The Voice of Aviation Business

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National Air Transportation Association

October 19, 2004

U.S. Department of Transportation
Systems Operations Services
Air Traffic Organization
Attn: Mr. Gerry Sharkey
400 7th Street, SW
Nassif Building, Room PL-401
Washington, DC 20590-001

RE: DOCKET NO. FAA-2004-19411, Proposed Reservation System For Unscheduled Arrivals at Chicago's O'Hare International Airport

Dear Mr. Sharkey:

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft operators and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air charter, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry providing services to the general public, airlines, general aviation and the military.

NATA is opposed to the proposed reservation system for unscheduled arrivals at Chicago's O'Hare International Airport (ORD). The FAA proposes to implement a reservation system restricting the number of arriving unscheduled aircraft at ORD during the hours of 7:00 am through 8:59 pm, Central Time, beginning November 1, 2004, and continuing through April of 2005. NATA believes this is an unnecessary, unjustified and airline-driven restriction that creates additional financial hardships for an industry still reeling from the September 11th terrorist attacks.

Due to the nature of the general aviation industry, in particular, charter and business aviation, this restriction is an unjustifiable impediment. The "on-demand" nature of this part of the aviation industry is what appeals to the corporate users of private aircraft. The proposed reservation system will encumber the convenience of being able to freely come and go when flying in a privately operated or chartered aircraft and demonstrates a blatant favoritism towards scheduled air carriers. The suggestion within the NPRM on page 9 that operators could simply "shift certain planned flights to another time with an available reservation, or potentially operate during unrestricted hours" demonstrates clear ignorance of the appeal of the on-demand nature of the general aviation industry.

In fact, one common reason general aviation aircraft choose to use ORD is that it permits easy connection to airline flights, particularly for international trips. These passengers use charter and private aircraft to access ORD from remote locations. The proposed restrictions on arrivals will have a serious impact on the ability for these aircraft to reach this major international airport from rural communities. It does not appear the FAA has made any attempt to accurately determine and accommodate the needs of these users.

Furthermore, the FAA also states on page 9 that it will "closely monitor weekend operations… when lower volumes of scheduled arrivals would allow allocation of additional reservations for unscheduled flights," again clearly demonstrating the agency's ignorance of the unique on-demand nature of the general aviation industry. This statement also provides yet another example of the inappropriate and unjust preferential treatment provided to the scheduled carriers over their non-scheduled commercial air carrier (charter) competitors by the FAA.

On page 5 of the proposed reservation system plan, the FAA states that the reason for the new reservation system is to prevent congestion at the airport, and the agency cites "Inordinate delays of the sort experienced at O'Hare" but does not clarify what causes the delays – scheduled or unscheduled aircraft arrivals. The proposed rulemaking goes on to detail that the number of *scheduled* arrivals during several hours "approaches or exceeds the airport's highest possible arrival capacity." NATA strongly opposes the proposal that the general aviation industry be held accountable for delays scheduled aircraft arrivals create at any given airport by restricting the number of such aircraft landing. We believe that when the FAA determined the number of scheduled aircraft arrivals that could be handled by ORD in the August 18 Order, the decision of the FAA to *assume* that the airport would accommodate four additional unscheduled arrivals per hour was unjustified.

The association is also gravely concerned with the FAA's continued flawed rulemaking process. First, the ten-day comment period is unprecedented and only provided industry with four business days to comment as the NPRM was released in the *Federal Register* on October 20th. Second, the FAA has yet again clearly demonstrated its inability to meet the requirements of the *Regulatory Flexibility Act of 1980* by saying:

> "FAA expects that there would be more than two entities affected by the proposed rule. However, the economic impact will be minimal. The operators of unscheduled flights have considerably more discretion and flexibility than scheduled operators in terms of flight planning horizon and arrival time. The FAA believes the operators will have substantial viable alternatives."

Did the FAA evaluate the impact to the two fixed base operators that reside at O'Hare, or simply the charter operators that fly into and out of the airport? It is clear that the FAA is once again dismissing its responsibility to conduct a comprehensive and qualified economic impact assessment to both the operators as well as fixed base facilities that reside at O'Hare. This is unacceptable to the association.

Finally, NATA believes this entire effort is nothing less than an attempt to reinstate the slot system that was removed by Congress in the *Aviation Investment and Reform Act for the Twenty-first Century* (AIR-21) that was signed into law April 5, 2000. Sec. 41715 of AIR-21, " Phase-out of slot rules at certain airports," clearly states that "The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply… after July 1, 2002, at Chicago O'Hare International Airport." While the FAA has cautiously avoided using the word "slot" in describing this new system, that is in fact what has been presented. These so-called "reservations" must be obtained in advance and explicitly serve the purpose of restricting flight activity at ORD, just as the slot system did.

We appreciate the opportunity to present our views on this proposed policy and eagerly anticipate the FAA taking these points into consideration when dealing with solutions to congestion at ORD.

Sincerely,

Eric R. Byer
Vice President, Government & industry Affairs