PHASE 2
COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION

(Amended through December 2, 2015)

JOHN WAYNE AIRPORT

ORANGE COUNTY

COUNTY OF ORANGE CALIFORNIA

PHASE 2

COMMERCIAL AIRLINE ACCESS PLAN

AND

REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

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JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
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(OCTOBER 1, 1990 – DECEMBER 31, 2030)

PLAN TEXT

JOHN WAYNE AIRPORT
ORANGE COUNTY
(SNA)

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PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION
(OCTOBER 1, 1990 – DECEMBER 31, 2030)

□

SECTION 1

GENERAL PROVISIONS

1.1 AUTHORITY

This document is the PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION (the "PHASE 2 ACCESS PLAN" or "PLAN") for John Wayne Airport, Orange County (SNA) ("*John Wayne Airport*" or "*JWA*"). This PLAN is adopted by the County of Orange, California ("*County*"), in its capacity as the proprietor and certificated operator of *John Wayne Airport*, and under the authority of federal law, and laws of the State of California, which designate the *County* as the proper local entity to balance the needs of the Orange County community for adequate commercial air transportation facilities, and the desire of the local community for environmentally responsible air transportation operations at *John Wayne Airport*.

This PLAN further implements mitigation measures identified and adopted under the CALIFORNIA ENVIRONMENTAL QUALITY ACT (CALIFORNIA PUBLIC RESOURCES CODE §§21001, *et seq*.) in connection with the *County's* consideration and approval of the JOHN WAYNE AIRPORT MASTER PLAN (1985) and related actions ("the 1985 MASTER PLAN"), including certification of ORANGE COUNTY EIR 508/EIS in 1985 (BOARD OF SUPERVISORS RESOLUTION NO. 85-255 [February 26, 1985] and BOARD OF SUPERVISORS RESOLUTION NO. 85-1290 [November 4, 1985]), and mitigation measures for the 1985 MASTER PLAN and related projects considered and approved in connection with the review and approval

by the Federal Aviation Administration of EIR 508/EIS under the NATIONAL ENVIRONMENTAL POLICY ACT (42 USC §§4321, *et seq.)*, and related federal regulations.

This PLAN also implements projects considered and approved by the *County* as amendments to the 1985 Settlement Agreement entered into by and between the *County* and the *Orange County Board of Supervisors* ("*Board*"), the City of Newport Beach, Stop Polluting Our Newport, and the Airport Working Group of Orange County, Inc., (the "Settlement Amendment"), including: (i) certification of Environmental Impact Report 582 ("EIR 582"), and approval of the Settlement Amendment on June 25, 2002 (*Board of Supervisors* Resolution No. 02-185 [June 25, 2002] and *Board of Supervisors* Resolution No. 02-186 [June 25, 2002]), and approval of modifications to the Settlement Amendment and Acceptance of Addendum 582-1 on December 10, 2002 (*Board of Supervisors* Resolution No. 02-381 [December 10, 2002]); and (ii) certification of Environmental Impact Report 617 ("EIR 617"), and approval of the Settlement Amendment on September 30, 2014 (*Board of Supervisors* Resolution No. 14-084 [September 30, 2014] and *Board of Supervisors* Resolution No. 14-088 [September 30, 2014]).

HISTORICAL NOTE

***June 2003 Amendments*. This section has been revised consistent with the *Orange County Board of Supervisors* actions on June 25, 2002, certifying EIR 582 and approving the Settlement Amendment; actions on December 10, 2002, accepting Addendum 582-1 and approving certain modifications to the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN and allocating new operating capacity to *Commercial Air Carriers* at the *Airport*.**

***July 2015 Amendments*. This section has been revised consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment.**

1.2 SHORT TITLE

In all communications regarding this PLAN, it may be referred to as the "PHASE 2 ACCESS PLAN."

1.3 CONSIDERATION OF PUBLIC UTILITIES CODE §§21690.5 - 21690.9

The *County* has adopted this PLAN in recognition of its proprietary and governmental obligations under the STATE AERONAUTICS ACT (CALIFORNIA PUBLIC UTILITIES CODE §§21001, *et seq.*).

In addition, and in connection with its consideration, formulation, adoption, and implementation of this PLAN, the *County* (through the *Board of Supervisors*) has considered those

factors set forth in CALIFORNIA PUBLIC UTILITIES CODE §21690.9, and the *Board of Supervisors* has made the following findings in connection with its consideration of those statutory provisions:

(a) The provisions of this PLAN are the result of a public process extending over a period of more than one (1) year, during which the *County* staff circulated to the public two extensive staff reports defining and discussing the issues relevant to the formulation of this PLAN. During this time, all interested parties had extensive opportunities to comment on the issues in writing, and to present their views orally to the Orange County *Airport Commission* and the Orange County *Board of Supervisors*. All such information has been considered by the *County* in the formulation of this PLAN.

(b) In addition, the provisions of this PLAN further reflect the experience of the *County* in the management and operation of *JWA* – and the public controversies resulting from operation of the airport – for a period of approximately thirty-five (35) years; including extensive experience in many forums with the views and interests of the federal government, commercial aviation operators, general aviation operators and suppliers, the Orange County business community, local public entities, and the residents of areas in the general vicinity of the *Airport*. This experience too has been considered by the *County* in the formulation of this PLAN.

(c) This PLAN is adopted in support of the policies of the State of California as reflected and declared in CALIFORNIA PUBLIC UTILITIES CODE §§21690.5(a)-(e), and is particularly made in recognition of the importance of the tourist and recreation industry to the economic health and well-being of the Orange County community. Orange County is a major tourist and resort destination center, and a significant portion of the economy of Orange County depends upon tourism and resort activities. The ability of the *County* to maximize the passenger service levels at *JWA*, within defined environmental constraints, is indispensable to the continued growth and economic vitality of the tourism and resort segment of the Orange County economy.

(d) To the extent that this PLAN (and related agreements of the *County* of which this PLAN is a part) creates "exclusive or limited agreements with . . . a limited number of operators" (CALIFORNIA PUBLIC UTILITIES CODE §21690.8), the *County* has determined that the provisions of this PLAN are necessary and supportive of each of the factors identified in CALIFORNIA PUBLIC UTILITIES CODE §§21690.9(a)-(g).

(e) This recitation of *County* consideration of the matters and issues referred to in paragraphs (c) and (d) is not intended as a statement that such statutory provisions are the only ones considered by the *County* and the *Board of Supervisors* in connection with the formulation of this PLAN. Rather, this PLAN reflects consideration by the *County* of all of its state and federal obligations and responsibilities as the proprietor of *JWA*.

HISTORICAL NOTE

***December 1990 Amendments*. The December 1990 amendments revised the second full paragraph of this section to add the word "in" before "CALIFORNIA PUBLIC UTILITIES CODE [ETC.]."**

***June 2003 Amendments*. Subparagraph (b) of this section was revised to replace twenty-two (22) years with thirty-five (35) years.**

1.4 TERM

The provisions of this PLAN other than the allocation provisions shall be deemed to be effective on August 15, 1990. The allocation provisions of this PLAN shall become effective beginning on October 1, 1990. This PLAN shall terminate on December 31, 2030. Any privileges or licenses granted to any person in connection with, or as a result of the implementation of this PLAN, may be revoked, suspended, or terminated at any time at the sole discretion of the *County*, and, in any case, shall terminate completely, finally and without further action of the *County* not later than December 31, 2030.

HISTORICAL NOTE

***June 2003 Amendments*. This section has been amended to revise the term of the PLAN from December 31, 2005, to December 31, 2015, for reasons discussed in the HISTORICAL NOTE to Section 1.1.**

***July 2015 Amendments.* This section has been amended to revise the term of the PLAN from December 31, 2015, to December 31, 2030, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment.**

1.5 GENERAL LIMITATIONS AND QUALIFICATIONS

All allocations of *ADDs*, *Authorized Departures*, *Seat Capacity*, *Passenger Capacity Allocations*, *RON* positions, or other operating privileges of any type made under this PLAN to *Commercial Air Carriers* and *Commuter Air Carriers*, are privileges revocable by the *County* at will, do not constitute "property interests" of persons affected by this PLAN in any form, and are not transferable, directly, indirectly, or by operation of law. All such privileges constitute limitations on operations intended to implement legislative policies, and public policy goals and objectives of the *County* in the safe, efficient and environmentally responsible management and operation of *JWA*.

To the extent, if at all, any such privileges contain some indicia of "property," they are the sole and exclusive "property" of the *County*, held in the public trust, and managed by the *County* in the public interest.

All privileges granted under this PLAN are terminable without notice and without "cause" in the sole and exclusive discretion of the *County*. The *Airport Director* is specifically authorized to take such actions as he may deem necessary in revoking, in whole or in part, any operating privileges set forth in, or authorized by, this PLAN, if he determines those actions to be necessary for *John Wayne Airport* to operate within the *MAP Limitation* or *Regulated ADD Limitation* during the term of this PLAN.

1.6 RELATIONSHIP TO OPERATING AGREEMENTS AND LEASES

By this and other regulations and ordinances of the *County*, no *Regularly Scheduled Commercial User* may conduct operations at *JWA* unless it has first received approval by official action of the *Board of Supervisors* of an operating agreement or lease agreement further defining that person's obligations to the *County* in respect of its operations at *JWA*.

The provisions of this PLAN, including the provisions defining remedies of the *County* in the event of a breach of this PLAN by any person, are a part of, and expressly referenced by, each such operating and lease agreement. The obligations of any *Regularly Scheduled Commercial User* serving *JWA* under this PLAN are in addition to any and all obligations that person has to the *County* under its operating, lease, or other agreement(s) with the *County* relating to operations at, or the use of, *JWA*; and the remedies, sanctions, and enforcement rights available to the *County* under this PLAN are in addition (and without prejudice) to any and all remedies, sanctions, and enforcement rights available to the *County* under any such agreement(s).

1.7 AMENDMENTS, TERMINATION OR SUSPENSION

This PLAN may be amended, terminated or suspended only by official and duly noticed action of the *Board of Supervisors*. The *Board of Supervisors* may, in the sole and exclusive exercise of its full legislative discretion, amend, terminate, or suspend this PLAN at any time. By adoption of this PLAN, the *Board of Supervisors* announces that it is the intent of the *Board* to amend, terminate, or suspend this PLAN when and as necessary (in the sole and exclusive exercise of the *Board's* legislative discretion) to effect or maintain the regulatory, environmental, and service level goals, policies, and objectives of the *County* in its management and operation of *JWA*.

