[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA-2004-19411; Special Federal Aviation Regulation (SFAR) No. 105]

RIN 2120-AI47

PROPOSED RESERVATION SYSTEM FOR UNSCHEDULED ARRIVALS AT CHICAGO'S O'HARE INTERNATIONAL AIRPORT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to implement a reservation system restricting the number of unscheduled aircraft arrivals at Chicago's O'Hare International Airport (O'Hare) during the hours of 7 a.m. through 8:59 p.m., Central Time, beginning November 1, 2004, and continuing through April 30, 2005. This action is necessary to ensure the effectiveness of the Administrator's Order issued August 18, 2004, which limited scheduled arrivals over the same hours and effective dates.

DATES: Send your comments on or before [Insert date 10 days after date of issuance.].

ADDRESSES: You may send comments [identified by Docket Number FAA-2004-19411] using any of the following methods:

- DOT Docket web site: Go to http://dms.dot.gov and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to http://www.regulations.gov and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, S.W., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Fax: 1-202-493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

Privacy: We will post all comments we receive, without change, to http://dms.dot.gov, including any personal information you provide. For more information, see the Privacy Act discussion in the SUPPLEMENTARY INFORMATION section of this document.

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, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gerry Shakley, System Operations Services, Air Traffic Organization; telephone (202) 267-9424; facsimile (202) 267-7277; email gerry.shakley@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the

proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the ADDRESSES section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the ADDRESSES section.

Privacy Act: Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit http://dms.dot.gov.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search);

(2) Visiting the Office of Rulemaking's web page at http://www.faa.gov/avr/arm/index.cfm; or

(3) Accessing the Government Printing Office's web page at http://www.gpoaccess.gov/fr/index.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Authority

The U.S. Government has exclusive sovereignty over the airspace of the United States.[1] Under this broad authority, Congress has delegated to the Administrator extensive and plenary authority to ensure the safety of aircraft and the efficient use of the nation's navigable airspace. In this regard, the Administrator is required to assign by regulation or order use of the airspace to ensure its efficient use.[2] The Administrator may modify or revoke an assignment when required in the public interest.[3]

The FAA's broad statutory authority to manage "the efficient use of airspace" encompasses management of the nationwide system of air commerce and air traffic control. On a daily basis, that system transports millions of passengers, thousands of tons of cargo and often millions of pieces of mail. Ensuring the efficient use of the airspace

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[1] 49 U.S.C. § 40103(a).
[2] 49 U.S.C. § 40103(b)(1).
[3] Id.

means that the FAA must take all necessary steps to prevent congestion at an airport from disrupting or adversely affecting the overall air traffic system for which the FAA is responsible. Inordinate delays of the sort experienced at O'Hare in recent months can have a crippling effect on other parts of the system, causing untold losses in time and money for individuals and businesses, as well as the air carriers and other operators at O'Hare and beyond.

In 1968, under this statutory authority, the FAA designated O'Hare as a High Density Traffic Airport (HDR airport) and through the High Density Rule limited the number of takeoffs and landings at O'Hare, effective April 27, 1969.[4] The FAA required operators at each HDR airport including O'Hare to obtain a reservation for each instrument flight rules takeoff or landing.[5] The rules related to HDR airports remained in effect at O'Hare for over three decades. Near the end of that period, the FAA limited O'Hare's scheduled peak-hour air carrier and commuter operations (including both arrivals and departures) to 145 per hour, with ten additional reservations available for the "other" category of unscheduled operations.[6]

Each reservation for an unscheduled operation at an HDR airport is good for a one time arrival or departure flight on a specific date within a specific 30 or 60-minute time. Advisory Circular 93-1, "Reservations for Unscheduled Operations at High Density Traffic Airports," describes the procedures for obtaining a reservation. The FAA uses similar procedures for Special Traffic Management Programs implemented to respond to temporary increases in airport demand caused by special events such as major

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[4] 33 Fed. Reg. 17896 (1968). The FAA codified the rules for operating at high density traffic airports in 14 C.F.R. part 93, subpart K.

[5] See, e.g., 14 C.F.R. § 93.125 (2004).

