

the United Nations Recommendations on the Transport of Dangerous Goods, and review of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.

- Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code), including evaluation of properties of solid bulk cargoes.

- Cargo securing manual.
- Casualty and incident reports and analysis.

- Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives.

- Guidance on serious structural deficiencies in containers.

- Measures to enhance maritime security.

- Ship/terminal interface improvement for bulk carriers.

- Alternative hold loading ban for bulk carriers.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G-MSO-3), Room 1210, 2100 Second Street SW., Washington, DC 20593-0001 or by calling (202) 267-1217.

Dated: August 15, 2003.

Margaret F. Hayes,

Chairman, Shipping Coordinating Committee, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2003-15745]

High Density Traffic Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on the lottery procedures.

SUMMARY: This notice addresses comments received on the lottery procedures to be used by the FAA in the allocation of limited air carrier and commuter slots at Washington Reagan National Airport on August 12, 2003. Additionally, this notice lists all carriers eligible to participate and provides the carriers' classification for slot selection in the lottery.

DATES: August 11, 2003.

Date/Location of Lottery: The lottery will be held in the Federal Aviation Administration (FAA) Auditorium, 3rd floor, 800 Independence Avenue, SW., Washington, DC 20591 on August 12, 2003, beginning at 1 p.m.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Operations and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number (202) 267-3134.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2003, the FAA published in the **Federal Register** a notice of lottery and allocation procedures for a limited number of air carrier and commuter slots at Reagan National Airport (DCA) (68 FR 41037). A clarification regarding the applicable definition of a limited incumbent carrier was published in the **Federal Register** on July 18, 2003 (68 FR 42796). On July 24, 2003, the FAA opened a docket for the lottery (FAA-2003-15745) and invited interested parties to comment on issues related to the lottery procedures by July 28, 2003. On July 31, 2003, the FAA issued a notice rescheduling the lottery from July 31, 2003, to August 12, 2003, in order to address these issues and others raised in the comments, prior to the scheduled lottery (68 FR 47378; August 8, 2003).

This notice responds to the comments received, explains the lottery procedures, and classifies the carriers eligible to participate in the lottery under our applicable regulations as new entrants, limited incumbents, and incumbents, as defined in 14 CFR 93.213. We also note which carriers are considered single operators for the purposes of slot allocation.

Discussion of Comments

The FAA received comments from the Metropolitan Washington Airports Authority (MWAA), Air Canada, ATA Airlines (ATA), Spirit Airlines, US Airways, the Air Carrier Association of America (ACAA) and Congressman Regula, as well as several reply comments. The comments identified five major issues, which are discussed below.

1. Definition of New Entrant

Under the applicable regulations, a "new entrant" carrier is an air carrier or commuter operator that does not hold a slot at a particular airport and has neither sold or given up a slot at that airport since December 16, 1985 (14 CFR 93.213(a)(1)) (emphasis added). A limited incumbent carrier is defined in 14 CFR 93.213(a)(5) and is a commuter operator or air carrier operator that holds or operates fewer than 12 air carrier or commuter slots, in any combination, at a particular airport

(emphasis added). In determining who qualifies as a limited incumbent carrier, the definition requires that we exclude international slots, Essential Air Service Program slots, or slots allocated at DCA between the local hours of 2200 and 0659. A carrier that holds or operates 12 or more slots at an airport is an incumbent carrier.

There are two carriers requesting to participate in the lottery that do not hold slots at DCA, but have a presence at the airport, and in fact, conduct operations at DCA. Chautauqua and Atlantic Coast Airlines operate slots, which are actually held by larger, incumbent carriers, through codeshare arrangements or by lease and conduct these operations on behalf of the incumbents.

The definitions cited do create something of an anomaly in that a carrier that holds no slots but operates more than 12 cannot be a "limited incumbent" under the lottery rule but could be a "new entrant." Similarly, a carrier could be both a limited incumbent and a new entrant if it operates fewer than 12 slots but holds none. ATA and Air Canada urge the FAA to apply the term "new entrant" as plainly defined and argue that any carrier that does not hold slots in its own right at DCA should be included in the new entrant category regardless of its operations at the airport. ACAA argues that Air Canada and Mesa should not be allowed to participate either as a "new entrant" or "limited incumbent" given that both operate more than 12 slots at the airport. ACAA argues if the regulations preclude a carrier from being a limited incumbent, the carrier logically cannot be a new entrant.

In making the argument that the FAA should veer from the plain language of the regulation, ACAA selects a phrase from section 93.225(e), the provision which sets out the lottery procedures and provides that "any U.S. carrier or foreign carrier where provided for by bilateral agreement, *that is not operating scheduled service at the airport * * ** but wishes to initiate scheduled passenger service at the airport, shall be included in the lottery if it notifies the FAA." (Emphasis added.) ACAA contends that because this provision distinguishes carriers operating at the airport from those who do not, a "new entrant" must mean a carrier that is not already operating at the airport.

A significant difference between a new entrant carrier and a limited incumbent carrier is that slots allocated under the Essential Air Service Program, for international operation or in the low-demand hours at DCA (2200-0659) are counted in determining whether a