HISTORICAL NOTE

***December 1990 Amendments*. The second sentence of this section was amended in December 1990 for purposes of internal consistency, adding the words "and exclusive" and substituting "its" for "their" in reference to the *Board of Supervisors*.**

1.8 ACCEPTANCE OF THE TERMS OF THIS PLAN

Each person conducting *Regularly Scheduled Air Service* at *JWA* does so voluntarily and without coercion. Any person accepting and operating allocations of *ADDs, Authorized Departures, Seat Capacity*, or *Commuter Passenger Capacity* under this PLAN (regular or supplemental), and conducting operations at *JWA* from and after October 1, 1990, will be deemed conclusively to have accepted all terms and provisions of this PLAN as limitations and conditions on his operations at *JWA* during the term of this PLAN.

1.9 ACCEPTANCE OF AMENDMENTS TO THIS PLAN

In the event the Orange County *Board of Supervisors* elects at any time to amend this PLAN, any person who commences, or thereafter continues to conduct *Regularly Scheduled Air Service* at *JWA* for thirty (30) days after the date on which the *Board of Supervisors* approves the amendment(s), shall be deemed conclusively to have: (i) accepted all terms and provisions of the amendment(s) to the PLAN as limitations and conditions on his operations at *JWA* during the remaining term of this PLAN; and (ii) accepted all of the terms and provisions of the amendment(s) to the PLAN as additional terms, limitations and obligations under each such person's airport related operating, lease, or other written agreement(s) with the *County*, as consideration for continued permission by the *County* allowing such person to continue to engage in commercial operations at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. Certain grammatical changes were made to this section.**

1.10 INCONSISTENCY OR CONFLICT

To the extent any provision of this PLAN is inconsistent or in conflict with any written agreements between the *County* and any *Regularly Scheduled Commercial User* or other person operating at *JWA*, or inconsistent or in conflict with any ordinances, regulations, or expressed public policies of equal dignity, the terms of this PLAN shall have precedence and shall be deemed to be controlling. No provision of this PLAN, however, is intended to supersede or modify the provisions of ORANGE COUNTY CODIFIED ORDINANCES §§2-1-30.2 – 2-1-30.14.

HISTORICAL NOTE

***December 1990 Amendments.* The December 1990 amendments deleted the word "that" between the words "the" and "extent" of the first line of this section and eliminated a redundant reference to the cited *County* Ordinance sections.**

1.11 PARTIAL INVALIDITY

In the event any court of competent jurisdiction determines that any portion or provision of this PLAN is invalid, illegal, or unenforceable, or temporarily enjoins enforcement or application of any portion or provision of this PLAN, all other provisions of this PLAN shall remain enforceable and in effect unless and until revoked, suspended, or modified by the *Board of Supervisors*; and all obligations of any person under any provision of this PLAN not affected by any such court ruling or order shall remain in full force and effect.

1.12 NO WAIVER OR CREATION OF IMPLIED POLICY OF ENFORCEMENT

Neither a (i) failure of the *County* to take any act or action in strict enforcement of this PLAN, inadvertent or otherwise, nor (ii) an affirmative waiver of enforcement of this PLAN by the *County* in a specific instance after consideration of any special requests or circumstances, shall be deemed to constitute the establishment of any express or implied policy of the *County* in the enforcement or non-enforcement of this PLAN, and shall not be relied on by any person in making any determination, or taking any action, in violation of any provision of this PLAN.

1.13 NON-EXCLUSIVITY OF SANCTIONS, PENALTIES, AND REMEDIES

The sanctions, penalties and remedies of this PLAN are non-exclusive, and are in addition (and without prejudice) to any and all other remedies, at law or at equity, civil or criminal, by contract or otherwise, which may be available to the *County* with respect to the conduct or actions of any person using *JWA*.

1.14 COMPUTATION OF TIME

Whenever this PLAN requires or permits the filing or service of any document or request not later than a specified day, and whenever that day falls on a Saturday, Sunday, or a legal holiday, the last day for filing or serving the document or request shall be the first working day after the date on which it was otherwise required to be served or filed.

HISTORICAL NOTE

December 1990 Amendments. **The words "or request" were added by the December 1990 amendments to make clear that this section applied to terms of the PLAN which allow "requests" to be made, regardless of whether a "document" is required to be filed or served. The other amendments to this section authorized in December 1990 were strictly grammatical.**

1.15 FORMAT AND REFERENCES

For purposes of convenience, certain formatting and reference conventions are used in this PLAN:

(i) All terms which appear in *italics type* are "defined" terms which, for purposes of this PLAN, have the meanings assigned in Section 2.

(ii) Unless otherwise expressly stated, all references to "Section(s) __" are references to the provisions of this PLAN.

(iii) References to "**APPENDIX {X}**" are references to the sequentially lettered (or sequentially lettered and numbered) appendices attached to, and a part of, this PLAN. The use of "**BOLD SMALL CAPITAL LETTERS**" to title a form before (or without) an "**APPENDIX {X}**" designation refers to the titles of forms whose use is required for purposes of certain mandatory and discretionary filings with the *County* and the *Airport Director*.

(iv) This PLAN occasionally uses a gender based pronoun in the masculine form. All such references are for purposes of convenience and clarity only, and shall be understood to be either the masculine, feminine, or neutral pronoun, as appropriate to the actual persons or entities referenced.

(v) All references in this PLAN to "persons" are references to all natural persons, estates, trustees, partnerships, joint ventures, corporations, public entities, and any and all other legally cognizable entities.

(vi) All references in this PLAN to hours of the day are references to "local time" in Santa Ana, California.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made certain grammatical changes to subsection (vi) of this section.**

SECTION 2

DEFINITIONS

2.1 ADD

ADD means "average daily departure," which is computed for purposes of this PLAN on an annual basis, from April 1 of each year to March 31 of the following year for the period from April 1, 1991 to December 31, 2011 and from January 1 to December 31 of each year for the period from January 1, 2012 through the remaining term of the PLAN (December 31, 2030). One *ADD* authorizes any person requiring *ADDs* for its operations at *JWA* to operate 365 (or 366 in any "leap year") *Authorized Departures* during each *Plan Year*, subject to the definitions, provisions, conditions, and limitations of this PLAN, and any adjustments which may result from the implementation or enforcement of the PLAN. For those periods of the PLAN which are less than one (1) full year, *i.e.*, October 1, 1990, to March 31, 1991, and April 1, 2011, to December 31, 2011, *ADD* means one hundred eighty-two (182) and two hundred seventy-five (275) *Authorized Departures*, respectively.

Operations by persons regulated under the terms of this PLAN which require an allocation of *ADDs* include all *Class A* and permanent *Class E Commercial Air Carrier* departures, except for operations which do not carry public passengers, and which also meet one (1) of the following criteria: (i) a departure without revenue passengers on board which is necessary to reposition an aircraft to resume normal service after unscheduled maintenance at *JWA*; (ii) a departure without revenue passengers on board which is necessary to reposition an aircraft for unscheduled maintenance; (iii) a departure without revenue passengers on board which is necessary to reposition an aircraft from *JWA* to another airport in connection with a formal published schedule change; or (iv) a departure conducted pursuant to a noise qualification test which has been approved by the *Airport Director* under Section 10.

Except as expressly provided in this PLAN, all *Commercial Air Carrier Class A* and permanent *Class E* departures at *JWA* are regulated departures and require an *ADD* allocation including, without limitation, "regularly scheduled," "charter," "maintenance," and "ferry" flights.

HISTORICAL NOTE

July 1999 Amendments. **This section was revised to clarify that a departure without revenue passengers on board which is necessary to reposition an aircraft for unscheduled maintenance does not require an allocation of *ADDs*.**

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA Aircraft* definition/distinction, to add reference to permanent *Class E ADDs*, and to revise the current term of the PLAN from December 31, 2005, to December 31, 2015. These revisions are**

consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.

***September 2010 Amendments.* This section was revised to define *Plan Year* as the period from January 1 to December 31 of each year consistent with the *Orange County Board of Supervisors'* action on September 28, 2010, approving amendments to the ACCESS PLAN. These amendments are consistent with the 1985 Settlement Agreement and subsequent amendments which provide the following: "*Plan Year*" means each period during the Project Period, from April 1 of one year, to March 31 of the following year; except that the County shall have the discretion, beginning January 1, 2003, to redefine "*Plan Year*" as the calendar year (January 1 to December 31) or other equivalent time period.**

***July 2015 Amendments.* This section has been amended to revise the term of the PLAN from December 31, 2015, to December 31, 2030, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment.**

2.2 AFFILIATE

Affiliate means a *Commercial Air Carrier* or *Commuter Air Carrier* which has an affiliate relationship with some other person(s) within the parameters of this section. An *Affiliate Relationship*, *Affiliated Carriers*, or *Affiliate(d) Group* means:

(a) Any two (2) or more airlines where one airline holds a ten percent (10%) or greater equity interest in the second airline;

(b) Any two (2) or more airlines where a third person holds or controls a ten percent (10%) or greater equity interest in each such airline; or

(c) Any two or more airlines which, by agreement, written or oral: (i) share a common or substantially similar designator code in the OFFICIAL AIRLINE GUIDE ("OAG") or any domestic airline reservations database; (ii) conduct domestic United States operations under business names or business practices which imply to the public the existence of a business relationship between the airlines; or (iii) conduct domestic United States operations with aircraft painted in a substantially similar manner which implies to the public an operational relationship between the airlines.

For purposes of this section, "airline" means any *Air Carrier*, *Commuter Carrier*, or any other person certificated by the Federal Aviation Administration ("FAA") to conduct commercial air operations in the domestic United States for purposes of carrying passengers, freight, or cargo.

2.3 AIRPORT COMMISSION

Airport Commission means the Orange County Airport Commission, and its members, as appointed by the *Board of Supervisors*.

2.4 AIRPORT DIRECTOR

Airport Director means the Director of *John Wayne Airport*, Orange County, as appointed by the *Board of Supervisors*.

HISTORICAL NOTE

July 1999 Amendments. **This section was revised to substitute the term *Manager* with the term *Director*.**

2.5 ALLOCATED SEAT CAPACITY

Allocated Seat Capacity means the total number of annual *Passenger Seats* allocated to a *Qualified Air Carrier* under Section 3.3.2, and any supplemental allocations to the *Air Carrier* made under Section 4.3. *Allocated Seat Capacity* is computed by reference to the number of presumed *Passenger Seats* aboard each aircraft operated by an *Air Carrier* at *JWA* during any *Plan Year*, including both arriving aircraft and departing aircraft, except for operations expressly exempted from the definition of *ADD* under Section 2.1.

