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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2001-9852]

High Density Airports; Notice of extension of the lottery allocation and notice of lottery for limited slot exemptions at LaGuardia Airport

AGENCY: Federal Aviation Administration

ACTION: Notice of Lottery for Takeoff and Landing Times at LaGuardia Airport.

SUMMARY: This notice announces the Federal Aviation Administration's (FAA) extension of the current allocation of exemption slots at LaGuardia Airport (LGA) as authorized under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"). Additionally, this notice announces a second lottery for a limited number of slot exemptions at LGA to allocate unused capacity under the agency imposed slot exemption limit, effective January 31, 2001. The FAA finds that this action maintains the current operating environment at LGA pending a longer-term solution.

DATES: The lottery will be held on August 15, 2001.

ADDRESSES: The lottery will take place at 1:30 p.m., in the FAA Auditorium, 3rd floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Lorelei D. Peter, the Airspace and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number 202-267-3073.

SUPPLEMENTARY INFORMATION:

THE NATIONAL ARCHIVES
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IN THE OFFICE OF
THE FEDERAL REGISTER

Background

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 limitations 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.

The High Density Traffic Airports Rule, or “High Density Rule,” 14 CFR part 93, subpart K, was promulgated in 1968 to reduce delays at five congested airports: John F. Kennedy International Airport, LaGuardia Airport, O’Hare International Airport, Ronald Reagan Washington National Airport and Newark International Airport (33 FR 17896; December 3, 1968). The regulation limits the number of instrument flight rule (IFR) operations at each airport, by hour or half hour, during certain hours of the day. It provides for the allocation to carriers of operational authority, in the form of a “slot” for each IFR landing takeoff or landing during a specific 30- or 60- minute period. The restrictions were lifted at Newark in the early 1970s.

“AIR-21”

On April 5, 2000, the “Wendell H. Ford Aviation Investment and Reform Act for the 21st Century” (“AIR-21”) was enacted. Section 231 of AIR-21 significantly amended 49 U.S.C. § 41714 and included new provisions codified at 49 U.S.C. §§ 41716, 41717, and 41718. These provisions enabled air carriers meeting specified criteria to obtain new slot

exemptions at New York's LaGuardia Airport (LaGuardia) and John F. Kennedy International Airport (JFK), Chicago's O'Hare International Airport (O'Hare) and Washington DC's Ronald Reagan Washington National Airport (National). As a result of this legislation, the Department of Transportation (Department) issued eight orders establishing procedures for the processing of various applications for exemptions authorized by the statute.

Specifically, Order 2000-4-11 implements 49 U.S.C. 41716(a), which provides in pertinent part that an exemption must be granted to any airline using Stage 3 aircraft with less than 71 seats that proposes to provide nonstop service between LaGuardia and an airport that was designated as a small hub or nonhub airport in 1997, under certain conditions. The exemption must be granted if: (1) the airline was not providing such nonstop service between the small hub or nonhub airport and LaGuardia Airport during the week of November 1, 1999; or (2) the proposed service between the small hub or nonhub and LaGuardia, exceeds the number of flights provided between such airports during the week of November 1, 1999; or (3) if the air transportation pursuant to the exemption would be provided with a regional jet as replacement of turboprop service that was being provided during the week of November 1, 1999.

According to AIR-21 and the Department's Orders, air carriers meeting the statutory tests delineated above automatically receive blanket approval for slot exemptions, provided that they certify in accordance with 14 CFR 302.4(b) that they meet each and every one of the statutory criteria. The certification must state the communities and airport to be served, that the airport was designated a small hub or nonhub airport as of 1997, that the aircraft used to provide the service have fewer than 71 seats, that the aircraft are Stage 3 compliant, and the planned effective dates. Carriers must also certify that the proposed service

represents new service, additional frequencies, or regional jet service that has been upgraded from turboprop service when compared to service for the week of November 1, 1999. In addition, carriers must state the number of slot exemptions and the times needed to provide the service.

Order 2000-4-10 implements the provisions of 49 U.S.C. § 41716(b), which states in pertinent part, that exemptions must be granted to any new entrant or limited incumbent airline using Stage 3 aircraft that proposes “to provide air transportation to or from LaGuardia or John F. Kennedy International Airport if the number of slot exemptions granted under this subsection to such air carrier with respect to such airport when added to the slots and slot exemptions held by such air carrier with respect to such airport does not exceed 20.” Applications submitted under this provision must identify the airports to be served and the time requested.

