

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 15, 2004.

John A. Clayborn

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 04-6385 Filed 3-22-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 04-C-00-PQI Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Northern Maine Regional Airport, Presque Isle, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Northern Maine Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 22, 2004.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, ANE-600, attn: Priscilla Scott, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Thomas Stevens, City Manager of the City of Presque Isle at the following address: 650 Airport Drive, Suite 11, Presque Isle, Maine 04769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Presque Isle under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, PFC Program Manager at (781) 238-7614. The application may be reviewed in person at the FAA Airport's Division, 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Northern Maine Regional Airport under the provisions of the 49 U.S.C. 40117

and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 27, 2004, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Presque Isle was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 28, 2004.

The following is a brief overview of the application.

Proposed charge effective date: August 1, 2004.

Proposed charge expiration date: October 1, 2007.

Level of the proposed PFC: \$4.50.

Total estimated PFC revenue: \$245,893.

Brief description of proposed projects:

Airport master plan and PFC application costs;
Design only for rehabilitation of taxiways, terminate apron, runway 1-19, preparation of Maine DEP site location permit application, improvements to runway safety areas and replacement of HIRLS;
Rehabilitation of taxiway "C", a portion of taxiway "N", taxiway "B", taxiway "A" and the main terminal apron;
the expansion of main terminal apron;
Acquisition of snow removal equipment and aircraft rescue and firefighting vehicle and the installation of guidance signs and communication equipment;
Property acquisition, obstruction removal and construct terminal ramp and ramp equipment storage building;
Construct aircraft rescue and firefighting and snow removal equipment building and development of airport sign and guidance plan.

Class or classes of air carriers, which the public agency has requested not be required to collect PFCs: Non-schedule/on-demand air taxi commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Presque Isle.

Issued in Burlington, Massachusetts on March 5, 2004.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 04-6387 Filed 3-22-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2004-17349]

Collaborative Decisionmaking Pilot Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed guidelines for Collaborative Decisionmaking pilot program.

SUMMARY: This notice announces proposed guidelines that would establish and implement a Collaborative Decisionmaking (CDM) pilot program to facilitate authorized communications among participating carriers at selected airports during a period of reduced capacity.

DATES: Comments must be received by April 22, 2004.

ADDRESSES: You may send comments, identified by Docket Number FAA-2004-17349, using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Fax: 1-202-493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read this document and other pertinent documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lorraine Vomacka, Manager, Procedures Branch, Air Traffic Tactical Operations Program, Air Traffic Control System Command Center, telephone number: 703 925-3112.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites interested persons to comment by submitting written comments, data, or views. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this document. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this Notice between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

Before adopting the guidelines, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay.

If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background*Public Law 108-176*

Public Law 108-176 was enacted on December 12, 2003. Section 423 of this law, codified at title 49 of the United States Code (U.S.C.) section 40129, requires the FAA to establish a collaborative decision making (CDM) pilot program within 90 days of enactment.¹ This pilot program would

facilitate certain communications among participating carriers at a designated airport over their flight schedules during a time period for which the airport experiences or is expected to experience reduced capacity. Under the law, subject to concurrence by the Department of Justice, the FAA is directed to issue guidelines governing the pilot program.

Section 40129 further directs that the guidelines, at a minimum, shall: (1) Define a capacity reduction event; (2) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of CDM among carriers at airports participating in the pilot program; and (3) prescribe the methods of communication among carriers during such an event.

The FAA is to select two airports to participate in the pilot program from the most capacity constrained airports identified in the FAA's Capacity Benchmark Report 2001, or based on more recent data available to the FAA. The statute also specifies that, in selecting the two airports for participation in the two-year pilot program, the FAA must determine that the use of CDM among the carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

Upon a determination that a capacity reduction event exists, the FAA may authorize carriers operating at a participating airport to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The FAA is to facilitate and monitor these communications, and the Department of Justice may monitor such communications as well.

Any U.S. or foreign air carrier operating at the selected airports is eligible to participate in the pilot program upon determination by the FAA that the carrier possesses the operational and communications capabilities necessary for participation. Any carrier may be banned from participation in the pilot program if the FAA determines that the airport or the carrier does not further the purpose of the program. A carrier may also be banned from participation upon a finding by the Secretary of Transportation (the Secretary), and concurred with, by the Department of

Justice, that the carrier's participation has had, or is having, an adverse effect upon competition.

