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Department of Transportation
Federal Aviation Administration

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) OPERATING LIMITATIONS AT
) CHICAGO O'HARE INTERNATIONAL AIRPORT
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Docket FAA-2004-16944

# ORDER LIMITING SCHEDULED OPERATIONS

*Introduction*

Delays at Chicago O'Hare International Airport (O'Hare) have risen to record levels since November 2003, largely as the result of an increase in flights as well as the compression of schedules by the two largest operators at the airport. In recent weeks, to deal with schedule peaking and congestion, the FAA has imposed traffic management programs, including ground delays at other airports, on aircraft destined for O'Hare. Published airline schedules for February 2004, which call for additional operations at the airport, have the potential to cause further gridlock during peak afternoon hours and, given the ripple effect of delays at O'Hare, degrade the operation of the National Airspace System (NAS) as a whole.

The FAA's new reauthorization bill contained a provision (49 U.S.C. 41722) permitting the Department to convene a public delay reduction meeting of all scheduled airlines at a severely congested airport, such as O'Hare, on a determination of a serious transportation need or important public benefit. In light of the delays at O'Hare and the substantial inconvenience to the traveling public, earlier this month the Department and the FAA determined that a delay-reduction meeting concerning O'Hare would be necessary.

The FAA separately contacted the two air carriers with the most operations at O'Hare to discuss the impact of their schedules on operations and delays at the airport and to ascertain whether each carrier contacted would accept the FAA's imposition of a temporary limit on that carrier's operations during peak hours. Because each carrier independently will reduce its scheduled operations, the Department and the FAA are deferring a schedule-reduction meeting until further notice. Instead, and with the consent of each carrier, the FAA is ordering a five percent reduction in their scheduled operations during the hours of 1:00 p.m. through 7:59 p.m. for a six-month period beginning no later than March 4, 2004.

Even as it issues this Order, the FAA is actively pursuing comprehensive programs to increase capacity at airports critical to the NAS, such as O'Hare.

The FAA also has increased focus on O'Hare operations through on-going, daily operational conference calls with air carriers and other users to maximize throughput and mitigate delays. Additionally, the FAA is evaluating system operations in the O'Hare airspace area, including controller staffing and training, air traffic procedures, and airspace utilization. The agency will actively pursue opportunities for increased capacity or gains in efficiency. The agency disfavors short-term operational caps and similar measures except where they are essential to preserve the efficiency of the system or safety.

We emphasize, therefore, that this Order is designed to deal with a highly unusual situation, one that is unlikely to be replicated except at O'Hare. Moreover, each of the affected carriers recognized that immediate action was required to mitigate substantial inconvenience for their customers and millions of other airline passengers across the country, and each acquiesced in the FAA's exercise of its authority to limit the carrier's operations. Although the FAA will continue to examine *all* its alternatives for O'Hare, by this Order we are not establishing a practice that delays will be addressed in the short-term by restricting scheduled operations.

*Background*

O'Hare enjoys a unique status within the NAS. O'Hare serves as a network hub for two of the largest domestic airlines, an origin and destination for many international flights by both U.S. and foreign air carriers, and given its location a logical connecting point for significant passenger flows across the United States. In 2003, as cited in FAA's OPSNET[1], O'Hare handled 931,422 operations, making it the busiest airport in the world. Delays at O'Hare can cause significant disruption to the efficiency of the NAS and substantial inconvenience to the traveling public.

Under the High Density Rule (HDR), operations at the airport were limited to 145 scheduled air carrier and commuter operations per hour.[2] This set the scheduled hourly limits below the level feasible under optimal weather conditions but above the level allowable in instrument meteorological conditions. The phase-out of the HDR began on May 1, 2000, with the remaining slot requirements ultimately eliminated in July 2002. During the phase-out carriers serving O'Hare added a significant number of operations overall and retimed other flights, causing congestion during the peak hours of the day.

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[1] The FAA's Air Traffic Operations Network (OPSNET) collects data on air traffic activity counts and delays.