Section 231 of AIR-21, 49 U.S.C. § 41715(b)(1) expressly provides that the provisions for slot exemptions are not to affect the FAA’s authority for safety and the movement of air traffic. The reallocation of exemption times by the lottery procedures described in this Notice is based on the FAA’s statutory authority and does not rescind the exemptions issued by the Department under Orders 2000-4-10 and 2000-4-11. As provided in those orders, carriers that have filed the exemption certifications also need to obtain an allocation of slot exemption times from the FAA. The limiting and reallocation of these exemption slots is in recognition that it is not possible to add an unlimited number of new operations at LaGuardia Airport, especially during peak hours, even if those operations would otherwise qualify for exemptions under AIR-21.

Lastly, section 93.225 of Title 14 of the Code of Federal Regulations sets forth the process for slot lotteries under the High Density Rule. The process described in the

regulations is similar to the process described herein and allows for special conditions to be included when circumstances warrant special consideration.

Notice of Proposed Extension of Lottery Allocation

On June 7, 2001, the FAA issued a Notice of Alternative Policy Options for Managing Capacity at LGA and Proposed Extension of the Lottery Allocation seeking comment on both long-term policy options and a short-term extension of the cap on slot exemptions at LaGuardia (66 FR 31731; June 12, 2001). The number of AIR-21 slot exemptions that may be operated at the airport was limited by the FAA to 159 operations effective January 31, 2001, and allocated in accordance with the slot lottery held on December 4, 2000. This allocation capped scheduled operations to 75 per hour between the hours of 7:00 a.m. and 9:59 p.m., which limited daily and hourly demand on airport facilities and the air traffic control system. The FAA has found that this number of flights can be accommodated in good weather conditions and at the same time, provides access for AIR-21 exemption flights. (This number does not include extra sections of scheduled air carrier flights or the 6 reservations per hour for "Other" nonscheduled operations, including general aviation, charters and military flights. Therefore, this maintains total operations of approximately 81 per hour, which is the optimum capacity benchmark established for LaGuardia Airport.)

The FAA also proposed to conduct a lottery for a limited amount of slot exemptions that are available for use and consistent with the overall cap on scheduled operations at the airport. The FAA proposed that first this unused capacity should provide access to LGA for carriers that previously were excluded or did not receive an allotment of four slot exemptions as a new entrant in the December 4 lottery and then be offered to carriers providing small community service. At the time that this notice was issued, there were 14

exemption slots available for reallocation. Subsequent to that date, five additional slot exemptions have been returned to the FAA for a total of 19 slot exemptions available for reallocation by lottery.

Specifically, the agency proposed that carriers eligible to participate in the lottery for these slot exemptions be initially limited to new entrant carriers that did not participate in the December 4 lottery or new entrant carriers that were unable to select up to four exemption slots during the first round of the December 4 lottery. Any slot exemption not selected by a new entrant in the first round would be offered to all eligible carriers providing small community service, again using the established rank order from the December 4 lottery.

Discussion of Comments

The FAA provided for a 30-day comment period, which closed on July 12, 2001. A total of 23 comments were filed in the docket. This notice does not address any comments filed regarding Phase 2. Comments on Phase 1 were submitted from nine airlines (Vanguard, Continental, America West, American Trans Air, Delta, USAirways, American, United and Spirit), four associations (the Air Carrier Association of America, the General Aviation Manufacturers Association, the National Air Carrier Association, Inc., and the Air Transport Association of America), the Airports Council International-North America, the Port Authority of New York and New Jersey, JBT3 Enterprises, the New York State Aviation Management Association, Newport News-Williamsburg International Airport, Congressman Gilman, and one individual.

Certain comments addressing long-term solutions and elimination of the extra section provision, the buy-sell rule and the perimeter rule are beyond the scope of this notice and will be addressed in separate agency actions.

Generally, most commenters support the proposed allocation extension and lottery of available capacity, and submitted additional considerations. America West opposed the extension of the lottery allocation but in the alternative offered some modifications to the lottery procedures. A summary of the comments and the FAA response are categorized as follows.