HISTORICAL NOTE

June 2003 Amendments**. This section was revised to clarify that the computation of the number of *Passenger Seats* aboard each aircraft operated by an *Air Carrier* at *JWA* is based upon a "presumed" *Seat Capacity* of the aircraft rather than an "actual" *Seat Capacity* of the aircraft.**

2.6 ASSOCIATED OPERATING GROUP

Associated Operating Group means any two (2) or more *Air Carriers* or two (2) or more *Commuter Carriers* which: (i) are *Affiliated Carriers* or members of an *Affiliated Group* within the meaning of Section 2.2; or (ii) any two (2) or more *Air Carriers* or *Commuter Carriers* which have declared for any *Plan Year* the formation of an *Associated Operating Group* under the procedures specified in Section 3.9.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the "affiliate policy" provisions of the ACCESS PLAN. These amendments included adding a new definition for "*Associated Operating Group*."**

2.7 AUTHORIZED DEPARTURE

Authorized Departure means a single departure authorized by an allocation of: (i) a *Regular ADD* allocated under Sections 3.1.1, 3.1.2, or 7.3; (ii) a *Class E* departure authorized by (and within the limitations of) Section 3.4 or Section 3.6; or (iii) by an allocation of supplemental *Authorized Departures* under Section 4.2.

HISTORICAL NOTE

December 1990 Amendments. **The word "Section" was inserted in front of the reference to "3.6" by the December 1990 amendments.**

2.8 BOARD OF SUPERVISORS

Board or *Board of Supervisors* means the elected (or duly appointed) members of the *Board of Supervisors* of the County of Orange, California.

2.9 CLASS A ADD – CLASS A DEPARTURE

Class A ADD means an *ADD* which has been allocated for use by aircraft qualified under Section 10, and which continue to operate during each *Noise Compliance Period*, as *Class A Aircraft*. *Class A Departure* means a single departure allocated for use by aircraft qualified under Section 10 as a *Class A Aircraft*. Nothing in this PLAN is intended to preclude any person from using an allocated *Class A ADD* or *Class A Departure* with aircraft which meet the noise limits for *Class E Aircraft*.

HISTORICAL NOTE

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA Aircraft* definition/distinction consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

Former Section 2.10, the definition of *Class AA ADD-Class AA Departure*, was deleted consistent with the *Orange County Board of*

***Supervisors'* approved amendments to the 1985 Settlement Agreement, which include defining all regulated passenger flights as *Class A* flights and eliminating the *Class AA Aircraft* definition/distinction.**

2.10 CLASS E ADD – CLASS E DEPARTURE

Class E ADD means an *ADD* which has been allocated for use by aircraft qualified under Section 10, and which continue to operate during each *Noise Compliance Period*, as *Class E Aircraft*. *Class E Departure* means a single departure allocated for use by aircraft qualified under Section 10 as a *Class E Aircraft*.

2.11 CLASS A AIRCRAFT

Class A Aircraft means aircraft which: (i) operate at gross takeoff weights at *JWA* not greater than the *Maximum Permitted Gross Takeoff Weight* for the individual aircraft main landing gear configuration, as set forth in Section 2.27; and which (ii) generate actual energy averaged *SENEL* levels, averaged during each *Noise Compliance Period*, as measured at the *Criterion Monitoring Stations*, which are not greater than the values:

CLASS A AIRCRAFT
ENERGY AVERAGED SENEL LEVELS

NOISE MONITORING STATION	ENERGY AVERAGED DECIBELS
NMS1S:	**102.5 *dB SENEL***
NMS2S:	**101.8 *dB SENEL***
NMS3S:	**101.1 *dB SENEL***
NMS4S:	**94.8 *dB SENEL***
NMS5S:	**95.3 *dB SENEL***
NMS6S:	**96.8 *dB SENEL***
NMS7S:	**93.7 *dB SENEL***

In determining whether an aircraft is a *Class A Aircraft*, its noise performance at the *Criterion Monitoring Stations* shall be determined at each individual monitoring station, and the aircraft must meet each of the noise monitoring station criteria, without "trade-offs," in order to qualify as a *Class A Aircraft*.

HISTORICAL NOTES

***December 1990 Amendments*. The references to specific noise monitoring stations was changed by the December 1990 amendments to conform to a *Board* approved redesignation of the**

noise monitoring stations. No changes to the monitoring stations or their location was involved in this amendment. Rather, the monitoring stations were renumbered to a more logical sequence in light of monitoring station additions to the noise monitoring system which occurred during the 1970s.

***July 1993 Amendments*. Effective July 1, 1993, the *Orange County Board of Supervisors* approved amendments to the Energy Averaged Decibels consistent with findings made by the *Board* in connection with its certification and approval of EIR 546 and consistent with an agreement reached between the County of Orange, California, the City of Newport Beach, California, Stop Polluting Our Newport, and the Airport Working Group of Orange County, Inc., ("the settlement parties") modifying the *SENEL* limitations in order to preserve the operational capacity at *JWA* and still take into account the Federal Aviation Administration's concerns on the issue of noise abatement departure profiles.**

***April 1999 Amendments*. On April 13, 1999, the *Orange County Board of Supervisors* approved amendments to the Energy Averaged Decibels, effective July 1, 1999, consistent with an agreement reached between the settlement parties regarding technical adjustments required to be made to the noise limits at *JWA* in order to maintain parity between the current noise monitoring system and the new replacement noise monitoring system. In addition, the monitoring stations were renumbered to a more logical sequence in light of monitoring station changes to the noise monitoring system which occurred during the 1990s.**

***June 2003 Amendments*. Former Section 2.13 was deleted consistent with the *Orange County Board of Supervisors'* approved amendments to the 1985 Settlement Agreement, which include defining all regulated passenger flights as *Class A ADDs* and eliminating the *Class AA/Class A Aircraft* definition/distinction.**

***October 2015 Amendments.* On October 6, 2015, the *Orange County Board of Supervisors* approved amendments to the Energy Average Decibels, effective October 6, 2015, consistent with an agreement reached between the settlement parties regarding technical adjustments required to be made to the noise limits at *JWA,* as measured by the new replacement noise monitoring system, in order to maintain parity between the current noise monitoring system and the new replacement noise monitoring system.**

2.12 CLASS E AIRCRAFT

Class E Aircraft means aircraft which: (i) operate at gross takeoff weights at *JWA* not greater than the *Maximum Permitted Gross Takeoff Weight* for the individual aircraft main landing gear configuration, as set forth in Section 2.27; and which (ii) generate actual energy averaged *SENEL* levels,

averaged during each *Noise Compliance Period*, as measured at the *Noise Monitoring Stations*, which are not greater than the values:

CLASS E AIRCRAFT
ENERGY AVERAGED SENEL LEVELS

NOISE MONITORING STATION	ENERGY AVERAGED DECIBELS
NMS1S:	**94.1 *dB SENEL***
NMS2S:	**93.5 *dB SENEL***
NMS3S:	**90.3 *dB SENEL***
NMS4S:	**86.6 *dB SENEL***
NMS5S:	**87.2 *dB SENEL***
NMS6S:	**87.2 *dB SENEL***
NMS7S:	**86.6 *dB SENEL***

In determining whether an aircraft is a *Class E Aircraft*, its noise performance at the *Noise Monitoring Stations* shall be determined at each individual noise monitoring station, and the aircraft must meet each of the noise monitoring station criteria, without "trade-offs," in order to qualify as a *Class E Aircraft*.

HISTORICAL NOTES

***December 1990 Amendments*. The designations of the noise monitoring stations were changed by the December 1990 amendments for reasons discussed in the historical note to Section 2.11.**

***July 1993 Amendments*. Effective July 1, 1993, the *Orange County Board of Supervisors* approved amendments to the Energy Averaged Decibels consistent with findings made by the *Board* in connection with its certification and approval of EIR 546 and consistent with an agreement reached between the County of Orange, California, the City of Newport Beach, California, Stop Polluting Our Newport, and the Airport Working Group of Orange County, Inc., ("the settlement parties") modifying the *SENEL* limitations in order to preserve the operational capacity at *JWA* and still take into account the Federal Aviation Administration's concerns on the issue of noise abatement departure profiles.**

***April 1999 Amendments*. On April 13, 1999, the *Orange County Board of Supervisors* approved amendments to the Energy Averaged Decibels, effective July 1, 1999, consistent with an agreement reached between the settlement parties regarding technical adjustments required in order to maintain parity between the current**

noise monitoring system and the new replacement noise monitoring system. In addition, the monitoring stations were renumbered to a more logical sequence in light of monitoring station changes to the noise monitoring system which occurred during the 1990s.

***January 2004 Amendments*. This section has been revised to consistently refer to monitoring stations as "*Noise Monitoring Stations*."**

***October 2015 Amendments.* On October 6, 2015, the *Orange County Board of Supervisors* approved amendments to the Energy Average Decibels, effective October 6, 2015, consistent with an agreement reached between the settlement parties regarding technical adjustments required to be made to the noise limits at *JWA,* as measured by the new replacement noise monitoring system, in order to maintain parity between the current noise monitoring system and the new replacement noise monitoring system.**

2.13 COMMERCIAL AIR CARRIER

Commercial Air Carrier or *Air Carrier* means any person other than a *Commuter Air Carrier* or *Commuter Cargo Carrier* who operates *Regularly Scheduled Air Service* into and out of *JWA* for the purpose of carrying passengers, freight, cargo, or for any other commercial purpose. For purposes of this PLAN, *Commercial Air Carrier* includes all *Commercial Cargo Carriers*.

2.14 COMMERCIAL CARGO

Commercial Cargo means any cargo, freight, packages, or other similar items carried to or from *JWA* by any *Air Carrier* or *Commuter Carrier*.

2.15 COMMERCIAL CARGO CARRIER

Commercial Cargo Carrier means any entity which is an *Air Carrier*, but which conducts its operations at *JWA* solely for the purpose of carrying *Commercial Cargo* with aircraft regularly configured with zero (0) *Passenger Seats* available to the general public, and which does not offer passenger service to the public in connection with its operations at *JWA*.

2.16 COMMERCIAL CARGO CARRIER GROUND OPERATIONS POSITIONS

Commercial Cargo Carrier Ground Operations Positions shall mean those aircraft parking positions and cargo load/unload areas as assigned by the *Airport Director*.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of EIR No. 552. This definition was added consistent with these amendments.**

2.17 COMMERCIAL PASSENGER

Commercial Passenger(s) means any person enplaning or deplaning any aircraft at *JWA* operated by any *Commercial Air Carrier* or *Commuter Air Carrier* for the purpose of traveling to or from *JWA*, regardless of the "revenue" or "non-revenue" status of any such person aboard the aircraft, or the amount or method of consideration paid by such person, if any, for the passenger's travel aboard the aircraft, except those persons exempted from this definition by the express terms of this section.

For purposes of this PLAN, the term *Commercial Passenger(s)* is intended to exclude **only** the following categories of persons:

(i) Assigned crew members of the aircraft;

(ii) Persons aboard the aircraft who are employees of the operator of the aircraft (but not employees of any other commercial airline, whether or not that operator is authorized to operate at *JWA*), and who are traveling aboard the aircraft as a result of, or in connection with, their employee status;

(iii) Employees of the Federal Aviation Administration who are aboard the aircraft in their employment capacity;

(iv) Any person aboard an aircraft which is engaged in a noise qualification test authorized under Section 10; and

(v) Any person aboard the aircraft whose scheduled flight on that aircraft is not beginning or terminating at *JWA*, and who, at the time of his arrival at *JWA*, holds a connecting ticket or boarding pass for a flight which is scheduled to depart *JWA* within three (3) hours.

