

June 24, 2010

Docket Operations, M-30
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Room W12-140
West Building Ground Floor
Washington, DC 20590-0001

Delivered electronically via www.regulations.gov

**RE: DOCKET NO. FAA-2010-0302, THE NEW YORK NORTH SHORE
HELICOPTER ROUTE**

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate, and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft operators and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air charter, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry providing services to the general public, airlines, general aviation, and the military.

NATA appreciates the opportunity to provide feedback with regard to the Federal Aviation Administration's (FAA's) Notice of Proposed Rulemaking (NPRM) to require use of the New York North Shore Helicopter Route (hereafter referred to as "the North Shore Route"). However, the association believes the FAA unnecessarily limited the public comment period for this rulemaking. NATA, in conjunction with other organizations representing affected operators, petitioned the FAA to extend the comment period. The FAA denied that request, we believe, inappropriately. Extending the comment period would not have posed an undue hardship on the FAA or any other parties. The short comment period has limited the ability of NATA and our membership to conduct a comprehensive analysis of the rule and the impact it will have on airspace use, national noise abatement policy and the businesses that are directly affected.

NATA objects to the NPRM in its entirety and requests that the FAA withdraw the proposal. The association submits the following additional comments in support of that position.

No Basis For Rulemaking

NATA contends that the FAA lacks sufficient justification for imposing the mandatory use of the North Shore Route. According to the NPRM's preamble, the

rulemaking is based solely upon the assertion that,

“New York elected officials have advised the FAA the noise complaints continue in this area notwithstanding the North Shore route. The local FAA Flight Standards Division has also received the same complaints.” (75 FR 29472)

That the FAA is basing a new mandatory operational procedure on the anecdotal reports passed along from unnamed elected officials and some unknown number of complaints received by the local FAA office is improper. Prior to proposing a new regulation, the FAA is obliged to conduct a thorough review and analysis to justify the need for the rule and properly consider both the benefits and costs of its planned action. It does not appear that any due diligence was conducted prior to deciding to mandate use of the now voluntary North Shore Route. NATA would expect that at a minimum the FAA would have attempted to determine the veracity of the complaints by answering basic questions that would then allow a meaningful analysis.

Some questions that should have been answered prior to proposing a rule are:

- Exactly how many complaints were received?
- Over what period of time were those complaints received?
- How many complaints were unique? (i.e. from distinct individuals, rather than multiple complaints from one person)
- Is there any specific geographic location from where a majority of complaints originate?
- How do the number of complaints received compare to the number of helicopter operations over that same period?
- When do most complaints occur, day or night?

There is absolutely no indication in the NPRM or the docket that the FAA even attempted to quantify and analyze the complaints such that the agency could have reasonably concluded a new regulation was indeed justified.

Bad Precedent

NATA believes this rule, should it be made final, will set a bad precedent for the future. This is the first action that we are aware of wherein the FAA is directly and independently mandating a noise abatement procedure. Historically, noise abatement actions are initiated by an airport sponsor and apply to takeoffs and landings, not to the en route operation of an aircraft. Also, as with the Grand Canyon National Park, Congress may direct the FAA to regulate operations. Neither is the case here. There has been no justification based upon an Environmental Impact Study, which is required when an airport seeks to impose restrictions.

The only basis to state there is a noise issue sufficient to justify operational restrictions is, again, anecdotal second-hand reports. This is, in our view, an inappropriate action for the FAA and it should be withdrawn.

Failure To Explore The Utilization

The FAA correctly points out that the North Shore Route was developed in conjunction with stakeholders in an attempt to address noise complaints in the area. The FAA states in the preamble that the noise complaints persist. It is unclear if the FAA has any data to show how frequently the North Shore Route is being utilized. Further, it appears that the FAA has not made any attempt to understand why those who are not utilizing the North Shore Route do not, in fact, use it.

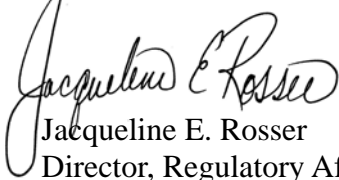
In the NPRM, the FAA creates several exceptions¹ to the requirement to use the North Shore Route. It is entirely plausible to the association that the reasons for the route not being used today could fall under the exceptions in proposed §93.103(b), negating any potential noise benefit that the FAA seeks to derive from the rule. Absent an understanding of why the operators are today not using the route prevents the FAA from accurately determining what, if any, benefit is possible as a result of this rulemaking.

NATA believes that prior to mandating the use of the North Shore Route it would be prudent for the FAA to reach out to the operating community to determine why the North Shore Route has not been better utilized. Perhaps some modifications or an educational effort would be successful in increasing utilization and reducing complaints regarding noise.

In summary, NATA believes this is a poorly constructed rulemaking that lacks the basic underlying analysis to justify proceeding to a final rule.

NATA appreciates the opportunity to submit our views for consideration.

Sincerely,



Jacqueline E. Rosser
Director, Regulatory Affairs

¹ Proposed §93.103(b) permits deviations for safety, weather and transitioning to or from a destination or point of landing (75 FR 29474).