[6] 14 C.F.R. § 93.123(a)(2004). The "Other" class of users includes general aviation, charter, military, public aircraft, and other irregular operations by commercial air carriers.

conventions or sporting events. Aircraft operators are therefore familiar with the general procedures the FAA is now proposing to reinstitute at O'Hare.

Background

In 2003, O'Hare accommodated 928,691 flight operations, which made it the busiest airport in the world in terms of aircraft arrivals and departures. According to the FAA's Air Traffic Operations Network, which collects data on air traffic activity counts, during the first 6 months of 2004, 490,987 flights arrived at and departed O'Hare. From January through July 2004, total airport operations at O'Hare increased approximately 8.7% over the same period in 2003. The total number of enplaned passengers at O'Hare in 2003--at 30,797,513-- ranked second in the U.S.[7]

According to flight delay information compiled by the Department's Bureau of Transportation Statistics, system performance suffered at O'Hare as air carriers increased scheduled operations.[8] In November 2003, O'Hare ranked last among the 31 major airports reported for on-time arrival performance, delivering on-time arrivals just 57.26% of the time.[9] O'Hare also ranked last in on-time departures during November 2003, yielding on-time departures 66.94% of the time.[10] The Bureau of Transportation Statistics' data for December 2003 reflected a similarly discouraging performance by O'Hare during that month--ranked last with 60.06% of arrivals on time and 67.23% of

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[7] National Transportation Statistics 2003, Table 1-41--Passengers Boarded at Top 50 U.S. Airports (Bureau of Transp. Statistics Mar. 2004).

[8] The U.S. Department of Transportation considers a flight to be on time if it arrives or departs no later than 15 minutes after its scheduled arrival or departure time. Arrival performance is based on arrival at the gate. Departure performance is based on departure from the gate.

[9] Airline On-time Tables--Nov. 2003, Table 3—Ranking of Major Airport On-time Arrival Performance in Nov. 2003 (Bureau of Transp. Statistics).

[10] Airline On-time Tables--Nov. 2003, Table 5--Ranking of Major Airport On-time Departure Performance in Nov. 2003 (Bureau of Transp. Statistics).

departures on time.[11] FAA statistical analyses showed that at least part of the decline in on-time performance could be attributed to a scheduled volume of air traffic that exceeded the available airport capacity. Despite the high proportion of delayed flights, however, when the air carriers published their January and February 2004 schedules in the Official Airline Guide, they revealed their intention to add still more operations to the encumbered O'Hare schedule.

The Bureau of Transportation Statistics' data on flight delays and on-time performance for June 2004 reflect only modest overall improvement at O'Hare as a result of voluntary reductions in operations by two of the largest operators at O'Hare[12], while problems associated with congestion persisted, particularly in the late afternoon and early evening when on-time performance is at its lowest.

Highlighting the FAA's concern, the industry's published schedules for November, as reported in the Official Airline Guide in late July 2004, revealed that the number of scheduled arrivals during several hours approaches or exceeds the airport's highest possible arrival capacity. During one hour of the day, the number of scheduled arrivals actually would have exceeded the airport's capacity under ideal conditions by 32 percent, had these schedules taken effect, virtually ensuring daily delays even when the weather and airport operating conditions were optimal and contributing to potential gridlock when they were not.

On August 18, 2004, following a schedule reduction meeting conducted under the authority of 49 U.S.C. 41722, the FAA Administrator issued an order embodying the

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[11] Airline On-time Tables--Dec. 2003, Table 3--Ranking of Major Airport On-time Arrival Performance in Dec. 2003 & Table 5--Ranking of Major Airport On-time Departure Performance in Dec. 2003 (Bureau of Transp. Statistics).

[12] By FAA Orders dated January 21, 2004, and April 21, 2004, American Airlines and United Airlines each agreed to reduce scheduled operations during identified peak hours. These Orders responded to record delay levels at the airport since November 2003, primarily due to increases in flights and compression of schedules by the two largest operators at the airport.

terms of air carrier agreements with the FAA that temporarily limited the number of scheduled arrivals during certain peak hours at O'Hare. The terms of Section 41722 permitted discussions only with scheduled air carriers and not other operators. The scheduling reduction meeting, the resulting agreements and the implementing order all reflected serious concerns over the persistent over scheduling of flights at the airport. The order was intended to relieve the substantial inconvenience to the traveling public caused by flight delays and congestion at that airport, which spread through the national airspace system. Among other things, the order limits the number of scheduled arrivals to 88 per hour, with certain exceptions.