The *County* recognizes that other definitions of "passenger" may sometimes be used in the air transportation industry, by individual airlines for their own record keeping purposes, or by federal regulatory agencies for purposes of enforcing or implementing their regulations. For purposes of the implementation and enforcement of this PLAN, and for purposes of any reporting requirements imposed by (or under the authority of) this PLAN, the definition of this section shall be controlling.

HISTORICAL NOTE

July 1999 Amendments. **Subparagraph (ii) was revised to replace the word "some" with the word "any" to make clear that this section applies to "any" other commercial airline, not just "some" other commercial airlines.**

2.18 COMMUTER AIR CARRIER

Commuter Air Carrier or *Commuter Carrier* means any entity which: (i) operates *Regularly Scheduled Air Service* into and out of *JWA* for the purpose of carrying passengers, freight, cargo, or for any other commercial purpose; (ii) with *Class E Aircraft* regularly configured with not more than seventy (70) passenger seats; and (iii) operating at gross takeoff weights of not more than ninety thousand (90,000) pounds. For purposes of this PLAN, *Commuter Air Carrier* includes all *Commuter Cargo Carriers*.

HISTORICAL NOTE

December 2002 Amendments**. The definition of a *Commuter Air Carrier* was revised to include *Class E Aircraft* regularly configured with not more than fifty (50) passenger seats.**

June 2003 Amendments**. The definition of *Commuter Air Carrier* was revised to include *Class E Aircraft* regularly configured with not more than seventy (70) passenger seats, instead of fifty (50) passenger seats, and operating at a gross takeoff weight of not more than ninety thousand (90,000) pounds, instead of sixty thousand (60,000) pounds, consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement.**

2.19 COMMUTER CARGO CARRIER

Commuter Cargo Carrier means any entity which is a *Commuter Air Carrier*, but which conducts its operations at *JWA* solely for the purpose of carrying *Commercial Cargo* with aircraft regularly configured with zero (0) *Passenger Seats* available to the general public, and which does not offer passenger service to the public in connection with its operations at *JWA*.

2.20 COUNTY

County means the County of Orange, California, acting by and through its *Board of Supervisors*, and persons designated by the *Board* to implement and enforce this PLAN.

2.21 CRITERION MONITORING STATIONS

Criterion Monitoring Stations means *JWA* noise monitoring stations NMS1S, NMS2S, and NMS3S. (See **APPENDIX I**.)

HISTORICAL NOTE

December 1990 Amendments. **The designations of the noise monitoring stations were changed by the December 1990 amendments for reasons discussed in the HISTORICAL NOTE to Section 2.12.**

June 2003 Amendments**. The map of the *Noise Monitoring Stations* is now found in APPENDIX I instead of in APPENDIX G.**

2.22 dB SENEL

dB SENEL or *SENEL* means decibels as measured and described by the Single Event Noise Exposure Level methodology, as that noise descriptor is defined in the CALIFORNIA NOISE STANDARDS (CALIFORNIA CODE OF REGULATIONS, tit. 21, §§5001, *et seq*.) on August 1, 1990.

2.23 GROUND SERVICE EQUIPMENT

Ground Service Equipment (GSE) shall mean any auxiliary power unit, mobile stairs, aircraft support equipment, machinery, spare parts, or other equipment used by any *Qualified Air Carrier* in support of its operations, or stored, at *JWA*.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This definition was added consistent with these amendments.**

2.24 GROUND SERVICE EQUIPMENT STORAGE AREAS

Ground Storage Equipment Storage Area(s) shall mean those areas at *JWA* which are designated from time to time by the *Airport Director* for joint or individual use by *Qualified Air Carriers*, *Qualified Commercial Cargo Carriers*, and *Qualified Commuter Carriers* to store *Ground Service Equipment* used by such *Qualified Carriers* to support their operations at *JWA*.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This definition was added consistent with these amendments.**

2.25 JWA

JWA means *John Wayne Airport*, Orange County (SNA).

2.26 MAP LIMITATION

MAP Limitation means: (i) the determination of the *Board of Supervisors* on June 25, 2002, certifying EIR 582 and approving the Settlement Amendment and the related determination of the *Board* on December 10, 2002, accepting Addendum EIR 582-1, and approving modifications to the Settlement Amendment, that *Regularly Scheduled Commercial Users* operating at *JWA* shall not serve more than 10.3 million annual passengers ("*MAP*") in any *Plan Year* beginning on January 1, 2003, through December 31, 2010, and 10.8 MAP, beginning on January 1, 2011, through December 31, 2015; and (ii) the determination of the *Board of Supervisors* on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment, that *Regularly Scheduled Commercial Users* operating at *JWA* shall not serve more than 10.8 *MAP* in any *Plan Year* through December 31, 2020, shall not serve more than 11.8 *MAP* in any *Plan Year* beginning on January 1, 2021, through December 31, 2025, and shall not serve more than 12.2 or 12.5 *MAP* in any *Plan Year*, beginning on January 1, 2026 through December 31, 2030.

The trigger for an automatic capacity increase to 12.5 *MAP* beginning on January 1, 2026 requires that all *Regularly Scheduled Commercial Users* operating at *JWA* be within five (5) percent of 11.8 *MAP* (*i.e.*, 11.21 MAP) in any one calendar year during the January 1, 2021 through December 31, 2025 timeframe. If the operational levels are not equal to or greater than 11.21 *MAP* during that timeframe, then the *MAP* limitation shall only increase to 12.2 *MAP* beginning on January 1, 2026.

For purposes of this section, definition, and limitation, "passengers" means "*Commercial Passengers*," as defined in Section 2.19.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reflect the modified *MAP* limitation at *JWA* from the original 8.4 *MAP* in any**

***Plan Year* to the new 10.3 *MAP* in any *Plan Year* beginning January 1, 2003, through December 31, 2010, and 10.8 *MAP* in any *Plan Year* beginning January 1, 2011, through December 31, 2015. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment, and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

***July 2015 Amendments.* This section has been amended to reflect the modified *MAP* limitations at *JWA* from 10.8 *MAP* to 11.8 *MAP,* beginning on January 1, 2021 through December 31, 2025, and from 11.8 *MAP* to 12.2 or 12.5 *MAP,* beginning on January 1, 2026 through December 31, 2030, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment.**

2.27 MAXIMUM PERMITTED GROSS TAKEOFF WEIGHT

Maximum Permitted Gross Takeoff Weight means, for:

AIRCRAFT MAIN LANDING GEAR TYPE	POUNDS GROSS WEIGHT
Dual Gear:	200,000 pounds
Dual Tandem Gear:	300,000 pounds

HISTORICAL NOTE

***December 1990 Amendments.* The December 1990 amendments deleted the reference in this section to "single gear" aircraft because *Airport* staff discovered that there are no such aircraft with gross weights in excess of the rated pavement strengths at the *Airport*, and the reference was therefore removed as unnecessary.**

***July 1999 Amendments.* The *Maximum Permitted Gross Takeoff Weight* for dual tandem gear was revised from two hundred thirty-four thousand (234,000) pounds to three hundred thousand (300,000) pounds to accurately reflect existing pavement strength at *JWA* as of July 1, 1999.**

***September 2010 Amendments*. The *Maximum Permitted Gross Takeoff Weight* for dual gear was revised from one hundred forty thousand (140,000) pounds to two hundred thousand (200,000) pounds to accurately reflect existing pavement strength at *JWA* as of September 2010.**

2.28 MAXIMUM PERMITTED GROUND OPERATIONS WEIGHT

Maximum Permitted Ground Operations Weight means those maximum gross weights for aircraft operating or parking on various segments of the runways, taxiways, aprons, and other paved airfield surfaces at *JWA*, as described, and with the various main landing gear types referred to, in **APPENDIX E (PAVEMENT DESIGN STRENGTH DIAGRAM)**.

2.29 NOISE COMPLIANCE PERIOD

Noise Compliance Period means each calendar quarter during the period of this PLAN.

2.30 NOISE MONITORING STATIONS

Noise Monitoring Stations means *JWA Noise Monitoring Stations* NMS1S, NMS2S, NMS3S, NMS5S, NMS4S, NMS6S, and NMS7S. (See **APPENDIX I**.)

HISTORICAL NOTE

December 1990 Amendments. **The designations of the *Noise Monitoring Stations* were changed by the December 1990 amendments for reasons discussed in the HISTORICAL NOTE to Section 2.12.**

June 2003 Amendments**. The map of the *Noise Monitoring Stations* is now provided in APPENDIX I instead of APPENDIX G.**

January 2004 Amendments. **This section has been revised to consistently refer to monitoring stations as "*Noise Monitoring Stations.*"**

2.31 PASSENGER CAPACITY

Passenger Capacity, *Passenger Capacity Allocation*, and *Commuter Passenger Capacity* mean an allocation to a *Qualified Commuter Carrier* of the legal approvals necessary to operate at *JWA* and to serve a specific maximum number of *Commercial Passengers* during a specific *Plan Year*, or a specified portion of a *Plan Year*.

2.32 PASSENGER SEAT

Passenger Seat(*s*) means any seat(s) aboard any aircraft other than a seat dedicated solely and exclusively to the use of the aircraft crew.

