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Under the “Centennial Rule” Paine Field can prohibit scheduled air service and retain federal funding

June 2008

Executive Summary

Title 49 USC 47107 (q) and (r) provides an exception test under which a general aviation airport can prohibit scheduled air passenger service yet otherwise remain “in compliance” and qualify for federal funding under FAA rules. This is commonly known as the “Centennial Rule.”

With one exception, Paine Field meets all requirements to pass this test. We want Paine Field to fully qualify for the Centennial Rule. It would represent a win-win for the community, our aerospace industry and general aviation.

A recent resolution passed by Snohomish County Council states the County “will pursue any and all lawful and appropriate means to discourage any action that would facilitate, directly or indirectly, use of Paine Field for scheduled air passenger service or air cargo service, which may include an interlocal agreement.”ⁱ

Discussion

The law as it currently reads, following passage in 2003.

Final Version of Centennial Airport ‘Zero Seat’ Rule (the “Centennial Rule”)

*** 49 USC 47107 ***
(4/16/03)

“(q) Notwithstanding any written assurances prescribed in subsections (a) through (p), a general aviation airport with more than 300,000 annual operations may be exempt from having to accept scheduled passenger air carrier service, provided that the following conditions are met:

(1) No scheduled passenger air carrier has provided service at the airport within 5 years prior to January 1, 2002.

(2) The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49.

(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by DOT/FAA in the ‘Airport Capacity Benchmark Report 2001’.

(r) An airport that meets the conditions of subsections (q)(1) through (3) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service.”

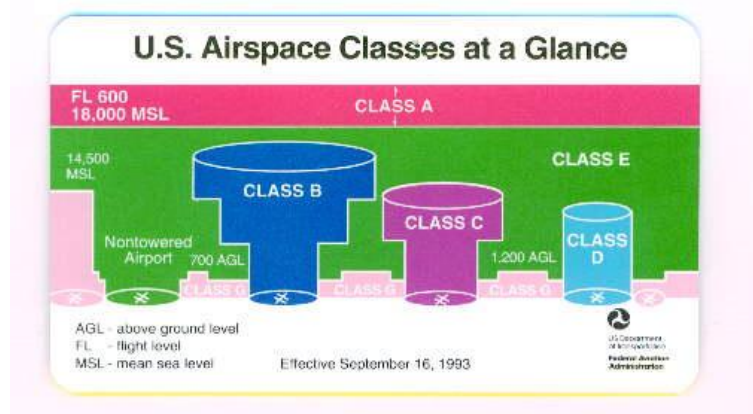
Analysis

This provision allows a general aviation airport to prohibit scheduled air passenger service and retain federal funding. This passage creates a legal “carve-out” to the rules that otherwise prevent a community from prohibiting air passenger service. The conditions that must be met are discussed below.

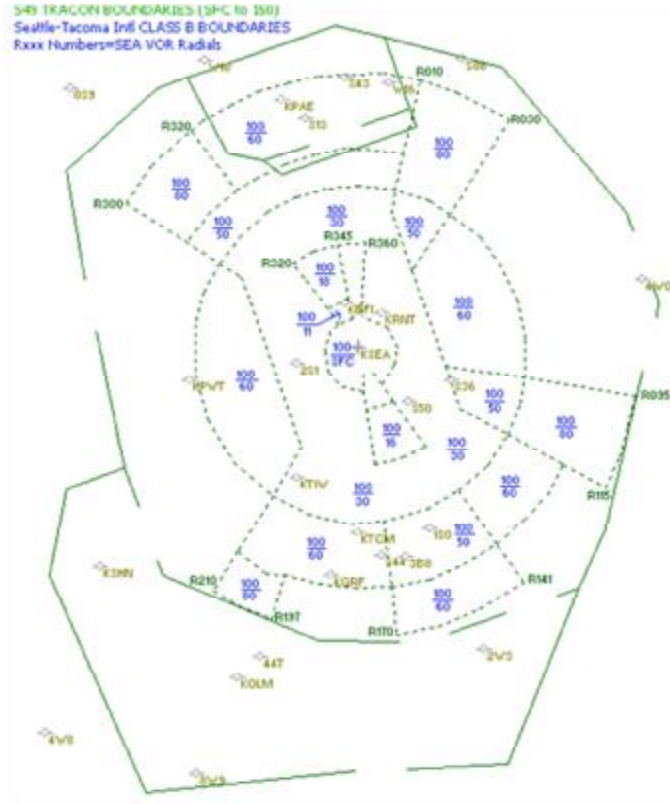
1. Section (q): The airport must have more than 300,000 operations per year. An “operation” is a take-off or a landing. Paine Field currently is projected to exceed 300,000 annual operations (without scheduled air service) by 2011 (according to the Paine Field Master Plan, last update 2002.) Current annual operations at Paine Field are just under 200,000. This is the only issue to address. As shown by the following analysis, Paine Field meets all other parameters to qualify for this section, to deny scheduled air passenger service, remain compliant with all FAA regulations and therefore able to pursue federal funding.
2. (q)(1) There must be no scheduled air service within the 5 years prior to 1/1/02. Paine Field has had no scheduled air service in this time frame. This is true and not in dispute. Paine Field is a Class IV Airport, which the FAA defines as “an airport certificated to serve unscheduled passenger operations of large air carrier aircraft. A Class IV airport cannot serve scheduled large or small air carrier aircraft.”
3. (q)(2)The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49. Class B