In arriving at the limit of 88 arrivals for scheduled operations in the August 18 Order, the FAA assumed that the airport would accommodate four additional unscheduled arrivals per hour. (See FAA Order Limiting Scheduled Operations at O'Hare International Airport, dated August 18, 2004, page 12, included in the Docket No. FAA-2004-16944.) This assumption was based on historical experience; based on an analysis of peak period weekday arrivals at O'Hare during approximately six and a half months, the FAA determined that there was an average of 4 unscheduled arrivals during peak hours. The FAA also reviewed the annual daily average for air carrier and commuter aircraft, which are primarily scheduled fights, and general aviation and military flights (unscheduled) for calendar years 2000-2003 and for January through mid-July, 2004. Although the number of scheduled flights rose during those periods, the level of unscheduled flights remained stable over the study period and actually declined slightly from 2000 levels.

The FAA is, therefore, seeking to implement a reservation system for unscheduled arrivals limiting the number of such arrivals to four per hour between the

hours of 7 a.m. and 9 p.m. Central Time beginning November 1, 2004, and continuing through April 30, 2005. This action would ensure that the demand for such operations is spread reasonably throughout the day and allow the FAA to achieve the overall established operational target for scheduled and unscheduled arrival flights. Consistent with limitations on scheduled flights, the FAA would allocate the arrival slot reservations in half-hour increments; no more than two arrival reservations in a half-hour period would generally be available for unscheduled arrivals. This may result in some operators shifting certain planned flights to another time with an available reservation, or potentially operating during unrestricted hours.

Under certain weather conditions and runway configurations, O'Hare has capacity to accommodate more than 92 arrivals per hour without causing delay. Although scheduled airlines cannot readily adjust their number of arrivals to take advantage of temporary fluctuations in the airport's capacity, unscheduled operators frequently can do so given the nature of their operations. Therefore, the FAA expects that additional reservations, which would be allocated using the same procedures as those outlined above, would be made available for last-minute unscheduled flight arrivals and other operating adjustments.. The FAA will closely monitor weekend operations and other periods when lower volumes of scheduled arrivals would allow allocation of additional reservations for unscheduled flights.

Each reservation would be allocated on a 30-minute basis during the peak hours during which the restrictions are in place. The FAA's Airport Reservation Office (ARO) would receive and process all reservations requests. The reservations would be allocated on a first-come, first-served basis, determined by the time the request is received by the ARO. Operators can obtain a reservation: (1) through the Internet; (2) by calling the

ARO's interactive computer system via touch-tone telephone; or (3) by calling the ARO directly. Operators would provide the date/time of proposed operation and other identifying information concerning the aircraft and the intended flight. This process will also allocate the additional reservations that may be accommodated during periods of favorable weather and capacity conditions.

The allocation mechanism for unscheduled operations proposed in this SFAR is similar to the procedures currently used to allocate slots for the "Other" category for airports subject to the provisions of the High Density Rule ("HDR") (14 CFR Part 93, Subparts K and S.) (The limits of the HDR apply to New York's LaGuardia and John F. Kennedy International Airports and Washington's Reagan National Airport.) The proposed procedures are also similar to those used by unscheduled aircraft operators during Special Traffic Management Program implemented by Air Traffic Organization during periods of abnormally high traffic demand due to special events such as the Indianapolis 500, Kentucky Derby, fly-ins, and other circumstances.

Allocation of a reservation does not constitute an ATC clearance nor does it obviate the need to file an IFR flight plan. The FAA will accommodate declared emergencies without regard to reservations. Non-emergency flights in support of national security, law enforcement, or similar requirements may be accommodated above the reservation limits with the prior approval of the FAA. The proposed text of the SFAR contains detailed instructions for requesting reservations via the Internet, telephone, or alternatively contacting the ARO. Reservations for regularly scheduled operations are authorized separately under the terms of Federal Aviation Administration (FAA) Order "Operating Limitations at Chicago O'Hare International Airport" issued August 18, 2004. The procedures described in this SFAR would not be used for scheduled flights.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)), the FAA has submitted the information requirements associated with this proposal to the Office of Management and Budget for an emergency clearance.