2.33 PERMITTED CARGO OPERATIONS HOURS

The *Permitted Cargo Operations Hours* are defined to mean:

(i) No aircraft arrivals (as measured at any *Noise Monitoring Station* for arrivals) at *JWA* prior to 1600 hours, local time, and except for specific instances where circumstances occur which are substantially beyond the control of the *Commercial Cargo Carrier*, and which prevent the *Carrier* from complying;

(ii) The aircraft will be ready for departure, and the pilot will have requested immediate clearance for takeoff from the FAA tower not later than 1930 hours, local time;

(iii) The actual departure (as measured at any *JWA Noise Monitoring Station*) will occur not later than 1945 hours, local time;

(iv) *GSE* staging on the ramp will not commence prior to 1545 hours, local time; and

(v) All *GSE* will be off the operating area of the ramp, and returned to its *GSE* storage area (or removed from the *Airport*) not later than 1945 hours, local time.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This definition was added consistent with these amendments.**

***December 2005 Amendments*.** **The December 2005 amendments made clarifying changes to this section of the PLAN to delete the phrase "wheels up" and to add the phrase "as measured at any *JWA Noise Monitoring Station*" in order to provide *JWA* staff a method to more accurately measure the departure time of the aircraft.**

July 2015 Amendments. **The July 2015 amendments made clarifying changes to section 2.33(i) to add the phrase "as measured at any *JWA Noise Monitoring Station* for arrivals" in order to accurately reflect the method used by *JWA* staff to measure the arrival time of the aircraft. There are no regulatory noise limits during daytime hours at 8N, 9N, or 10N; rather, these monitoring stations are used to measure the time of arriving flights at *JWA*.**

2.34 PERMITTED COMMERCIAL OPERATIONS HOURS

Permitted Commercial Operations Hours means: (i) for departures on Monday through Saturday, 0700 to 2200 hours, as measured at any *JWA Noise Monitoring Station*; (ii) for departures on Sundays,

0800 to 2200 hours, as measured at any *JWA Noise Monitoring Station*; (iii) for arrivals on Monday through Saturday, 0700 to 2300 hours, as measured at any *JWA Noise Monitoring Station*; and (iv) for arrivals on Sundays, 0800 to 2300 hours, as measured at any *JWA Noise Monitoring Station*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made clarifying changes to this section by adding the phrase "as measured at any *JWA Noise Monitoring Station*" in each of the section subparts. Some carriers had questioned whether the operation periods defined by this section were meant to be measured at the time of aircraft "push-back" from the gate, at the time of "wheels-up" during the departure procedure, or at some other time.**

Defining the time restrictions by reference to the time as measured at the *Noise Monitoring Stations* is consistent with the purposes of the restrictions defined in this section, and it is the most liberal possible interpretation for the aircraft operators, since either "push-back" or "wheels-up" will occur on every departure before the noise event is recorded at the *Noise Monitoring Stations*.

2.35 PLAN YEAR

For the period from 1990 to 2011, *Plan Year* means the period from April 1 of each year to March 31 of the following year, except that: (i) the first *Plan Year* of this PLAN shall be the period from October 1, 1990, to March 31, 1991; (ii) the *Plan Year* for the 2011 calendar year of this PLAN shall be the period from April 1, 2011, to December 31, 2011; and (iii) all references to allocations of operating privileges in this PLAN which are related to *Plan Year* allocations are to be understood to have been adjusted accordingly for the 1990-91 and 2011 *Plan Years*. For the period from January 1, 2012 through the remaining term of the PLAN (December 31, 2030), *Plan Year* means the period from January 1 to December 31 of each year.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section.**

June 2003 Amendments**. This section has been amended to revise the term of the PLAN from December 31, 2005, to December 31, 2015, for reasons discussed in the HISTORICAL NOTE for Section 1.1.**

September 2010 Amendments. **This section was revised to define *Plan Year* as the period from January 1 to December 31 of each year consistent with the *Orange County Board of Supervisors'* action on September 28, 2010, approving amendments to the ACCESS PLAN.**

These amendments are consistent with the 1985 Settlement Agreement and subsequent amendments which provide the following: "*Plan Year*" means each period during the Project Period, from April 1 of one year, to March 31 of the following year; except that the County shall have the discretion, beginning January 1, 2003, to redefine "*Plan Year*" as the calendar year (January 1 to December 31) or other equivalent time period.

July 2015 Amendments. **This section has been amended to revise the term of the PLAN from December 31, 2015, to December 31, 2030, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment.**

2.36 QUALIFIED AIR CARRIER

Qualified Air Carrier means any *Commercial Air Carrier* or *Commercial Cargo Carrier* authorized by express action of the *Board of Supervisors* to operate *Regularly Scheduled Air Service* at *JWA* under, and subject to, the terms of this PLAN, and who is not in default or in violation of any provision of this PLAN, or any of the operator's written agreements with the *County* which relate to operations at *JWA.*

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section.**

2.37 QUALIFIED COMMUTER CARRIER

Qualified Commuter Carrier means any *Commuter Air Carrier* or *Commuter Cargo Carrier* authorized by express action of the *Board of Supervisors* to operate *Regularly Scheduled Air Service* at *JWA* under, and subject to, the terms of this PLAN, and who is not in default or in violation of any provision of this PLAN, or any of the operator's written agreements with the *County* which relate to operations at *JWA.*

2.38 REGULAR ADDS

Regular ADDs means: (i) those *ADDs* identified and allocated pursuant to Sections 3.1.1 and 3.1.2; (ii) *ADDs* reallocated under Section 7; and (iii) any *ADDs* allocated by the *Board of Supervisors* under the provisions of Section 3.6.

2.39 REGULARLY SCHEDULED AIR SERVICE

Regularly Scheduled Air Service means all operations conducted by a *Regularly Scheduled Commercial User* at *JWA.*

2.40 REGULARLY SCHEDULED COMMERCIAL USER

Regularly Scheduled Commercial User means any person conducting aircraft operations at *JWA* for the purpose of carrying passengers, freight, or cargo where such operations: (i) are operated in support of, advertised, or otherwise made available to members of the public by any means for commercial air transportation purposes, and members of the public may travel or ship *Commercial Cargo* on the flights; (ii) the flights are scheduled to occur, or are represented as occurring (or available) at specified times and days; and (iii) the person conducts, or proposes to operate, departures at *JWA* at a frequency greater than two (2) times per week during any consecutive three (3) week period.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section by adding "transportation" to the fourth line of this section and adding the word "are" between "or" and "represented" in the fifth line of the section.**

2.41 REGULATED ADDS

Regulated ADDs means *Class A* and permanent *Class E ADDs*. Supplemental *Class A* or *Class E Authorized Departures* are also "*Regulated*" within the meaning of this section.

HISTORICAL NOTE

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA Aircraft* definition/distinction, and to add reference to permanent *Class E ADDs*. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment, and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

2.42 REGULATED ADD LIMITATION

Regulated ADD Limitation means: (i) the determination of the *Board of Supervisors* on June 25, 2002, certifying EIR 582 under the CALIFORNIA ENVIRONMENTAL QUALITY ACT (CAL. PUBLIC RESOURCES CODE §§21001, *et seq*.) and approving the Settlement Amendment and the related determination of the *Board* on December 10, 2002, accepting Addendum EIR 582-1, and approving modifications to the Settlement Amendment, that *Regularly Scheduled Commercial Users* operating at *JWA* as *Commercial Carriers* shall not operate a total of more than eighty-five (85) *Class A ADDs* and that *Regularly Scheduled Commercial* users operating at *JWA* as *Commercial Cargo Carriers* shall not

operate a total of more than four (4) *Class A ADD* cargo flights, for a total of eighty-nine (89) *Class A ADDs* in any *Plan Year* ("*Regular*," "supplemental," or otherwise); and (ii) the determination of the *Board of Supervisors* on September 30, 2014, certifying EIR 617, and approving modifications to the Settlement Amendment, that *Regularly Scheduled Commercial Users* operating at *JWA* as *Commercial Carriers* shall not operate a total of more than ninety-five (95) *Class A ADDs*, beginning on January 1, 2021, through December 31, 2030, for a total of ninety-nine (99) *Class A ADDs* in any *Plan Year* (*"Regular,"* "supplemental," or otherwise).

In addition to these *Regulated Class A ADDs*, the *Airport Director* may, in accordance with, and subject to, all other conditions, limitations or requirements of this PLAN applicable to *Commercial Air Carriers*, allocate a maximum of fourteen (14) permanent *Class E ADDs* consistent with the allocation provisions provided in Section 3.4 of this PLAN.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA Aircraft* definition/distinction, to revise the number of authorized passenger *Class A ADDs* from thirty-nine (39) *Class A ADDs* to eighty-five (85) *Class A ADDs*, to provide for up to four (4) authorized cargo *Class A ADDs*, and to provide for up to twelve (12) permanent *Class E ADDs*. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment, and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

***July 2015 Amendments.* This section has been amended to revise the number of authorized passenger *Class A ADDs* beginning on January 1, 2021, through December 31, 2030, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment and amended to revise the number of authorized permanent passenger *Class E ADDs* beginning on January 1, 2016, consistent with the *Orange County Board of Supervisors* actions on July 14, 2015.**

2.43 RON

RON means any aircraft operated by a *Qualified Air Carrier* or *Qualified Commuter Carrier* which "remains overnight" at *JWA*.

2.44 SCHEDULED DEPARTURE TIME

Scheduled Departure Time means the time at which a commercial aircraft is scheduled by its operator to depart from the passenger terminal gate. If the operator is a *Commuter Carrier* which has been authorized by the *Airport Director* to conduct operations from a fixed Based Operator under Section 8.1.7(b), *Scheduled Departure Time* means the time when the aircraft is scheduled to depart the Fixed Base Operator ("FBO") location for departure operations. In light of current passenger airline practices, it is presumed, for purposes of this PLAN, that the *Scheduled Departure Time* is the departure time published by the operator in the OFFICIAL AIRLINE GUIDE and computer reservations databases.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the second sentence of this section. This addition was necessary to correct an oversight in preexisting County policy. The "settlement agreement" between the *County* and the City of Newport Beach (and other relevant *County* documents and policies) require that, generally, all commercial passenger activity at *JWA* occur in and through the Thomas F. Riley terminal. The one exception to this limitation is that commercial operations by "commuter" airlines may occur at and through an FBO location. Although no "commuter" airlines were conducting FBO-based operations at the time of the amendments, this amendment covers such a contingency if FBO-based operations are authorized in the future.**

2.45 SEAT BLOCK

Seat Block means thirteen thousand (13,000) aircraft *Passenger Seats*.

2.46 SEAT CAPACITY

When used with respect to an aircraft, *Seat Capacity* means the actual number of *Passenger Seats* on an aircraft, regardless of whether any of the seats have been restricted or "blocked" in connection with operations at *JWA*. When used with respect to operational capacity allocations, *Seat Capacity* means *Allocated Seat Capacity*.

2.47 SUPPLEMENTAL ALLOCATION PERIOD

Supplemental Allocation Period means the periods from: (i) January 1 to March 31; (ii) April 1 to June 30; (iii) July 1 to September 30; and (iv) October 1 to December 31 of each *Plan Year*. By special action, the *Board of Supervisors* may declare additional or special *Supplemental Allocation Periods*.

□

SECTION 3

REGULAR ALLOCATIONS

In accordance with action approved by the *Board of Supervisors* on November 14, 1989, the *County* conducted a preliminary allocation of *Regular ADDs* and *Seat Capacity* for *Commercial Air Carriers* on November 20, 1989. This preliminary allocation was made subject to later ratification by the *Board*. By adoption and approval of this PLAN, the *Board of Supervisors* ratified that allocation.

In accordance with actions approved by the *Board of Supervisors* on June 25, 2002, and December 10, 2002, the *County* conducted a preliminary allocation of the new *Regular ADDs* and *Seat Capacity* for *Commercial Air Carriers*, authorized by *Board*-approved amendments to the 1985 Settlement Agreement, on May 28, 2003. By adoption and approval of amendments to the PLAN, the *Board of Supervisors* ratifies that allocation.