Extension of the allocation start date

The FAA proposed all operations allocated in this second lottery must commence by October 29, 2001. While recognizing the strong demand for the limited slots at LaGuardia, Vanguard and the Air Carrier Association of America (ACAA) commented that new entrant carriers respectively need 120 and 180 additional days from the date of allocation to plan schedules, to sell new service and to ensure that gate and other facilities are available. While the FAA agrees that under current conditions at the airport, some new entrant carriers may require additional start-up time, we are concerned that 180 days is excessive given demand. The FAA believes that 120 days will provide new entrants with adequate time to start operations at the airport. Consequently, the FAA will require that all operations subject to this lottery must commence within 120 days from the date of the lottery or they will be withdrawn.

Extension of the allocation termination date (October 26, 2002)

Both American and United specifically commented that the proposed extension of the slot allocation date should be for an indefinite period of time rather than through October 26, 2002, as proposed. Continental supported the October 26, 2002, date or longer. American and United commented that a longer-term solution is not likely to be in place by the proposed date and that the agency should not rush consideration of potential alternatives to the existing capacity allocation regime in order to meet this date. The FAA acknowledges

that some of the longer-term alternatives proposed in the Notice could not be implemented by October 26, 2002, and that an extension of the proposed date may be necessary.

However, the agency remains committed to finding a long-term solution at LaGuardia and considers this an agency priority. Therefore, the FAA affirms the proposed date for the present time, and as the process for Phase 2 continues to develop, will revisit this allocation date as necessary. The FAA assures that the process set forth for considering the proposals in Phase 2 will include the necessary time for public input and full agency consideration.

Slot exemptions allocated by the contingent round (the “Legend Airlines” allocation)

The FAA proposed the retention of the seven slots allocated by the contingency round to carriers providing service to small communities. ACAA comments that these seven slot exemptions should be included in round 1 of this lottery for new entrants and that the FAA’s rationale that “withdrawal of these exemption slots would cause further disruption” is merely a convenient agency excuse. The FAA notes that in the December 4 lottery, these seven slots were not “tagged” for new entrant service. It is significant that all new entrant carriers received the same number of slot exemptions that they were actually operating prior to the December 4 lottery; no new entrant carrier was forced to cancel existing service. Because Legend ceased scheduled operations on the weekend preceding the lottery, the FAA conducted a contingency round that would reallocate the slots in accordance with the established procedures in the event that Legend would not resume regular operations. Consequently, the slots were reallocated to carriers providing small community service since the new entrant carriers had received all the slot exemptions that they could receive under the established lottery procedures while overall service to small communities was reduced. The FAA does find minimizing of service disruption to be a compelling and legitimate interest that must be taken into consideration while

accommodating other public interest policies. Additionally, the FAA believes that retaining this allocation, in conjunction with the following lottery procedures adopted herein, provides equitable treatment between the two categories of operations addressed by AIR-21. The FAA is following the intent of AIR-21 to the maximum extent practicable.

New entrant service versus small community service

The majority of the comments concerned the number of slot exemptions that would be available during the lottery for new entrant service and small community service.

USAirways states that the available slot exemptions should go to carriers that had to cancel service as a result of the administrative cap as opposed to allocating the slots to new entrants. Delta comments that the FAA should avoid service disruptions and that the agency should continue to monitor system performance at LaGuardia to determine whether to increase the hourly caps during this interim period. Delta further comments that any allocation of additional slot exemptions that become available due to increases in hourly caps should be made consistent with the objectives of AIR-21. Continental supports the additional allocation of unused capacity as proposed.

The carriers conducting small community service support either the lottery procedures as proposed or that all the slot exemptions should go to these carriers for the restoration of canceled service prior to any allocation to new entrants. Also, the carriers and supporters of new entrant service argued just the opposite. Both America West and ACAA agree with the proposed round 1 for new entrants at the airport. However, for subsequent rounds, ACAA and America West argue that only after all new entrants and limited incumbents have the opportunity for a total of 20 slots and slot exemptions, as set forth in AIR-21, should any slot exemptions be made available for small community service. These commenters also argued that the established carriers hold a significant majority of HDR slots

at LaGuardia and that small community service may be preserved by using existing slots and not at the expense of limiting access by new entrant carriers that do not have an established slot base at the airport. American Trans Air comments that round 1 should be expanded to include a broader class of new entrant carriers to select additional slot exemptions.