The Secretary may exempt a carrier's activities that are necessary to participate in the program from the antitrust laws for the purpose of participating in the pilot program, but such exemption shall not apply to any discussions, agreements, or activities beyond the scope of the pilot program.

Lastly, the statute provides for an evaluation of the pilot program and a determination as to whether the program has facilitated more effective use of air traffic capacity and whether the program has had an adverse effect on airline competition or the availability of air service to communities. The program may be extended for an additional two years with up to seven airports added to the program. The program also may be terminated prior to its expiration upon determination by the FAA and Department of Justice that it is unlikely to achieve its stated purposes.

Proposed Guidelines

Existing procedures followed by the Air Traffic Organization (ATO) allow for limited collaboration between the FAA and members of industry to reduce delays. Under these procedures, officials in the FAA's Air Traffic Tactical Operations Program located at the agency's David J. Hurley Air Traffic Control System Command Center (ATSCC) in Herndon, Virginia, convene frequent daily telephone conferences with air carrier representative and others. During these conference calls, also known as Strategic Planning Tellcons, the FAA reviews the status of air traffic operations so as to inform the air carriers about possible delays within the National Airspace system as well as ground delay programs or other traffic management decisions that may affect the carriers' operations. The carriers, in turn, update the FAA about their planned operations. Based on the information exchanged during these calls, carriers may then unilaterally choose to adjust their flight schedules (including canceling or substituting flights) in order to minimize the impact of delays on their passengers. This program has sometimes been referred to within the FAA as "collaborative decision-making" because the agency and industry together discuss solutions to projected delays. See <http://www.atcsc.faa.gov/Information/CDM/cdm.html>

The proposed CDM pilot program would expand the concept of the Strategic Planning Tellcons by adding additional telecons for coordinating capacity reduction events. Although the

¹ The FAA acknowledges that this Notice is being published beyond the 90 day period. This delay was the result of the need to consult with air carriers and their trade associations, the military

and other users, the Departments of Transportation and Justice, and the time needed by the ATSCC and the users to prepare and test various computer simulations.

Strategic Planning Telcons have widely been viewed as successful in mitigating the impact of traffic management measures (such as ground delay programs and ground stops) on air carrier operations, they do not typically, avoid the need for such measures in the first instance. Thus, a primary objective of the CDM pilot program authorized under section 423 of Vision 100 is to determine whether additional, carefully monitored communications among air carriers serving the demonstration airports over schedule adjustments (including cancellations, substitutions and rerouting of flights) could reduce the total number of delays that are attributable to capacity-reducing events at those airports. Such an effect would likely be discernible in a reduction of delay minutes at each of the airports in question and, assuming other factors remain constant, in the number of passengers who do not reach their destinations on time.

Significant delays at certain hub airports almost inevitably result in delays throughout the National Airspace System (NAS). Such delays translate into higher costs for the carriers serving the airport, in terms of increased fuel consumption, additional crew flight time, missed connections, lost gate access, re-positioning of aircraft, and compensation to passengers for overbooking. Delays also pose a burden on the FAA, adding to the complexity of airspace management and increasing staffing requirements. Therefore, a secondary purpose of the pilot program is to examine the impact of CDM at the demonstration airports on the overall efficiency of the NAS, as measured by the greater utilization of the available capacity at the demonstrations airport(s).

When ground delay programs are imposed, affected carriers are required by ATO procedures to obtain specific reservation times for arrivals—known as “arrival slots”²—at the destination airports of their flights. These arrival slots are rationed by ATO based on filed schedules. However, even during such programs, not all such slots are used; carriers may choose not to relinquish their reservations until it is too late for other carriers to take advantage of them. Thus, a third purpose of the pilot CDM program is to determine whether communication among carriers concerning arrival slots available during ground delay programs could result in greater, or full, utilization of such

arrival slots, thereby increasing the throughput of traffic at the demonstration airports during times of reduced capacity.