Title: SFAR No. 105, Operating Limitations for Unscheduled Arrivals at Chicago's O'Hare International Airport

Summary: This proposal requires persons conducting unscheduled operations at O'Hare to obtain an arrival reservation for that operation from the FAA's Airport Reservation Office.

Use of: This proposal would support the information needs of the FAA Air Traffic Organization in temporarily limiting unscheduled operations at O'Hare.

Respondents (including number of): The likely respondents to this proposed information requirement are persons conducting general aviation operations, charter operations, military operations and other public aircraft operations that seek to operate at O'Hare. FAA analysis indicates there may be as many as 11 operators requesting reservations for unscheduled operations throughout the entire day. However, for any given hour between 7:00 a.m. and 8:59 p.m. the unscheduled demand from January 2004 through July 2004, showed the average number of unscheduled operations peaked at 5.4 arrivals on Thursdays at 6 p.m. The hourly average for unscheduled operations was 4 arrivals per hour. For purposes of this NPRM we are estimating the number of respondents to be up to 200.

Frequency: FAA has determined there would be 56 arrival reservation requests, given the average of 4 unscheduled arrivals per hour at O'Hare for each of the 14 reservation hours per day. The reservation hours begin at 7:00 a.m. and end at 9:00 p.m., Central Time.

Annual Burden Estimate: FAA estimates it will take 2 minutes to make each reservation. For the 6-month period – November 1, 2004, through April 2005, for which the proposal would be in effect, the information collection burden would be 20, 384 minutes (340 hours) to place reservations for unscheduled arrivals between the hours of 7:00 a.m. to 8:59 p.m. at O'Hare. On an annual basis, operators will require 40, 768 additional minutes (777 hours) to place reservations for unscheduled arrivals.

Since the reservations could be made using touch-tone telephone interface, an Internet web interface using electronic information technology, automated telephone systems and calls directly to ARO, FAA does not expect the unscheduled reservations to require new capital or equipment. These electronic systems are already in place for other categories of operations for unscheduled flights under Special Traffic Management Programs, and the O'Hare Arrival Reservation Program.

The estimate of cost resulting from the collection of information to implement this proposal does consider the additional labor costs for operators to place reservations for unscheduled arrivals. The pilots of the unscheduled flights such as general aviation, charter operators and businesses perform many non-flying duties, which include record keeping and scheduling. FAA has used a burden labor rate of $43 per hour, which is based on annual earnings data for airline pilots, co-pilots, and flight engineers, and

commercial pilots for unscheduled air transportation provided in the Bureau of Labor Statistics' Occupational Employment Statistics series.

For the 6-month period—November 1, 2004 through April 2005, for which the proposal would be in effect, the information collection burden would be 20,384 minutes (340 hours) to place reservations for unscheduled arrivals between the hours of 7:00 a.m. to 8:59 p.m. at O'Hare. On an annual basis, operators will require 40,768 additional minutes (777 hours) to place reservations for unscheduled arrivals. At the burdened labor rate of $43 per hour, the total annual cost burden will be $29,223. FAA believes these costs will be a minimal burden to the respondents or record keepers making the reservations for unscheduled flights.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. Since the reservation system proposed in this document would take effect November 1 of this year, the FAA will seek emergency clearance of this information collection. The OMB control number for this information collection will be published in the Federal Register, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The

FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review," dated September 30, 1993 (58 FR 51736), directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal because of the flexibility of unscheduled operators to take advantage of the dynamic capacity at O'Hare. Because the costs and benefits of this action do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. §§ 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing

U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected cost impact is so minimal that a proposal does not warrant a full evaluation, this order permits a statement to that effect and the basis for it be included in the preamble and a full regulatory evaluation cost benefit evaluation need not be prepared.