[2] This figure excludes a number of exemption slots that were created for various purposes and ten additional reservations per hour for unscheduled operations. 49 U.S.C. 41715 provided for the phase-out of the HDR (Subparts K and S of 14 C.F.R. Part 93) at O'Hare beginning in May 2000 and the elimination of this rule with respect to O'Hare in July 2002.

Since November 3, 2003, air traffic operations at O'Hare have increased still further as a result of new and retimed service at the airport, principally by the two largest operators at the airport, American Airlines, Inc., and its commuter affiliates ("American") and United Airlines, Inc., and its commuter affiliates ("United").[3] These two airlines now account for 88 percent of all scheduled operations at O'Hare. The airlines have not only been adding flights, but as importantly, compressing their existing operations to peak hours as opposed to spreading them out evenly throughout the operating day. In particular, a significant percentage of flights previously scheduled before 7:00 a.m. or after 8:00 p.m. have been shifted to the middle of the day. Since the carriers have filled in any otherwise slower periods during peak afternoon hours, current schedules create high volumes of traffic throughout much of the day.

All these factors have combined to cause a substantial increase in both total delays and average lengths of delays at O'Hare, particularly during the peak period of 1:00 p.m. to 8:00 p.m. FAA Aviation System Performance Metrics (ASPM) data[4] show that on a daily basis, from November 1 through December 31, 2003, 39 percent of O'Hare arrivals were delayed, with an average of 492 delays per day and an average of 57 minutes delay per delayed aircraft. The percentage of on-time arrivals fell from 85 percent for October 2003 to 62 and 65 percent for November and December 2003, respectively. In November, delays at the airport more than doubled from the prior year period, resulting in the most delays ever reported at any airport in FAA's OPSNET in a single month since the FAA has been compiling daily statistics: over 15,000 delayed arrivals with an average delay of 62 minutes per aircraft. In November and December 2003, arriving passengers experienced a total of 1.7 million delay minutes at O'Hare.

Recent data from the Department's Bureau of Transportation Statistics (BTS) confirm the FAA's findings and illustrate the impact on consumers. According to the BTS data[5] only 57 percent of flights arriving at O'Hare in November were on

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[3] Although American has recently increased its service more than United at O'Hare, overall since April 2000, American has increased operations by 4 percent and United has increased by 14 percent.

[4] Aviation System Performance Metrics (ASPM) provides information on individual flight performance and airport efficiency. The data is updated daily. Metrics computed in ASPM are developed by comparing actual time to scheduled time, excluding taxi metrics, which are computed by comparing actual time to an unimpeded time. No attempt is made to attribute causality of delay. ASPM provides statistics for 21 airports. Flight performance data is derived from Out Off On In (OOOI) data provided by participating carriers, Official Airline Guide (OAG) data, the FAA's Enhanced Traffic Management System, and DOT's On-time file. A flight is counted as "on time" when it departs or arrives within 15 minutes of its posted schedule.

[5] The Department's Air Travel Consumer Report publishes detailed on-time statistics for 31 reportable airports. This report is based on data collected by the Department of Transportation's BTS. (Although the BTS data is derived from a different data set from ASPM, there is a strong

time, compared to 82 and 84 percent in September and October 2003, respectively and 82 percent in November 2002. Similarly, only 60 percent of flights arriving at other airports from O'Hare in November 2003 were on time, compared to 81 and 83 percent in September and October 2003, respectively and 86 percent in November 2002. In addition, of the 60 scheduled flights listed in the November 2003 Air Travel Consumer Report as arriving late 80 percent of the time or more, 50 of them involved O'Hare.

The levels of delays that have become routine at O'Hare, with 39 percent of arrivals delayed for as much as an hour per flight, are comparable to the levels experienced at Newark International Airport and LaGuardia Airport during the most congested time periods in the summer and fall of 2000. Thus, by comparison, from May through August 2000, 31.27 percent of Newark arrivals were delayed, with an average of 172 delays per day with an average delay of 66.79 minutes per delayed aircraft; and from September through November 2000, 58.12 percent of LaGuardia arrivals were delayed with an average of 329 delays per day with an average delay of 59.75 minutes per delayed aircraft.