In accordance with actions approved by the *Board of Supervisors* on September 30, 2014, the *County* reallocated *Regular ADDs* and *Seat Capacity* and allocated new permanent *Class E ADDs* for *Commercial Air Carriers*, authorized by *Board* approved amendments to the 1985 Settlement Agreement, on July 14, 2015. By adoption and approval of amendments to the PLAN, the *Board of Supervisors* ratifies that reallocation, effective January 1, 2016.

The protocol under which the 1989 and 2003 allocations were conducted, and tabular summaries of the allocation and related lottery results, are reflected in various appendices to this PLAN:

APPENDIX A (1989 PHASE 2 ALLOCATION PROTOCOL AND REGULAR ADD ALLOCATION SUMMARY)	This appendix contains a copy of the 1989 allocation protocol and a summary of the results of the 1989 *Regular ADD* allocation process.
APPENDIX B (INCUMBENT AIR CARRIER REALLOCATION PRIORITY LIST)	This appendix prioritizes the incumbent *Qualified Air Carriers* for possible reallocations of *Class A ADDs*.
APPENDIX C (REGULAR ADD WITHDRAWAL ORDER)	This appendix reflects the results of the 2015 lottery process for determining the withdrawal priority of *Class A* and permanent *Class E ADDs* (*See*, Section 6.3.3).

APPENDIX D (SEAT BLOCK WITHDRAWAL ORDER)	This appendix reflects the results of the 2015 lottery process for determining the withdrawal priority of designated *Seat Blocks* of allocated *Seat Capacity* (*See*, Section 6.3.1).
APPENDIX E (PAVEMENT DESIGN STRENGTH DIAGRAM)	This appendix contains a diagram reflecting the pavement strengths at *John Wayne Airport*.
APPENDIX F (FORMS APPENDICES - FORMS F-1 THROUGH F-22)	This appendix contains the forms required by the PHASE 2 ACCESS PLAN.
APPENDIX G (2003 PHASE 2 ALLOCATION PROTOCOL)	This appendix contains a copy of the 2003 allocation protocol.
APPENDIX H (MAY 28, 2003, ALLOCATION PROCESS AND SUMMARY)	This appendix contains a copy of the allocation process followed on May 28, 2003, and a summary of the results of the May 28, 2003, *Regular ADD* allocation process.
APPENDIX I (NOISE MONITORING STATIONS)	This appendix contains a map reflecting the locations of the *John Wayne Airport Noise Monitoring Stations* (*NMS*).

Each of these appendices is an element of this PLAN.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to the last sentence of this section.**

June 2003 Amendments**. This section was revised to reflect actions by the *Orange County Board of Supervisors* on June 3, 2003, and June 24, 2003, approving implementing amendments to the ACCESS PLAN and authorizing the allocation of new capacity at the *Airport*.**

July 2015 Amendments. **This section has been amended consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment and on July 14, 2015, authorizing the reallocation of existing capacity and the allocation of additional permanent *Class E ADDs* at the *Airport*.**

3.1 "REGULAR" COMMERCIAL AIR CARRIER ADD ALLOCATIONS

3.1.1 CLASS A ADDS

Subject to all other provisions of this PLAN, and subject to all other *County* rules, regulations, and written agreements between the *County* and the *Air Carriers* listed below, the following *Air Carriers* are authorized to operate the specified number of *Class A ADDs* during the term as specified:

"REGULAR"
COMMERCIAL AIR CARRIER ADD ALLOCATIONS

AIR CARRIERS	CLASS A ADDS Through December 31, 2020
Alaska Air Group	10
American Airlines	13
Delta Air Lines	8
Frontier Airlines, Inc.	3
Southwest Airlines	11
United Airlines	17
US Airways	5
WestJet	1
Reserved for [New Entrant]	3
County Control	14
TOTAL REGULAR CLASS A ADDS	85

Subject to all other provisions of this PLAN, and subject to all other *County* rules, regulations, and written agreements between the *County* and the *Air Carriers* listed below, the following *Commercial Cargo Carriers* are authorized to operate the specified number of *Class A ADDs Authorized Departures* during the period from January 1, 2016 through December 31, 2020.

UPS	1
FedEx Express	1
*Reserved for [Other Cargo]	2

* The Settlement Agreement Amendment provides the *Passenger Commercial Carriers* with the opportunity to use up to two (2) of the *Class A ADD* cargo flights on a supplemental basis if there is no demand for these cargo flights by *Cargo Air Carriers.*

HISTORICAL NOTE

November 1994 Amendments. **In November 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was revised consistent with these amendments.**

April 1996 Amendments. **This table has been revised to reflect changes made in *Regular Class A* allocations subsequent to January 1, 1990, effective April 1, 1996, for the remainder of the term of this PLAN. This table does not reflect the two (2) *Class A ADD*s that have been allocated on the *Plan Year* basis only effective April 1, 1997, through March 31, 2000.**

***June 2003 Amendments*. This table has been revised to reflect changes made in *Regular Class A* allocations subsequent to April 1, 1996, effective July 1, 2003, for the period specified. This table reflects the two (2) *Class A ADDs* that have been redistributed based upon two (2) *Air Carriers* trading out one (1) *Class A ADD* for two (2) permanent *Class E ADDs*. These two (2) *Class A ADDs* have been redistributed to Southwest Airlines and Northwest Airlines, one (1) each, effective July 1, 2003, through December 31, 2005. In addition, former Section 3.1.2 was deleted consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement, including defining all regulated passenger flights as *Class A* flights and eliminating the *Class AA Aircraft* definition/distinction.**

November 2008 Amendments. **This table has been revised to reflect changes made in *Regular Class A ADD* allocations subsequent to December 31, 2005, effective April 1, 2009, for the term as specified.**

July 2015 Amendments. **This table has been revised to reflect the number of authorized *Class A ADDs* beginning on January 1, 2016, through December 31, 2020, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment and on July 14, 2015 authorizing the reallocation of existing capacity at *JWA*.**

3.1.2 CLASS E ADDS AND PERMANENT REGULAR CLASS E ADDS

Except as provided below, except for possible allocations to *Commuter Cargo Carriers* or *Commercial Cargo Carriers* under Section 3.6, and except for the possible future exercise of *County* discretion to the contrary (*e.g.*, Section 7.3.3(c)), there is no allocations of "*Regular*" *Class E ADDs*

under this PLAN. The ability of any *Commercial Air Carrier* to operate *Authorized Departures* with *Class E Aircraft* in *Regularly Scheduled Air Service* at *JWA* is defined by the terms of Section 3.4 and Section 4.

Subject to all other provisions of this PLAN, and subject to all other *County* rules, regulations, and written agreements between the *County* and the *Air Carriers* listed below, the following *Air Carriers* are authorized to operate the specified number of permanent *Class E ADDs* during the term of this PLAN.

REGULAR PERMANENT
CLASS E ADDs ALLOCATIONS

AIR CARRIERS	CLASS E ADDS through Dec. 31, 2020
Southwest Airlines	12
County	2
TOTAL REGULAR PERMANENT CLASS E ADDS	14

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reflect a decision by the *Orange County Board of Supervisors* to allocate a limited number of *Regular Class E ADDs* on a permanent basis through the term of this PLAN.**

***November 2008 Amendments.* This table has been revised to reflect changes made in *Regular Permanent Class E ADD* allocations subsequent to December 31, 2005.**

***July 2015 Amendments.* This table has been revised to reflect the number of permanent *Class E ADDs* allocated to the *Air Carriers* beginning on January 1, 2016, through December 31, 2020, consistent with the *Orange County Board of Supervisors* actions on September 30, 2014, certifying EIR 617 and approving the Settlement Amendment and on July 14, 2015, authorizing the reallocation of capacity at *JWA*, including the reallocation of permanent *Class E ADDs,* and the allocation of two (2) additional permanent Class *E ADDs*.**

3.1.3 VOLUNTARY REDUCTION OF ADD ALLOCATION

By an executed **VOLUNTARY REDUCTION OF *ADD* ALLOCATION FORM (AIR CARRIER) (APPENDIX F-5)** delivered to the *Airport Director*, a *Qualified Air Carrier* may voluntarily and temporarily reduce its allocation of *Regular ADDs* of any class, or some prorata portion of its *Regular ADDs*, for reallocation by the *County* (at the *County's* sole and exclusive discretion) under the provisions of Section 4 or Section 7. For purposes of determining compliance with the minimum use requirements of Section 8.3.6, the **VOLUNTARY REDUCTION OF *ADD* ALLOCATION FORM (AIR CARRIER)** must: (i) be given for a calendar quarter other than the last quarter of any *Plan Year*; (ii) be delivered to the *Airport Director* not later than forty-five (45) days prior to the date for which the reduction in operations is to be effective; (iii) specify the number and class of *Regular ADDs* (or portions of *ADDs*) being returned for reallocation; and (iv) specify the exact period of time for which the *Air Carrier* will not be utilizing the *Regular ADDs*.

For purposes of determining compliance with the requirements of Section 8.3.6, the maximum cumulative period of time for which a notice permitted by this section may be given during the term of this PLAN is twenty-four (24) months.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the word "determining" on the first line of the last paragraph of this section.**

July 2015 Amendments. **The July 2015 amendments deleted the word "temporary" and modified when the Voluntary Reduction of ADD Allocation Form must be delivered to the *Airport Director*. Specifically, the Form must be delivered not later than forty-five (45) days prior to the date for which the reduction in operations is to be effective. This section previously required the Form to be delivered not later than forty-five (45) days prior to the first day of the calendar quarter for which the reduction in operations is to be effective.**

3.1.4 AIR CARRIER ADD SET ASIDE FOR COMMERCIAL OPERATIONS TO INTERNATIONAL DESTINATIONS

During the term of the PLAN, the *Airport Director* shall reserve a capacity of three (3) *Regular Class A ADDs* of the total *Regular ADD* capacity for priority distribution to *Qualified Commercial Carriers* providing non-stop service to international destinations ("*International Capacity*"). To the extent that an *International Capacity* of less than three (3) *ADDs* is allocated to *Qualified Commercial Carriers* during any *Plan Year*, or if, for any period of time, previously allocated *International Capacity* is returned to the *County*, the *Airport Director* may consider the

unused capacity for purposes of formulating any recommendations he may make for supplemental allocations under Section 4.

HISTORICAL NOTE

November 2011 Amendments. **This section was added to the ACCESS PLAN to reflect a decision by the *Orange County Board of Supervisors* on November 8, 2011 to encourage and promote non-stop service from *JWA* to international destinations.**

3.2 USE OF ALLOCATED ADDS

All *ADDs* and *Authorized Departures* of any class, including *Class E* operations conducted under the authority of Section 3.4 or Section 4, may be used (subject to all other relevant provisions of this PLAN, and all other *County* ordinances, rules, regulations, and policies) at the discretion of the *Qualified Air Carrier*; except that unused *Authorized Departures*, or unused portions of *ADDs*, allocated for use during one (1) *Plan Year*, may not be carried forward for use in any later *Plan Year(s)*.