American Trans Air further comments that FAA has consistently used broad groupings when allocating slots and that the procompetitive accomplishments at LaGuardia of new entrant carriers provide compelling public policy reasons to again broadly treat the class of new entrant carriers eligible to participate in the lottery.

AIR-21 provides access to the airport for both categories of operations (new entrants and small community service) during the phase-out of the HDR. Opportunity for small community service was not to be sacrificed by new entrant service nor vice versa. AIR-21 provided that carriers providing new entrant service may receive slot exemptions up to the point that the carrier had 20 slots and slot exemptions. AIR-21 also provided that carriers conducting small community service are not capped on the number of slot exemptions. As stated in the notice, the FAA finds it imperative to accommodate, albeit on a limited basis, new entrant carriers that could not participate in the December 4 lottery or that were unable to select up to four slot exemptions during that lottery. Even though this lottery allocation continues to represent a short-term solution to the complex issues at LaGuardia, the agency seeks to provide new entrants access to the airport. Ideally, the FAA would like to accommodate all new entrants and limited incumbent carriers that have not reached the 20 slots and slot exemptions maximum as contemplated by AIR-21, and also not limit carriers providing small community service. However, since the constraints at LaGuardia require a limit on all operations, the FAA finds it necessary to accommodate all these interests within the operational limits of the airport.

The FAA believes that the lottery procedures proposed for round 1 (new entrants or carriers that do not hold up to four slots and slot exemptions at the airport) and round 2 (small community service) should be adopted as proposed. The FAA continues to believe that round two should be reserved for small community service because it equitably treats the two categories of operations, consistent with statutory direction, and that these carriers were the only carriers that had to reduce or cancel service after the December 4 lottery. The FAA believes that service disruption to small communities is as critical a factor in public policy considerations as initiating and preserving new entrant service. However, if there are any remaining slot exemptions after round 2, the FAA believes that establishing procedures for a potential round 3 is also necessary to encourage balance between the two categories of service. Therefore, any slot exemption not selected by carriers providing small community service in round 2 will be made available to any carrier that does not have 20 slots and slot exemptions at the airport, which also addresses certain comments requesting additional opportunities for limited incumbent carriers. Consequently, the FAA will conduct a third round for those carriers for any slot exemptions that remain.

Variation of the lottery procedures

Several commenters suggested variations to the proposed lottery procedures. USAirways comments that it supports using the December 4, 2000, rank order for round 2 providing that the rank order resumes where it left off, which is that USAirways gets the first selection due to the fact that it only was able to select one slot during the contingency round. The FAA agrees that following the procedures for the December 4 lottery and the established rank order confers the first selection in round 2 with USAirways.

America West and ACAA both comment that new entrants in round 1 should be able to select up to six slots in order to provide competitive service with three round trips.

The FAA finds that providing new entrants with the ability to select four slots in the first round is consistent with the procedures used during the December 4 lottery and with regulatory provisions articulated for slot lotteries under the High Density Rule. In this particular situation at LaGuardia, it is necessary to accommodate both categories of operations to the greatest extent possible given the operating limitations at the airport. Allowing new entrants to select up to six slots in round 1 reduces the number of slots that would be available for small community service and would unfairly treat new entrant carriers in this lottery compared to new entrant carriers from the first lottery that were only able to select up to four slot exemptions in the first round. However, the establishment of a round 3 provision, in which all carriers that have less than 20 slots and slot exemptions may participate, places all new entrants and limited incumbents at the airport on equal footing for some type of modest growth within the cap on operations. Thus, under the third round new entrants and limited incumbents that have less than 20 slots and slot exemptions have potential to select additional slots exemptions.

ACAA further suggests that the FAA should amend the definition of a new entrant from 20 slots and slot exemptions to 30 slots and slot exemptions. Section 41714(h)(5) of Title 49 of the U.S.C. sets forth the definition of a limited incumbent carrier to be a carrier that holds less than 20 slots and slot exemptions. Also, § 41716(b) authorizes that new entrants and limited incumbents may receive slot exemptions under this section so as to not exceed 20 slots or slot exemptions per carrier. Even if the FAA agreed with ACAA's comment, the above statutory provisions would not authorize ten additional slot exemptions for new entrant or limited incumbent carriers. ACAA further comments that new entrants should be able to select one slot exemption in each 30 minute period without regard to whether a slot is available. ACAA's suggestion is tantamount to permitting a carrier to pick