Schedules in the Official Airline Guide (OAG) for February 2004 show that American and United each plan to add a number of operations. For purposes of demonstration, preliminary analyses indicate that adding 100 operations per day to the November schedules for O'Hare increases delays exponentially regardless of whether the operations are added to peak periods or spread throughout the normal operating day. (For example, on November 6, 2003, with 2,715 OAG scheduled operations, there were approximately 29,000 total delay minutes recorded; 100 more operations, equivalent to a 3.7 percent increase, would result in 52,000 delay minutes, a 43 percent increase.)

Because of O'Hare's unique status, this level of congestion at O'Hare has a detrimental effect on the operational efficiency of the NAS. Air traffic management procedures typically keep aircraft destined for O'Hare on the ground at the originating airport until they can be accommodated. Such ground delays have resulted in gate and ramp congestion at other affected airports, especially those airports with limited aircraft holding areas, which ripples throughout the entire system.

*Authority*

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correlation in trends and summary level analysis.) On-time numbers are reported each month to BTS by U.S. air carriers that have at least 1 percent of total domestic scheduled-service passenger revenues. In November 2003, there were 16 U.S. air carriers that were required to report plus two other carriers that reported voluntarily. The reports cover nonstop scheduled-service flights between points within the United States (including territories) as described in 14 CFR Part 234 of DOT's regulations. A flight is counted as "on time" if it arrived within 15 minutes of the scheduled time. Arrival performance is based on arrival at the gate. Departure performance is based on departure from the gate.

The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of the navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitation as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the navigable airspace. Also, under section 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace.[6] The FAA has employed its authority to regulate the use of the airspace by adopting, among other regulations, the HDR.[7]

In addition, the Congress recently granted the FAA new authority to conduct public schedule-reduction meetings with air carriers serving congested airports. This authority was contained in the delay reduction provisions of the aviation reauthorization bill, *Vision 100* (Public Law 108-176). Section 422 of that statute, now codified at 49 U.S.C. 47122 ("Section 422"), authorizes the Secretary of Transportation to ask U.S. airlines to meet with the Administrator to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during peak hours.

*Agency Action*

As soon as it became clear that the increases in scheduled service during peak hours at O'Hare were resulting in an unacceptable level of delays and adversely affecting the efficiency of the NAS, officials from the FAA's Air Traffic Services unit acted to ameliorate the congestion at O'Hare. Their activities included ongoing daily conference calls by FAA officials with operational personnel at various air carriers to maximize the airport's throughput and reduce delays during peak periods. User meetings were also conducted at the FAA's Command Center in Herndon, Virginia, on November 19, 2003, and December 11, 2003, to illustrate graphically for industry participants the scheduling problem at O'Hare and its effect on the system as a whole.

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[6] In City of Burbank v. Lockheed Air Terminal, 411 U.S. 624 (1973), the Supreme Court found that a local ordinance setting an airport curfew interfered with the FAA's broad authority under the Federal Aviation Act to manage the navigable airspace, including operations on the ground that affect the efficiency of the national air transportation system. "'Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls.'" Id., at 633-634 (quoting concurring opinion in Northwest Airlines, Inc. v. Minnesota, 322 U.S. 292, 303).

[7] See 33 Fed. Reg. 17896; (December 3, 1968) and DOT Order Granting Discussion Authority, Order 88-12-12 (December 7, 1988).

Such informational meetings occur frequently and provide air carriers with the data needed to adjust their operations so as to alleviate congestion and improve their own schedule reliability. The current level of overscheduling at O'Hare, however, has rendered the airport so severely congested during peak hours that additional action is now required. In particular, the FAA has concluded that there must be a reduction in the total number of air carrier arrivals and departures during the hours of 1:00 p.m. to 8:00 p.m. Although the peak period at O'Hare begins as early as 9 a.m., lowering the volume of traffic in the afternoon is especially critical because doing so may allow air traffic control to respond to delays that build up throughout the morning.