Under this notice, the FAA proposes to place limits on unscheduled arrivals at O'Hare International Airport to accompany the flight limits of scheduled flights, which will go into effect on November 1, 2004. Consistent with the FAA O'Hare Order issued on August 18, 2004, FAA defines the unscheduled flights as those flights that are not published in the Official Airline Guide (OAG). Unscheduled arrival operations also do not include operations regularly conducted by air carrier or commuter between O'Hare and another service point. FAA has used the OAG to determine the scheduled flights. Hence, unscheduled flights include general aviation, military flights, air taxi and other flights such as some freight, ferry, and charter flights that are not listed in the OAG. Further, this proposal does not include helicopter operations and flights by foreign air carriers, except those flights conducted by Canadian air carriers.

For a variety of reasons the proposed rule limiting unscheduled flights at O'Hare should have minimal economic impact. The proposed rule establishes flight limits that match the actual average number of unscheduled operations at O'Hare. For the 7-month period preceding the FAA order for scheduled operations, January 4 – July 24, the hourly average by day of week range from 2.7 to 4.0 flights. Moreover, during the hours the reservation system is in effect, operators have alternatives and can vary arrival times or land at another airport in the Chicago area.

Additionally, during periods of favorable weather and operating conditions, the airport has capacity to accommodate additional arrivals and the FAA plans to make additional arrival reservations available, provided doing so will not significantly increase delays. Due to the nature of their operations, unscheduled operators are able to take advantage of this dynamically available capacity.

The operators of unscheduled flights have considerably more discretion and flexibility than scheduled operators in terms of the flight planning horizon and arrival time. FAA thus expects these unscheduled flights can easily be accommodated. This is especially the case for general aviation and military flights, which make up the majority of the unscheduled flights. The flight plan for general aviation and military flights are usually filed the last 1 to 3 hours before operations. Further, there are multiple airports within close proximity to O'Hare.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of

the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

FAA expects that there would be more than two entities affected by the proposed rule. However, the economic effect will be minimal. The operators of unscheduled flights have considerably more discretion and flexibility than scheduled operators in terms of the flight planning horizon and arrival time. The FAA believes the operators will have substantial viable alternatives. This can include varying the arrival time and day, or landing at another airport in the Chicago area.

Consequently, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would not have an effect on foreign commerce.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national

Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Reporting and recordkeeping requirements

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Special Federal Aviation Regulation No. _____, Operating Limitations for Unscheduled Operations at Chicago's International Airport is added to read as follows:

Section 1. *Applicability.* This Special Federal Aviation Regulation (SFAR) No. _____ applies to persons conducting unscheduled operations under instrument flight rules (IFR) and visual flight rules (VFR) to Chicago's O'Hare International Airport (O'Hare) during the hours of 7:00 a.m. through 8:59 p.m., Central Time. This SFAR does not apply to helicopter operations and flights by foreign air carriers, except those flights conducted by Canadian air carriers.

Section 2. *Operational Limits.* Except as provided for in section 6 below, unscheduled IFR and VFR flights to O'Hare are limited to 4 arrival reservations per hour and no more than 2 arrival reservations during each half-hour, for the peak hours described in section 1.

Section 3. *Reservation Requirement.* Each person conducting an unscheduled IFR or VFR flight to O'Hare during the peak hours described in section 1 must obtain for such flight operation an arrival reservation allocated by the Airport Reservation Office. In addition to obtaining a reservation as described in this SFAR, it is the separate responsibility of the pilot/operator to comply with all NOTAMs, security or other regulatory requirements to operate at O'Hare.

Section 4. *Terms.* For purposes of this SFAR:

"Additional Reservation" is an approved reservation above the established limit. Additional reservations are available for unscheduled operations only and are allocated in accordance with the procedures described in section 6 of this SFAR.

"Airport Reservation Office (ARO)" is an operational unit of the FAA Air Traffic Control System Command Center that is responsible for administration of reservations for the "other" category of operations i.e. unscheduled flights at High Density Traffic Airports (14 Code of Federal Regulations, part 93, subpart k), reservations for unscheduled flights under Special Traffic Management Programs, and the O'Hare Arrival Reservation Program.

"Enhanced Computer Voice Reservation System (e-CVRS)" is the system used by the FAA to make arrival and/or departure reservations at designated airports requiring reservations. There is a touch-tone telephone interface, an Internet web interface, and the ability to call the ARO directly for making reservations.

