



Cargo Airline Association
Briefing on
FAA Notice of Proposed Order
Limiting Unscheduled Operations at
JFK and EWR
for
Office of Management and Budget

September 23, 2008

Cargo Airline Association Membership

- * ABX Air, Inc.
- * Atlas Air, Inc.
- * FedEx Express
- * United Parcel Service
 - Air Transport International
 - Capital Cargo International
 - DHL Express
 - First Air
 - Kalitta Air

- * Member, Board of Directors

FAA Notice of Proposed Order

- FAA issued Notice on July 17, 2008 (Docket No. FAA-2008-0629), giving interested parties 8 business days to file Comments.
- FAA intends to limit any unscheduled operations at John F. Kennedy International Airport (JFK) and Newark Liberty International Airport (EWR), during certain times.
- Comments were filed on July 28, 2008, with opposition from the airline industry that have unscheduled operations (General aviation; charter/tour operators; cargo air carriers and others).

FAA Notice of Proposed Order

- FAA proposes to limit unscheduled operations to a maximum of two per hour from 6:00 a.m. – 10:59 p.m. (with some time periods flights being limited to one per hour).
- FAA believes that limits are necessary, “as even the addition of a few operations in the critical peak hours can result in added congestion and delay”. 73 Fed. Reg. 41 156 (July 17, 2008).
- Reservations for unscheduled flights would have to be made through a reservation system, and allocated on a first-come, first-served basis, with 72 hours and up to six months advance notice for some public charter flights.

Legal/Procedural Concerns of the Cargo Industry

- The agency did not promulgate these flight restrictions by Notice of Proposed Rulemaking and therefore this proposal is not subject to fundamental administrative procedures.
- FAA has not released flight history or other data indicating unscheduled cargo operations are a contributor to the congestion problem.
- FAA did not conduct a cost-benefit study on the impact on the industry. In fact, FAA readily admits that it has not estimated the consequences to freight or unscheduled operators of a cap. *See Docket FAA-2008-0517, Initial Regulatory Evaluation, page 35, May 5, 2008.*

Operational/Practical Concerns of the Cargo Industry

- Operating limits would have serious negative impact on the express delivery business, especially in the NY/NJ and Northeast corridor.
- The all-cargo business model relies heavily on expanded unscheduled operations during the peak holiday season, which is fast approaching.
- All-cargo carriers are NOT a significant contributor to congestion at JFK and EWR, as all-cargo flights tend to be few and outside the congested hours and times of year (i.e., summer).

Operational/Practical Concerns of the Cargo Industry (con't)

- All-cargo carriers do not know 72 hours in advance of an unscheduled flight and therefore, could lose the opportunity to operate a flight (i.e., reposition aircraft; sort delay problem).
- From the start, the all-cargo industry has been willing to help the agency address congestion and voluntarily agreed to modify operations to reduce congestion, but it cannot support blanket limits without hard data to support such a proposal.

Additional Issues to Consider

- The all-cargo industry is unique (i.e., offer money-back guarantees for delayed shipments; operate generally at nighttime hours) yet the agency does not consider the devastating impact of operating limits on a such a unique industry.
- FAA does not indicate whether voluntary procedures instituted by carriers this year are helping reduce the congestion problem.
- The industry is concerned with the timing of finalizing any Rule or Order this late in the year, after the summer season and just before the peak season for the cargo.

Contact Information

- Steve Alterman, President, salterman@cargoair.org
- Yvette Rose, Senior Vice President yrose@cargoair.org
- Gina Ronzello, Director of Government Affairs, gronzello@cargoair.org

Cargo Airline Association
1220 19th Street, NW
Suite 400
Washington, DC 20036
202.293.1030
www.cargoair.org