On January 8, 2004, the FAA determined that it would be necessary to convene a schedule-reduction meeting under Section 422 of Vision 100 with respect to O'Hare to pursue flight reductions at that airport during peak hours. On January 16, 2004, the Secretary of Transportation advised the FAA of his determination that such a meeting was necessary to meet a serious transportation need or other public benefit.

The public interest and the FAA's mandate to ensure the efficient use of the navigable airspace require that the FAA act promptly to alleviate congestion at O'Hare and reduce the level of delays currently being experienced at that airport particularly before the busy summer season. The problem is not merely congestion at O'Hare and the delays encountered by passengers at that airport, but, as noted earlier, the impact on the entire system due to the critical role of O'Hare. Congestion at O'Hare, however, presents a unique problem because it can be mitigated only by the actions of two principal operators who are also primary competitors. These two carriers account for the majority of the increase in operations and the retiming of existing operations and as such, primarily account for the congestion at O'Hare.

Starting even prior to any announcement of a schedule-reduction meeting, the FAA thus decided to ascertain whether the two principal operators at O'Hare would simply accept a reduction in their operations temporarily during the critical afternoon hours. Such reductions could obviate the need for a costly industry-wide meeting and, more importantly, bring about a prompt resolution to an urgent problem while allowing the FAA and the industry to focus on longer-term solutions.

The FAA separately contacted operational officials at American and United to discuss the agency's concerns about the increasing congestion at O'Hare, and the public interest in obtaining a prompt reduction in operations at the airport. [8] As a result of these separate discussions, the FAA has determined to issue an order, having the independent consent of each carrier, limiting the total number of operations each carrier may schedule at O'Hare during the hours of 1:00 p.m.

[8] These discussions did not address particular flights, destinations or markets and were strictly limited to operational capacity during the peak afternoon periods.

through 7:59 p.m. The limitation will require a five percent reduction by each carrier from its published OAG schedule for February 2004. Each carrier is required to observe this limitation beginning no later than March 4, 2004, through September 1, 2004, except as otherwise ordered by the Administrator.

It remains to be seen whether the reductions required by the Order will reduce delays to the extent required. The reductions will not be effective if they are spread unevenly throughout the peak period (that is, not in proportion to the five percent target or without commensurate reductions in both arrivals and departures) or if there is a substantial increase during the peak period by air carriers not subject to this Order. Such circumstances would constitute good cause for modification or withdrawal of this Order.

The Department and the FAA will defer convening a schedule-reduction meeting under Section 422, in order to allow the operational limitations described above to take effect in March 2004. The FAA will continue to monitor closely the level of scheduled operations at O'Hare by all air carriers. The Department and the FAA retain authority to convene a delay-reduction meeting at any time and will consider doing so promptly should this Order not result in a substantial reduction of delays at O'Hare.

ACCORDINGLY,

1. This Order shall apply only to the following parties:

    a. American Airlines, Inc., and its affiliates, including any air carrier under its control and any other air carrier conducting code share operations primarily marketed as American/American Eagle, including but not limited to American Eagle ("American"); and

    b. United Airlines, Inc., and its affiliates, including any air carrier under its control and any other air carrier conducting code share operations primarily marketed as United/United Express, including but not limited to United Express carriers, Atlantic Coast Airlines, Air Wisconsin Airlines Corporation (AWAC), Mesa Air Group Inc., SkyWest Airlines, and Trans States Airlines, Inc. ("United").

2. Under the authority provided to me by 49 U.S.C. §§ 40103 and 40113, I hereby order that:

    a. American shall not conduct more than 505 scheduled operations at O'Hare during the hours of 1:00 p.m. through 7:59 p.m. (local time) daily; and

b. United shall not conduct more than 655 scheduled operations at O'Hare during the hours of 1:00 p.m. through 7:59 p.m. (local time) daily.

3. The limit on operations specified under Paragraph 2 shall take effect no later than 1:00 p.m. March 4, 2004 and shall expire as of 8:00 p.m. (local time), September 1, 2004.

4. Any party may apply to the FAA on good cause shown for modification or withdrawal of this Order.

Issued in Washington, DC, on January 21, 2004.

Marion C. Blakey
Administrator