Airspace is generally the airspace from the surface to 10,000 feet. This airspace is normally around the busiest airports in terms of aircraft traffic such as Chicago or Los Angeles. Class B airspace is

individually designed to meet the needs of the particular airport and consists of a surface area and two more layers. Most Class B airspace resembles an upside down wedding cake. Pilots must contact air traffic control to receive an air traffic control clearance to enter Class B airspace. Once a pilot receives an air traffic control clearance, they receive separation services from other aircraft within the airspace.ⁱⁱ



Paine Field is within Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49—this is Seattle Tacoma International Airport. The aeronautical chart at the right shows Class B airspace, with Sea-Tac at the center and Paine Field (KPAE) shown near the top-left.



4. (q)(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by DOT/FAA in the ‘Airport Capacity Benchmark Report 2001. The Airport Capacity Benchmark Report of 2001 states:

- Capacity benchmarks are defined as the maximum number of flights an airport can routinely handle in an hour.
- These benchmarks are estimates of a complex quantity that varies widely with weather conditions, runway configurations, and the mix of aircraft types. Capacity benchmarks assume there are no constraints in the en route system or the airport terminal area. They are useful for broad policy discussions and the development of long-term strategies.

Sea-Tac is not listed as an airport causing significant delays. Indeed, this report acknowledges the 3rd runway at Sea-Tac as helping to improve capacity at Sea-Tac by 52%.

Table 2
Capacity Benchmark Summary

Airport (ranked by delay in 2000)	Capacity Improvement (percent)					Projected Growth to 2010 (percent)	Delays per 1000 operations (2000)	
	New Runway (if planned)		New Technology*		New Runway Plus New Technology**			
	Optimum	Reduced	Optimum	Reduced	Optimum			Reduced
SEA *	52	46	3	4	57	51	17	10.4

***Seattle ranked 19 out of 31 listed airports. Other airports removed from this table.**

5. Section (r) An airport that meets the conditions of subsections (q)(1) through (3) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service. Paine Field currently meets the requirements set forth in sections (q)(1), (2) and (3). To the extent that it must meet 300,000 actual (or anticipated) operations per year, legal review is needed for this issue. Possibly this could be amended with the help of our Congressional delegation, or it could be resolved in a court of law.

Legislative History: Centennial Airportⁱⁱⁱ

Centennial Airport - originally called Arapahoe County Airport - opened in May 1967 as a general aviation reliever airport for Stapleton International Airport. The airport was needed because concerned members of the Denver business community felt light aircraft were being crowded out at Stapleton Field.

At that time, the Airport's location was considered far outside the urban area, and much of the development you see around the Airport today – the residential, commercial and retail – didn't exist. But community leaders, as well as the business community, envisioned Centennial Airport about the same time the Denver Tech Center was being developed. Centennial continues to be the major local reliever airport for Denver International Airport, so that DIA can focus its capacity on airline operations.

Arapahoe County wants to ensure the success of the airport, not only from an economic aspect, but from a safety and noise issue as well. Arapahoe County work closely with our local communities to protect the encroachment of growth, as well as steer the right types of growth around the airport, in order to ensure its future in our community.

The Centennial Airport Board of Commissioners, as well as the Arapahoe County Board of County Commissioners has long stated that Centennial is, and should remain, a general aviation reliever airport for DIA. In 1993, the Airport Board banned commercial airline service with planes of 10 to 30 seats and voted again in 1997 to ban commercial passenger service of nine seats or fewer.