The proposed guidelines would govern CDM procedures at the two airports specified for the CDM pilot program in accordance with 49 U.S.C. 40129(e) and would provide for limited, collaborative decision making among air carriers when a Capacity Reduction Event (CRE) exists that meets the Triggering Criteria, as defined below. The FAA is proposing that one of the two airports selected for the pilot program be Chicago O'Hare International Airport (ORD). ORD is major hub airport, and delays there frequently ripple throughout the NAS as a whole. Therefore, the agency has concluded that the use of CDM at ORD should be beneficial in reducing delays at that airport and in the NAS as a whole.³ The second airport to be selected will be determined by reference to the statutory requirement and in consideration of the comments received in response to this Notice.

As part of its review of the effectiveness of the CDM pilot program and its consideration of these guidelines, the FAA is preparing a computer simulation of a capacity-reducing event using ORD as a model. The purpose of the simulation is to evaluate the effectiveness of different delay-avoidance strategies that may be employed by the FAA and its customers in handling Capacity Reduction Events. The simulation will be designed to explore the complexities, costs, and benefits of allowing limited coordination over schedule adjustments in the period preceding a capacity-reduction event. By examining several different scenarios at ORD, the simulation should help produce metrics for determining participation in, and the success of, the program when implemented. Additionally, the simulation will provide insight into any new technologies, processes or software that may be required to support allowable information-sharing under the CDM pilot program.

In addition, as part of the FAA's continuing effort to anticipate growth in the system, and to provide for traffic growth without gridlock, the FAA has received input from general aviation users, the military, labor organizations, and air carriers, in developing a plan to augment existing traffic management procedures so as to better manage

system flows when delays are created by over-scheduling (even in good weather). Such procedures may include rerouting of traffic and imposition of ground stops or ground delays at airports that are not experiencing delays, in order to improve traffic flows at congested airports. The FAA anticipates that these developing methodologies will contribute to reducing delays in the NAS as a whole and, consequently, at the demonstration airports in the CDM pilot program.

Capacity Reduction Event (CRE)

A CRE is an unplanned occurrence or emergency that reduces the Airport Arrival Rate (AAR) so as to cause a material increase in flight delays, including but not limited to adverse weather or wind conditions, unanticipated runway or taxiway maintenance or other airport construction or maintenance that limits the airport arrival rate, and acts constituting Force Majeure.

Triggering Criteria

A CRE may warrant collaborative decision making among carriers in the CDM pilot program if the CRE is expected to, or results in, (i) a reduction in the AAR, as determined under optimal weather conditions, of 30 percent or more; and (ii) where such reduction would last for a period of three hours or longer. Based on current experience, the FAA would not expect the conditions to be met more than approximately 20 times a year. In any case, it is not necessarily the intent of the FAA to declare a CRE on every occasion where the criteria are met.

Any U.S. or foreign air carrier that operates at either or both of the specified airports has the option of participating in the pilot program, provided it possesses the operational and communications capabilities necessary for participation.

Permitted Communications

When a CRE is declared that meets the Triggering Criteria, and the FAA determines that CDM is necessary, authorized air carriers may engage in Permitted Communications during a period designated by the FAA not to exceed twenty-four hours. Permitted Communications consists of: (1) Offers to reroute or retime flights; (2) offers to reduce the total number of operations conducted during any one hour period (but without reference to specific flights or markets); and (3) offers to relinquish arrival slots obtained during ground delay programs. Such offers may be communicated to the FAA as part of the Strategic Planning Telcons concerning the demonstration airports or via the

² These “arrival slots” are an informal pacing device used by Air Traffic Control and do not relate to takeoff and landing slots allocated under Subpart K-High Density Traffic Airports (the HDR rule), 14 CFR 93.121.

³ See Order Limiting Scheduled Operations (Operating Limitations at Chicago O'Hare International Airport, Docket FAA-2004-16944), at 2-4.

pilot program Web site. Permitted Communications also include general discussions over measures by the FAA taken to reduce delays including traffic management initiatives.

Only communications made to the FAA as part of the Strategic Planning Telcons or to the FAA via the pilot program Web site shall qualify as Permitted Communications. Other carriers and foreign air carriers participating in the pilot program may receive such communication by participating in the Strategic Planning Telcon or by viewing the pilot program Web site.

Permitted Communications do not include: (1) Offers to cancel specifically identified flights (as opposed to a total number of operations); (2) discussions of fares; (3) discussions of passenger revenues attributable to cancelled, retimed or rerouted operations; (4) discussions of marketing strategies or passenger accommodations, including but not limited to amounts paid in compensation to, or other consideration provided to, passengers whose flights are cancelled, retimed or rerouted; and (5) any other discussions likely to result in an agreement violative of the antitrust laws, except as expressly authorized under these guidelines as Permitted Communications. However, nothing in these guidelines precludes any carrier from taking unilateral action based on information gained during conference calls or other communications permitted under the pilot program.