"Reservation" is an authorization received in compliance with applicable Notices to Airmen (NOTAMs) and procedures established by the FAA Administrator to operate an unscheduled arrival flight to O'Hare. A reservation for O'Hare is allocated on a 30-minute basis beginning at 7 a.m. and continuing through 8:59 p.m. Central Time. A reservation authorizes a planned arrival only within the approved time period, unless the flight encounters an air traffic control (ATC) traffic delay. Reservations are required for flights operating under IFR and VFR.

"Unscheduled Operation" is an operation other than one regularly conducted by an air carrier or commuter between O'Hare and another service point. However, certain types of air carrier and commuter operations are also considered for these purposes of this

definition as unscheduled, including irregular charter, hired aircraft service, ferry flights, and other non-passenger flights.

Section 5. *Reservation Procedures.*

a. The FAA's ARO will receive and process all reservation requests for unscheduled arrivals at O'Hare during the effective period. Reservations are allocated on a "first-come-first-served" basis determined by the time the request is received at the reservation office. Standby lists are not maintained. Users may access the computer reservation system using a touch-tone telephone, via the Internet, or by telephoning the ARO directly. Requests for reservations will be accepted beginning 72 hours prior to the proposed time of arrival at O'Hare. For example, a request for an 11 a.m. reservation on a Thursday will be accepted beginning at 11 a.m. on the previous Monday.

b. A maximum of two transactions per telephone call/Internet session will be accepted.

c. The ARO will allocate reservations on a 30-minute basis, e.g., an approved reservation for 1900 UTC covers a planned airport arrival any time from 1900 through 1929 UTC.

d. A reservation does not ensure against traffic delays nor does it guarantee arrival within such allotted time. A reservation also is not an ATC clearance. Aircraft specifically delayed by ATC traffic management initiatives are not required to obtain a new reservation based on the revised arrival time.

e. Users must check current NOTAMs in effect for the airport.

A reservation from e-CVRS does not constitute permission to operate if additional operational limits or procedures are required by NOTAM and/or regulation.

f. The filing of a request for a reservation does not constitute the filing of an IFR flight plan as required by regulation. The IFR flight plan must be filed only after the reservation is obtained and must be filed through normal channels. The ARO does not accept or process flight plans.

g. Users may obtain reservations by (1) accessing the Internet; (2) calling the ARO's interactive computer system via touch-tone telephone; or (3) calling the ARO directly. The telephone number for the e-CVRS computer is 1-800-875-9694. This toll free number is valid for calls originating within the United States, Canada, and the Caribbean. Users outside those areas may access e-CVRS by calling the toll number of (703) 707-0568. The Internet web address for accessing e-CVRS is http://www.fly.faa.gov/ecvrs. Users may contact the ARO at 703-904-4452 if they have a problem making a reservation using the automated interfaces, if they have a question concerning the procedures, or if they wish to make a telephone reservation from outside the United States, Canada, or the Caribbean. (Note: The inability to obtain a reservation because all the reservations have been allocated is not considered as having a problem making a reservation).

h. When filing a request for an arrival reservation at O'Hare, the pilot must provide the following information:

(1) Date(s) and hour(s) (UTC) of proposed operation(s).

(2) Aircraft call sign, flight identification, or tail number(s). Operators using a 3-letter identifier and flight number for air traffic control (ATC) communication must obtain a reservation using that same information. Operators communicating with ATC using an aircraft tail number must obtain a reservation using the tail number.

(3) Aircraft type identifier.

(4) Origin airport (3-letter identifier) immediately prior to the proposed arrival at O'Hare.

Should the requested time not be available, the user will be offered the closest available time before and after the requested time. If an alternate time is accepted, this will be the reservation.

j. Users must advise the ARO whenever a change is needed to an allocated reservation. Changes must be made to e-CVRS reservations by using the telephone interface, the Internet web interface, or by calling the ARO.

k. A reservation must be cancelled when a user knows that it will not be used. Cancellations must be made through e-CVRS as soon as practical using the telephone interface, the Internet web interface, or by calling the ARO. Early cancellation of reservation will provide opportunities for other operators to use the limited number of airport reservations.

l. The following information is needed to change or cancel a reservation:

(1) Aircraft 3-letter identifier and flight number or tail number, depending on what information was provided for the original reservation.

(2) Airport for which the reservation was made.

(3) Date and Time (UTC) of reservation.

(4) Reservation number.