In response to that decision, the Federal Aviation Administration terminated Centennial's eligibility for federal Airport Improvement Program grants. At that time, the FAA maintained that when Centennial accepted prior grants, it agreed to abide by certain grant assurances. One of those assurances was that the airport remains open to all types and classes of aeronautical users. In the FAA's view, the ban on scheduled passenger service was discriminatory to a class of users.

As a result, Centennial Airport lost approximately \$1.5 million a year. That money was not operating revenue. Rather, it was used for capital and safety improvements – money that was desperately needed at the airport. To address the compliance issue, the Board of Commissioners put together a community task force to develop a solution to the funding and compliance issue. On April 11, 2002, the Board passed a resolution to:

- Allow scheduled passenger service of 9 seats or less

- Pursue legislation that would allow the airport to lawfully ban all scheduled passenger service, and
- Place an initiative on the November 2002 ballot to impose a one-third mill levy on Arapahoe County residents in case the airport was not in compliance by that time.

The mill levy was not needed. On February 13, 2003, Congress approved the “0” seat rule, which means reliever airports within class B airspace of major airports, like DIA, do not have to provide passenger service to be eligible for federal capital improvement funds. This legislation was signed into law by President Bush in 2003 and will result in restarting the federal money that Centennial lost during the last several years.

Relationship to Paine Field

The community surrounding Paine Field has many things in common with the community surrounding Arapahoe Airport. The following points taken from a June 2008 resolution from the Snohomish County council make it clear that our community values Paine Field for its economic development contributions and we want Paine Field to be a center of excellence for the aerospace community. However we also want Paine Field to balance the needs of the local home-owners.

- The Snohomish County Executive and Council agree with the 1979 Paine Field Mediation Panel Recommendation that Paine Field remain light aircraft oriented with the role defined as “General Aviation”
- On April 11, 1978, the Snohomish County Commissioners adopted by resolution the “Role for Development of Paine Field,” and in 1979, further adopted by resolution the recommendation of the Paine Field Mediation Panel in accordance with the “General Aviation” role for that public facility, a role which was subsequently reaffirmed by Snohomish County in 1989, 1992, and again in 2001.
- Based on the 1978-79 Mediated Role determination, and the subsequent reaffirmations, Snohomish County allowed and has continued to allow the original industrial zoning around Paine Field to be changed to single and multiple family zoning, with the result that a substantial residential community has developed in the area based on the County’s promise to protect the community from adverse airport impacts, specifically the use of Paine Field as a major commercial airport; and
- Since 1979, families, business owners, and public schools have relied on the MRD in good faith, and invested billions of dollars into their homes, businesses, and schools in the vicinity of Paine Field.
- The Paine Field area, based on the 1978-79 Mediated Role determination, has also developed as a major American industrial and aerospace center, the manufacturing headquarters to our nation’s largest exporter, the Boeing Company, as well as numerous other related aviation industries; and

- The Puget Sound Regional Council's August 2001 Regional Airport System Plan states that "The primary purpose of general aviation airports is to provide alternate landing areas and aircraft basing facilities for general aviation aircraft, so major air carrier airports, such as Sea-Tac, can concentrate on passengers and air cargo."
- The integrity of a democratically-elected government's commitment to the constituency it serves is the absolute foundation for a free and just society, and that any abridgment of the promises made by government to citizens threatens the very substance of a civilized society.
- The planning and financing of all regional facilities are contingent upon the credibility of long-term government decision making.
- The cities of Edmonds, Mukilteo, Lynnwood, Mountlake Terrace and Woodway, (representing over 120,000) have expressed their opposition to commercial air service at Paine Field.
- The Snohomish County Executive and Council jointly reaffirmed Snohomish county's commitment to preserving the existing general aviation role of Paine Field, and passed a resolution to pursue **any and all legal means** joint Interlocal Agreement between the county and the surrounding cities reaffirming the general aviation role of Paine Field.

As a result, we believe that Snohomish County should pursue legal means to prohibit scheduled air passenger service, and remain qualified to accept federal grants from the FAA pursuant to 49 USC 47107 (q) and (r).

ⁱ Snohomish County Council JOINT RESOLUTION NO. 08-020, passed June 5,2008.

ⁱⁱ <http://www.allstar.fiu.edu/AERO/airspace.htm>

ⁱⁱⁱ Taken from a web page (no longer available) about Centennial Airport.