The Department of Justice, in addition to the FAA, may monitor all communications that occur during the telephone conferences or via the pilot program Web site. For this purpose, the telephone conferences will be recorded and an electronic record of the activity on the pilot program Web site will be preserved for 45 days.

Antitrust Immunity

As authorized by section 40129(h), and subject to concurrence by the Attorney General, during the period the pilot program is in effect, the Secretary intends to exempt U.S. and foreign air carriers participating in the program from the antitrust laws for activities they engage in to the extent those activities are necessary for their participation in the program. The antitrust exemption is for the sole purpose of participating in the pilot program, and shall not extend to any discussions, agreements, or activities outside the scope of the pilot program as described in these guidelines. It shall apply only to the extent that the U.S. or foreign air carrier complies with the conditions imposed by these guidelines.

The FAA reserves the authority to modify or terminate the exemption prospectively, or to otherwise modify or terminate the program or a particular carrier's participation in it, if it is determined by the FAA or the Secretary, respectively, and with the concurrence of the Department of Justice, that the purpose of the program is not being furthered or that the program or the particular carrier's participation is having an adverse effect on competition. This statement shall serve as the notice required by section 40129(h) that states the Secretary's intention to use the authority created by that section to grant antitrust immunity.

Evaluation

The FAA will evaluate the pilot program to determine whether it has reduced total passenger delays, facilitated a more effective use of air traffic capacity through improvements in the realized airport arrival rate, or enabled a greater utilization of reservation times during ground delay programs. The FAA will also consider whether benefits from one airport's participation in the program have brought benefits to other parties of the National Airspace System.

The Department is obligated to evaluate the pilot program's effects on airline competition and service to communities. We ask for comment on what kinds of data should be obtained by us to conduct the evaluation. This data could include the following, but commenters may suggest alternatives or discuss whether the following data would be unnecessary:

- (1) Identification of flights scheduled, including number of seats sold, average fare, markets scheduled to be served, and times from the selected airports, during the CRE;
- (2) Identification of flights cancelled during the CRE; flights operated during the CRE and within 24 hours afterwards including average fares, destinations, etc.;
- (3) Identification of communities that lost service during the CRE; and
- (4) Data on the extent, if any, the program disadvantages carriers with limited flight schedules.

We welcome other ideas as to how the program's effectiveness should be evaluated.

Additionally, while we recognize (as described above) that flight delays impose additional costs on air carriers, airports and the FAA, it would also be beneficial to obtain information about the direct effect of this program on the traveling public. Such information would allow us to evaluate the amount

of delay experienced by passengers traveling on airlines participating in the program compared to the delay experienced during similar events that occurred before the program went into effect. Such information could include the number of passengers given prior notification of an impending CRE, the number of passengers who are rebooked on flights that depart in advance, during, or immediately after a CRE, reductions in the number of passengers who are offered compensation because of "overbooking" during the relevant time period, the number of passengers who are rebooked on other carriers' flights in response to notification of an impending CRE, or the speed with which carriers are able to accommodate all passengers wishing to travel during or immediately following a CRE.

Issued in Washington, DC, on March 16, 2004.

Marion C. Blakey,
Administrator.

[FR Doc. 04-6353 Filed 3-17-04; 4:05 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of a Petition for an Investigation Into the Adequacy of Recall Remedy, RP03-001

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for an investigation into the adequacy of a recall remedy.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30120(e), requesting that the agency investigate the adequacy of a remedy to address a defect in the adjustable brake and accelerator pedals on model year (MY) 2000 Mercury Sable vehicles. The petition is identified as RP03-001.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5226.

SUPPLEMENTARY INFORMATION: Ms. Linda Rodman of North Hollywood, CA, submitted a petition to NHTSA by letter dated September 5, 2003, requesting NHTSA to further investigate the adjustable brake/accelerator pedal movement on MY 2000 Mercury Sable vehicles manufactured by Ford Motor Company (Ford). Ms. Rodman reported that on June 21, 2003, her mother was