3.3 AIR CARRIER SEAT CAPACITY ALLOCATIONS

The *County* separately allocates *Seat Capacity* to the *Qualified Air Carriers* serving *JWA* in order to serve two regulatory purposes of the *County*: (i) to provide the maximum feasible flexibility to the *Qualified Air Carriers* in selecting the mix of aircraft types used by them in their service at *JWA*; and (ii) to provide a pre-determined and fair mechanism by which *Air Carrier* capacity reductions can be effected if the *County* determines that reductions are necessary to ensure adherence to the *MAP Limitation*.

3.3.1 ANNUAL SEAT CAPACITY ALLOCATIONS

Subject to Section 3.3.2, all other relevant provisions of this PLAN, and subject to all other *County* rules, regulations, and written agreements between the *County* and the *Air Carriers* listed below, the *Allocated Seat Capacity* for each *Qualified Air Carrier* for each *Plan Year* is the number of *Passenger Seats* set forth below:

ANNUAL AIR CARRIER
SEAT CAPACITY ALLOCATIONS

AIR CARRIERS	ALLOCATED PASSENGER SEATS* through December 31, 2020
Alaska Air Group	1,387,000
American Airlines	1,803,100
Delta Air Lines	1,109,600
Frontier Airlines	416,100
Southwest Airlines	3,190,100
United Airlines	2,357,900
US Airways	693,500
WestJet	138,700
Reserved for [New Entrant]	416,100
Seats associated with *ADD*s not allocated	2,219,200
TOTAL ALLOCATED SEAT CAPACITY	13,731,300

* 190 Presumed Seats x 365 Days x 2 (Arrival and Departure) x Number of ADDs.

HISTORICAL NOTE

July 1999 Amendments. **This table was revised consistent with the allocations for the 1999-00 *Plan Year* (April 1, 1999, through March 31, 2000).**

June 2003 Amendments**. This table has been revised to reflect changes made in *Air Carrier Seat Capacity* allocations subsequent to January 1, 1990, effective July 1, 2003, for the term as specified.**

November 2008 Amendments. **This table has been revised to reflect changes made in *Air Carrier Seat Capacity* allocations subsequent to December 31, 2005, effective April 1, 2009, for the term as specified.**

July 2015 Amendments. **This table has been revised to reflect changes made in *Air Carrier Seat Capacity* allocations effective January 1, 2016, through December 31, 2020 as well as to modify the presumptive seat capacity from 195 seats per departure to 190 seats per departure for *Regular ADDs*. This modification reflects the seat capacity necessary to accommodate the projected fleet mix at *JWA*.**

3.3.2 REQUIREMENT OF ANNUAL SEAT CAPACITY RATIFICATION

Although each *Air Carrier* receiving a *Seat Capacity* allocation under Section 3.3.1 is presumed to have permission to use that *Allocated Seat Capacity* during each *Plan Year*, the policies, goals, and regulatory objectives of the *County* in its management and operation of *JWA* require that the *County* take reasonable steps to encourage the maximum passenger service level at *JWA* during any *Plan Year*, within the *MAP Limitation*. It is not in the interests of the *County* or the air traveling public if *Qualified Air Carriers* leave significant percentages of their Section 3.3.1 *Seat Capacity* unused during any *Plan Year*. In addition, the *County* has not made the tentative *Seat Capacity* allocations for the purpose of facilitating or encouraging anti-competitive conduct where *Qualified Air Carriers* might deny their competitors access to operations capacity which they do not intend to use themselves. Therefore, the allocations of Section 3.3.1 are, in each *Plan Year*, tentative only, and subject to full compliance with this section by all *Qualified Air Carriers*.

(a) Not later than one hundred fifty (150) days prior to the beginning of each *Plan Year*, each *Qualified Air Carrier* shall file with the *Airport Director* an executed **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER) (APPENDIX F-4)** which describes the *Air Carrier's* actual anticipated *Seat Capacity* usage for the *Plan Year*, including any Section 3.3.1 *Seat Capacity*, and any supplemental *Seat Capacity* allocations which the carrier anticipates requesting during the *Plan Year*.

(b) The *Airport Director* shall review all timely **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORMS (AIR CARRIER)** received by him and shall, as soon as practicable, but before the commencement of the *Plan Year* for which the requests have been submitted, give notice to each *Qualified Air Carrier* submitting a request of its actual *Plan Year Seat Capacity* allocation, including any supplemental *Seat Capacity* allocations to individual carriers which, at the time the *Airport Director* gives his notice, have been authorized for allocation by the *Board of Supervisors*.

(c) Each *Qualified Air Carrier* is presumed to be allocated an amount of *Seat Capacity* for each *Plan Year* equal to the amount of *Seat Capacity* specified for the carrier in Section 3.3.1. If: (i) a *Qualified Air Carrier's* **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER)** requests an allocation of *Seat Capacity* equal to or less than that *Carrier's* tentative Section 3.3.1 allocation; and if (ii) the level and type of projected *Plan Year* operations reflected on the **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER)** appears reasonably consistent with the *Qualified Air Carrier's* fleet mix and historical operations pattern, the *Airport Director* shall approve the *Seat Capacity* request, up to the amount of the *Qualified Air Carrier's* designated Section 3.3.1 *Seat Capacity*. If the *Airport Director* determines that the requested *Seat Capacity* is significantly in excess of what the requesting *Air*

Carrier can reasonably be expected to use during the *Plan Year*, he shall allocate to the *Air Carrier* the amount of *Seat Capacity* which the carrier reasonably can be expected to require in support of its intended *Plan Year* operations at *JWA*.

(d) If the *Airport Director* determines, after a review of the **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORMS (AIR CARRIER)**, that the request of any *Qualified Air Carrier* is in excess of what it reasonably may be expected to use during the *Plan Year* (but including, and taking into consideration, requests made under Section 3.4.2), he shall give notice of his preliminary decision to the requesting *Air Carrier* within twenty (20) days after his receipt of that *Air Carrier's* **ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER)** (and prior to making the allocation under paragraph (c)), or as soon thereafter as practicable. The *Airport Director's* notice shall state the basis for his conclusions. The requesting *Air Carrier* may respond in writing to the *Airport Director* within ten (10) days after the effective date of the *Airport Director's* notice (*see*, Section 11.2.3), providing whatever additional information or arguments to the *Airport Director* which the carrier believes further explains the basis and reasonableness of its request.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments deleted the word "have" between "which" and "at" in subsection (b) of this section.**

July 2015 Amendments. **The July 2015 amendments modified the time period (from not later than seventy-five (75) days to not later than one hundred fifty (150) days prior to the beginning of each *Plan Year)* within which each *Qualified Air Carrier* must file with the *Airport Director* an executed Annual Seat Capacity Allocation Request Form (Air Carrier) (Appendix F-4) in order to better accommodate the *Plan Year* allocation process.**

3.3.3 UTILIZATION OF SEAT CAPACITY ALLOCATIONS

Except for supplemental *Seat Capacity* allocated under Section 4.2.4 or 4.3, no *Qualified Air Carrier* may conduct operations at *JWA* during any *Plan Year* with aircraft with *Seat Capacities* which, cumulatively, exceed the actual annual *Seat Capacity* allocation made to the *Air Carrier* under Section 3.3.2(c). The *Qualified Air Carrier's* operations may consist of the number of *Class A* and permanent *Class E Departures* which does not exceed the allocations made to the *Air Carrier* under Section 3.1, and any additional *Class E Departures* available to the *Air Carrier* under Section 3.4. Any *Qualified Air Carrier* who intends to operate *Class E Aircraft* at *JWA* shall comply fully with the reporting obligations of Section 3.4 before initiating any *Class E* operations.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reflect the *Orange County Board of Supervisors'* approved amendments to the 1985 Settlement Agreement, which include defining all regulated passenger flights as *Class A ADDs*, eliminating the *Class AA/Class A ADD* definition/distinction, and allocating a limited number of *Regular Class E ADDs* on a permanent basis through the term of this PLAN.**

3.3.4 NO SEAT CAPACITY CARRYFORWARDS

Allocated Seat Capacity may be used only in the *Plan Year* for which it was allocated; and all *Plan Year Allocated Seat Capacity* expires completely, and without further action of the *County*, at the close of business on the last day of the *Plan Year*. Any *Allocated Seat Capacity* unused during any *Plan Year* may not be carried forward for use in any succeeding *Plan Year*.

3.3.5 VOLUNTARY REDUCTION OF SEAT CAPACITY ALLOCATION

A *Qualified Air Carrier* may voluntarily and temporarily reduce its Section 3.3.2 allocation of *Seat Capacity* for any *Plan Year* for reallocation by the *County* (at the *County's* sole and exclusive discretion) under the provisions of Section 4 or Section 7 by submitting to the *Airport Director* an executed **VOLUNTARY REDUCTION OF SEAT CAPACITY ALLOCATION FORM (AIR CARRIER) (APPENDIX F-6)**. For purposes of determining compliance with the minimum use requirements of Section 8.3.6, the **VOLUNTARY REDUCTION OF SEAT CAPACITY ALLOCATION FORM (AIR CARRIER)** must: (i) be given for a calendar quarter other than the last quarter of any *Plan Year*; (ii) be delivered to the *Airport Director* not later than forty-five (45) days prior to the date for which the reduction in *Seat Capacity* is to be effective; (iii) specify the precise number of *Passenger Seats* being "returned" for possible reallocation; and (iv) specify the exact period of time for which the *Air Carrier* will not be using the *Seat Capacity*.

For purposes of compliance with the requirements of Section 8.3.6, a notice may not be given under this section for more than two (2) consecutive *Plan Years*.

HISTORICAL NOTE

***December 1990 Amendments.* The December 1990 amendments deleted a limitation on the total period of time during the 15-year term of the PLAN for which a notice may be given under this section to thirty-six (36) months, and substituted the phrase in the last sentence of this section, "a notice may not be given under this section for more than two (2) consecutive *Plan Years*." This liberalized the limitation, but ensured that the section would not be**

used for anti-competitive or other purposes inconsistent with the operational goals and policies of the *County*.