Section. 6. *Additional Reservations.*

a. Notwithstanding the restrictions in section 1, if in the judgment of the Air Traffic Organization, ATC weather and capacity conditions are favorable and significant delay is not likely at O'Hare or in the national airspace system

as a result of O'Hare-related operations, the Air Traffic Control System Command Center may in its sole discretion determine that additional reservations may be accommodated for a specific time period. Generally, the availability of additional reservations will not be determined more than 8 hours in advance. If available, additional reservations will be added to e-CVRS and granted on a first-come-first-served basis using the procedures described in section 5 of this SFAR. Reservations for arrival operations are not granted by the local ATC facility and must be obtained through e-CVRS/ARO.

b. An operator who has been unable to obtain a reservation at the beginning of the 72-hour window may find that a reservation may be available on the scheduled day of operation due to additional reservations or cancellations.

c. ATC will accommodate declared emergencies without regard to reservations. Non-emergency flights in support of national security, law enforcement, or similar requirements may be accommodated above the reservation limits with the prior approval of the FAA Vice President, System Operations Services.

Section 7. *Making Arrival Reservations at O'Hare Using e-CVRS.*

a. Telephone users. When using a touch-tone telephone to make a reservation, you are prompted for a response. All input is accomplished using the keypad on the telephone. One issue with a touch-tone telephone entry is that most keys have a letter and number associated with them. When the system asks for a date or time, it is expecting an input of numbers. A problem arises when entering a tail number, or 3-letter identifier. The system does not detect if you are entering a letter (alpha

character) or a number. Therefore, when entering an aircraft identifier and flight number or aircraft registration/tail number two keys are used to represent each letter or number. When entering a number, precede the number you wish by the number 0 (zero) i.e., 01, 02, 03, 04, ... If you wish to enter a letter, first press the key on which the letter appears and then press 1, 2, or 3, depending upon whether the letter you desire is the first, second, or third letter on that key. For example to enter the letter "N" first press the "6" key because "N" is on that key, then press the "2" key because the letter "N" is the second letter on the "6" key. Since there are no keys for the letters "Q" and "Z," e-CVRS pretends they are on the number "1" key. Therefore, to enter the letter "Q," press 11, and to enter the letter "Z," press 12.

NOTE-

Users are reminded to enter the "N" character with their tail numbers (see Table 1). Operators using a 3-letter identifier and flight number to communicate with ATC facilities should enter that call sign when making their reservation.

Table 1

Codes for Call Sign/Tail Number Input

Codes for Call Sign/Tail Number Input Only			
A-21	J-51	S-73	1-01
B-22	K-52	T-81	2-02
C-23	L-53	U-82	3-03
D-31	M-61	V-83	4-04
E-32	N-62	W-91	5-05
F-33	O-63	X-92	6-06
G-41	P-71	Y-93	7-07
H-42	Q-11	Z-12	8-08
I-43	R-72	0-00	9-09

b. Additional helpful key entries:
(See Table 2).

Table 2

Helpful Key Entries

#	After entering a call sign/ tail number, depressing the "pound key" (#) twice will indicate the end of the tail number.
*2	Will take the user back to the start of the process.
*3	Will repeat the call sign/tail number used in a previous reservation.
*5	Will repeat the previous question.
*8	Tutorial Mode: In the tutorial mode each prompt for input includes a more detailed description of what is expected as input. *8 are a toggle on/off switch. If you are in tutorial mode and enter *8, you will return to the normal mode.
*0	Expert Mode: In the expert mode each prompt for input is brief with little or no explanation. Expert mode is also on/off toggle.

c. Internet Web Based Interface. The e-CVRS reservation system includes a web-based interface. The Internet option provides a fast, user-friendly environment for making reservations. The Internet address is http://www.fly.faa.gov/ecvrs. Flight information may be added or edited using e-CVRS after the reservation is initially obtained.

All users of e-CVRS must complete a one-time registration form containing the following information: full name; e-mail address; a personal password; password confirmation; and company affiliation (optional). Your e-mail and password are required each time you login to use e-CVRS. Instructions are provided on each page to guide you through the reservation process. If you need help at any time, you can access page-

specific help by clicking the question mark "?" located in the upper right corner of the page.

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