracing Integrity and Safety Act ("Act") to provide procedures for the Commission's oversight of the annual budget of the Horseracing Integrity and Safety Authority ("Authority").

DATES: This rule is effective on March 27, 2023.

FOR FURTHER INFORMATION CONTACT: John H. Seesel (202-326-2702), Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Horseracing Integrity & Safety Act,¹ enacted on December 27, 2020, and amended on December 29, 2022, directs the Federal Trade Commission to oversee the activities of a private, self-regulatory organization called the Horseracing Integrity and Safety Authority.

The Act, in subsection 15 U.S.C. 3052(f), sets forth certain requirements for the Authority's budget. On the revenue side, as for initial funding, the Authority is to obtain loans,² and generally it "may borrow funds toward the funding of its operations."³ After the program effective date of July 1, 2022, the Authority performs an annual calculation of the "amount required" from each State in which covered horseracing takes place, which estimates the amount required from each State "to fund the State's proportionate share of the horseracing anti-doping and medication control program and the racetrack safety program for the next calendar year" and "to liquidate the State's proportionate share of any loan or funding shortfall."⁴ The amount required by each State is calculated under the Assessment Methodology rule⁵ and must be "based on," among

¹ 15 U.S.C. 3051 through 3060.

² See 15 U.S.C. 3052(f)(1)(A).

³ *Id.* 3052(f)(1)(B).

⁴ *Id.* 3052(f)(1)(C)(i).

⁵ The Assessment Methodology proposed rule was published in the **Federal Register** and approved by the Commission after a period of public comment. See Fed. Trade Comm'n, Notice of HISA Assessment Methodology Proposed Rule, 87 FR 9349 (Feb. 28, 2022), <https://www.federalregister.gov/documents/2022/02/18/2022-03717/hisa-assessment-methodology-rule> (containing the