two slots in one hour regardless of whether the slot times are available. The adopted procedures accommodate new entrants by letting them choose an hour for each operation and the agency has placed limitations on the number of slot exemptions that can be selected in the 1700 and 1800 hours. It would be entirely contrary to the purpose of the agency's implementation of the 159 slot exemption cap (75 scheduled operations per hour) to permit historically congested hours to become even more oversubscribed since the purpose of the administrative cap is to balance demand with capacity. The FAA finds that in the interest of maintaining the current operating environment, it disagrees with this comment. Lastly, ACAA urges the agency to implement a "fast track" second Phase 1, which it describes as a process to adopt competition in the interim. According to ACAA, this "fast track" would entail a comprehensive review of all slot regulations that impact competition, including buy-sell, the extra section authority and slot reallocation. The FAA is committed to finding a workable long-term solution at LaGuardia that responds to all concerns. The elements described in the "fast track" are elements that appropriately would be considered in Phase 2.

American Trans Air suggests that the following limitations also apply to the class of eligible participants in round 1: (1) a participant must have participated in last December's lottery; (2) a participant must not have returned or had to surrender for insufficient use any LaGuardia slots; and (3) a participant must appear in the Department's latest Fare Survey as the lowest average fare carrier in at least one LaGuardia market. American Trans Air argues on the one hand that the category of eligible participants in round 1 be broadened to include carriers such as itself that received four or more slots in the December 4 lottery. In support of this argument, American Trans Air states that the agency typically uses broad carrier groupings when allocating slots and cites specific examples. However, on the other hand, American Trans Air then seeks to limit eligibility for this round with the above criteria.

While the FAA does in fact count returned or unused slots and slot exemptions in determining each carrier's slot (and slot exemption) base, the FAA does not agree that further limitations as suggested above are justified in determining eligibility to participate in round 1. The above suggested limits would unduly favor the inclusion of a very discrete number of carriers for round 1.

Other comments

Spirit Airlines suggested that the FAA provide carriers with some mechanism to "prioritize" their flights, and provide them with a means to identify and "protect" some small number of flights which are most sensitive to delays. While this comment is beyond the lottery extension and reallocation issues proposed, the FAA notes this comment and will also forward this comment for inclusion in the discussion of Phase 2.

The General Aviation Manufacturers Association (GAMA) commented that if any slots are unused for any reasons, the FAA should immediately allocate them to non-scheduled operations, even if only for a temporary basis. Under the High Density Rule (HDR), the "Other" category provides for six reservations per hour. While the HDR permits unallocated HDR slots to be made available under the "Other" category (14 CFR Section 93.123(b)(6)), AIR-21 does not provide such authority.

Procedure for returned slot exemptions or slot exemptions withdrawn for non-use

The FAA is also amending the proposed procedures for returned slot exemptions and slot exemptions withdrawn for non-use. The FAA proposed to reallocate slot exemptions that become available during the allocation period using the established rank orders. While there were not comments specific to this proposal, the agency has reconsidered this process in view of the general nature of the comments submitted. The FAA does not want to limit any carrier from commencing operations at the airport for the

duration of the lottery allocation to the extent that there is some available capacity after the date of this lottery. Consequently, any slot exemptions that are returned to the agency or are withdrawn for non-use will be made available on a first-come, first-serve basis to any carrier that does not operate at the airport, has certified accordingly with the Department, and has a written request on file with the FAA Slot Administration Office.

If the available slot exemptions are not selected by a new entrant carrier meeting the above criteria, the slot exemptions will be available to all carriers for selection in accordance with the appropriate established rank order, i.e. the December 4 rank order for carriers providing small community service and the August 15 rank order for all carriers that have less than 20 slots and slot exemptions. The slot exemptions will be selected by alternating between the two rank orders with the next carrier in line for selection from the December 4 rank order to select the first two available slot exemptions. The FAA believes that alternating selections between the two established rank orders will provide equitable treatment and opportunity to both categories of operations to obtain any available capacity throughout this allocation period.

Lottery Procedures

Definitions for the terms “carrier,” “new entrant,” and “limited incumbent” for purposes of participation in the lottery, are proposed as set forth in 14 CFR 93.213, and amended by §231 of AIR-21. The FAA has applied the “commuter affiliate” provision in 49 U.S.C. 41714(k).

The January 31, 2001, allocation of slot exemptions at LaGuardia Airport is extended through October 26, 2002. The following 19 slot exemptions are available for reallocation by lottery: 7:00 (2), 8:00 (1), 9:00 (1), 12:00 (1), 13:00 (1), 14:00 (1), 17:00 (1), 18:00 (1), 21:00 (10). There is one exemption slot available in each the 17:00 and 18:00 hour. After the

selection of those times, the 17:00 and 18:00 hours will be blocked from an additional selection since those two time periods are oversubscribed. The above slot exemptions will be allocated by lottery using the following procedures:

1. New entrant carriers eligible to participate in this lottery are carriers that did not participate in the December 4 lottery or carriers that selected less than four exemption slots during the first round of the December 4 lottery and must have certified to the Department of Transportation in accordance with the procedures articulated in OST Order 2000-4-10 by August 9, 2001.

2. New entrant carriers intending to participate must notify the FAA Slot Administration Office in writing by August 9, 2001 of their intent to participate in the lottery.

3. New entrant carriers and carriers that hold less than 20 slots and slot exemptions at LaGuardia will participate in a random drawing for establishing a selection rank order. Carriers eligible to participate in rounds 1 and 3 described herein will select in that order. Each carrier must make its selection within 5 minutes after being called or it shall lose its turn.

4. In the first round, new entrant carriers may select no more than four exemption times. Carriers that hold less than four slot exemptions may select exemption times so as to not exceed holding a total of four. Each new entrant carrier may select one slot exemption time in each hour without regard to whether a slot is available in that hour. The first round will be concluded when all participating new entrant carriers have reached their maximum allocation or choose not to select remaining available times.

5. After the first round is completed, any remaining slot exemptions will be available to carriers providing service to small hub or non-hub airports in accordance with the

established rank order from the December 4, 2000, lottery. Each carrier may select up to two slot exemptions and must make its selection within 5 minutes after being called or shall lose its turn. The second round will be concluded when all carriers have selected their maximum for that round.

6. After the second round is completed, any remaining slot exemptions will be available to carriers that have less than 20 slots and slot exemptions using the established rank order described in paragraph 3 above.

7. Slot exemptions selected in rounds 2 and 3 may only be operated in the available times.

8. The FAA may approve the transfer of slot exemption times between carriers only on a temporary one-for-one basis for the purpose of conducting the operation in a different time period. Carriers must certify to the FAA that no other consideration is involved in the transfer.

9. The Chief Counsel will be the final decisionmaker concerning eligibility of carriers to participate in the lottery.

10. The slot exemptions reallocated by lottery will remain in effect through October 26, 2002.

11. All operations allocated under these lottery procedures must commence by December 13, 2001. Carriers receiving slot exemptions under this lottery may commence operations earlier than September 15, 2001, if so desired.

12. Carriers that participate and select exemption slots during the lottery must re-certify to the Department of Transportation in accordance with the procedures articulated in OST Orders 2000-4-10 and 2000-4-11 prior to operations, and provide the Department and

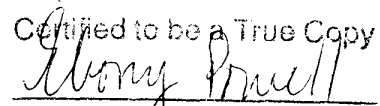
the FAA with the markets to be served, the number of exemption slots, the frequency, and the time of operation.

13. After the date of the lottery, if slot exemptions are turned-in to the FAA or are withdrawn for non-use, the FAA will make the slot exemptions available on a first-come, first-serve basis to a carrier that is not operating at LaGuardia as of August 15, 2001, certified to the Department in accordance with the procedures articulated in OST Order 2000-4-10, and has a written request on file with the FAA Slot Administration Office. Any carrier that meets the above criteria may select up to four available slot exemptions. Any slot exemptions not selected by the above described carriers will be available to all carriers for selection in accordance with the appropriate established rank order (the December 4 rank order for carriers providing small community service and the August 15 rank order for carriers with less than 20 slots and slot exemptions). Selections will alternate between the two rank orders, beginning with the next carrier in line from the December 4 rank order to select the first two available slot exemptions.

Issued on August 2, 2001 in Washington, DC.



James W. Whitlow
Deputy Chief Counsel

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EBONY POWELL