***June 2003 Amendments*. Subsection (i) has been revised to replace the term "given" with the term "effective" in order to accurately reflect the intended meaning of this section.**

***July 2015 Amendments.* The July 2015 amendments made this Section consistent with the Section 3.1.3 Voluntary Reduction of *ADD* allocation requirements for purposes of determining compliance with the minimum use requirements of Section 8.3.6.**

3.3.6 ALLOCATIONS OF ADDS AND SEAT CAPACITY TO NEW ENTRANT AIRLINES IN SUPPORT OF THE FORMATION OF ASSOCIATED OPERATING GROUPS

(a) Any *Qualified Air Carrier*, or an *Associated Operating Group* of *Qualified Air Carriers* ("incumbent operator(s)") which wishes to conduct business at *JWA* in association with an *Air Carrier* which is not then a *Qualified Air Carrier* ("proposed new entrant"), may submit a written request to the *Airport Director* requesting that the *County* accept a return from the requesting incumbent operator(s), and reallocate to the proposed new entrant, a *Regular ADD* and associated *Seat Capacity* allocation from incumbent operator(s) *Regular ADD* (and associated Section 3.3.2 *Seat Capacity*) allocation. Upon receipt of such a request, the *Airport Director* shall promptly make a recommendation to the *Board of Supervisors* regarding the requested reallocation.

(b) No proposed new entrant *Air Carrier* may receive a reallocation of *Regular ADDs* under the authority of this section unless and until it meets the requirements of Sections 1.6 and 8.1 of this PLAN, and has otherwise completed all other established *County* requirements necessary for the carrier to become a *Qualified Air Carrier* at *JWA*.

(c) The provisions of this section are an accommodation by the *County* in its administration of the PHASE 2 ACCESS PLAN intended to facilitate, where fair and reasonable, the operating flexibility of *Qualified Air Carriers* serving *JWA*. Nothing in this section shall be construed or interpreted in any manner inconsistent with Section 1.5 of this PLAN, or in any manner which is inconsistent with comparable covenants of any person in any written agreement with the *County*.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments included a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*.**

3.4 CLASS E DEPARTURES

3.4.1 PERMANENT CLASS E OPERATIONS BY AIR CARRIERS

In addition to *Class A ADDs* allocated under Section 3.1.1, any *Qualified Air Carrier* may request authority from the *Airport Director* to operate permanent *Class E ADDs* with aircraft which have been qualified, and which operate as *Class E Aircraft*, subject to the following conditions and limitations:

(a) The *Air Carrier* may use only aircraft which have been certified by the *Airport Director* as *Class E Aircraft* under Section 10;

(b) The *Air Carrier* must be in full compliance with all reporting requirements of this PLAN, including (but not limited to) the reporting requirements of Section 3.4.2, Section 8.2.4, and Section 10.3.3;

(c) Any *Air Carrier* requesting an allocation of permanent *Class E ADDs* must trade-out one (1) *Regular Class A ADD* for an allocation of two (2) permanent *Class E ADDs*;

(d) There are up to fourteen (14) permanent *Class E ADDs* that may be allocated by the *Airport Director*, at his discretion, in accordance with, and subject to, all other conditions, limitations, or requirements of this PLAN. Once fourteen (14) permanent *Class E ADDs* have been allocated, the *County* will maintain a waiting list for *Air Carriers* wishing to exercise any trade-out opportunities available for permanent *Class E ADDs*. The waiting list shall be maintained in the order in which the *Air Carriers* gave written notice to the *Airport Director* of their desire to obtain permanent *Class E ADDs*; and

(e) In the event any *Class A ADD* is traded in for two (2) permanent *Class E ADDs*, the *County* reserves the right, in its sole and exclusive discretion: (i) to retain the *Regular Class A ADD* capacity under direct *County* control for any reason; (ii) to reallocate the *Regular Class A ADD* capacity, based upon the then-existing reallocation priority list, as reflected in **APPENDIX B** of the ACCESS PLAN; (iii) to

authorize negotiations for the entry of a new entrant *Air Carrier* into service at *JWA*; or (iv) to implement any combination of those actions.

If a "new entrant" carrier is authorized to commence *Regularly Scheduled Air Service* at *JWA* at any time, its operational capacity allocation shall be subject to the priorities and limitations as specified in Section 7.3.2 of the ACCESS PLAN.

HISTORICAL NOTES

***June 2003 Amendments*. This section was added to provide the allocation procedures for permanent *Class E ADDs,* consistent with the *Orange County Board of Supervisors'* decision to allocate a limited number of *Class E ADDs* on a permanent basis.**

***July 2015 Amendments.* This section was revised to increase the number of permanent Class *E ADDs* that can be allocated from twelve (12) to fourteen (14) consistent with the *Orange County Board of Supervisors'* decision to allocate an additional two (2) *Class E ADDs* on a permanent basis.**

3.4.2 CLASS E OPERATIONS BY AIR CARRIERS

In addition to the *Class A* and permanent *Class E ADDs* allocated under Section 3.1.1, Section 3.1.2, and Section 3.4.1, any *Qualified Air Carrier* may request authority from the *Airport Director* to conduct *Authorized Departures* with aircraft which have been qualified, and which operate as, *Class E Aircraft*, subject to the following conditions and limitations:

(a) The *Air Carrier* may use only aircraft which have been certified by the *Airport Director* as *Class E Aircraft* under Section 10;

(b) The *Air Carrier* must be in full compliance with all reporting requirements of this PLAN, including (but not limited to) the reporting requirements of Section 3.4.2, Section 8.2.4, and Section 10.3.3; and

(c) All operations conducted by the *Air Carrier* at *JWA* during any *Plan Year*, including its *Class A*, permanent *Class E*, and other *Class E* operations, may not exceed (and the *Air Carrier's JWA* operations plan (as reflected in the *Carrier's* **CARRIER OPERATIONS PROJECTION FORM (APPENDIX F-1)**) may not create a significant risk of exceeding) the sum of: (i) its total annual *Allocated Seat Capacity*; and (ii) any supplemental *Seat Capacity* expressly allocated to it for use during that *Plan Year*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reflect a decision by the *Orange County Board of Supervisors* to define all regulated passenger flights as *Class A ADDs*, thereby, eliminating the *Class AA/Class A ADD* definition/distinction, and providing the *Airport Director* with the ability to allocate a limited number of *Regular Class E ADDs* on a permanent basis through the term of the ACCESS PLAN.**

3.4.3 REQUEST FOR CLASS E OPERATIONS APPROVAL

No *Air Carrier* may conduct *Class E Departures* at *JWA*, other than permanent *Class E Departures*, unless it has first submitted to the *Airport Director* a **CLASS E OPERATIONS REQUEST FORM (AIR CARRIER) (APPENDIX F-3)** and the *Airport Director* has given his written approval of those operations. The request must be delivered to the *Airport Director* not less than thirty (30) days prior to the day on which the *Air Carrier* intends to commence *Class E Departures*. The *Airport Director* may impose such conditions or limitations in granting any *Class E Departure* request which he believes necessary to insure compliance with the terms, provisions, and limitations of this PLAN.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reflect a decision by the *Orange County Board of Supervisors* to eliminate the *Airport Director's* inability to approve any request for *Class E Departures* for a period greater than one (1) *Plan Year*, and to provide the *Airport Director* with the ability to allocate a limited number of *Regular Class E ADDs* on a permanent basis through the term of the ACCESS PLAN.**

3.4.4 REQUEST FOR COMMUTER AFFILIATE CLASS E OPERATIONS

Any *Qualified Air Carrier* may make a request under Section 3.4.3 on behalf of a *Qualified Commuter Carrier* which is an *Affiliate* of the requesting *Air Carrier* to conduct *Class E* operations at *JWA* with *Class E Aircraft* regularly configured with more than seventy (70) *Passenger Seats*, or operating at *Maximum Permitted Gross Takeoff Weights* greater than ninety thousand (90,000) pounds, within the limitations of the *Seat Capacity* allocated to the *Air Carrier* under Section 3.3.3. The *Airport Director* may grant the request subject to the following conditions and limitations:

(a) The provisions and limitations of Section 3.4.2 and Section 3.4.3 are applicable to the request, except that the requesting *Air Carrier* need not have qualified a *Class E Aircraft* if the *Commuter Carrier Affiliate* has qualified a *Class E Aircraft* with more than seventy (70) *Passenger Seats* or operating at *Maximum*

Permitted Gross Takeoff Weights greater than ninety thousand (90,000) pounds, under Section 10 prior to the time the request is submitted;

(b) The requesting *Air Carrier* shall remain responsible for, and insure, that the *Commuter Carrier Affiliate* remains in full compliance with this PLAN, and all conditions and limitations which the *County* may impose on *Commuter Carrier Affiliate's Class E Departures*. A violation of this PLAN with respect to any such operations, or a violation of any conditions imposed by the *Airport Director* in approving *Class E Departures* by the *Commuter Carrier Affiliate*, shall also be deemed to be a violation by the requesting *Air Carrier*; and

(c) The passengers carried by the *Commuter Carrier Affiliate* in *Class E Aircraft* operating under the authority of this section shall not be a charge against the *Passenger Capacity* allocation made to the *Commuter Carrier* under Section 3.5, but the *Passenger Seats* on the aircraft used in the operations shall be a charge against the *Allocated Seat Capacity* (Section 3.3.3(c)) of the requesting *Air Carrier*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to subsections (a) and (c) of this section.**

July 1999 Amendments. **In connection with the July 1999 revisions, the term "and" was replaced with the term "or" in order to accurately reflect the intended meaning of this section.**

June 2003 Amendments. **The definition of *Commuter Air Carrier* was revised to include *Class E Aircraft* regularly configured with not more than seventy (70) passenger seats, instead of fifty (50) passenger seats, and operating at a gross takeoff weight of not more than ninety thousand (90,000) pounds, instead of sixty thousand (60,000) pounds, consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement.**

3.5 COMMUTER CARRIER PASSENGER CAPACITY ALLOCATIONS

There is no pre-allocated operational capacity for *Qualified Commuter Carriers* under this PLAN. It has been the experience of the *County* that *Commuter Air Carrier* operations at *JWA* frequently involve operation patterns, requirements, schedules, and equipment substantially different from *Air Carriers*, and that the needs of the commuter operators, and the regulatory objectives of the *County*, are best served if the *County's* regulations for *JWA*, at least in certain respects, recognize these differences and accommodate them to the extent reasonably possible. It has also been the experience of the *County*

in the operation of *JWA* that continued, long-term operations by commuter operators are often more uncertain than continued, long-term operations by *Air Carriers*.

In order to best respond to the needs and uncertainties of commuter operations at *JWA* under this PLAN, *Qualified Commuter Carriers* receive specific *Passenger Capacity Allocations* as the basis for their operations at *JWA*. Such allocations are made each year, and are effective only for the *Plan Year* for which the allocations were made. No *Passenger Capacity Allocations* to *Commuter Air Carriers* may be carried forward beyond the *Plan Year* for which the allocations were made.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section.**

3.5.1 PASSENGER CAPACITY SET ASIDE FOR COMMUTER AIRLINES

In each *Plan Year* the *Airport Director* shall reserve a capacity of four hundred thousand (400,000) annual passengers of the total *MAP Limitation* for priority distribution to *Qualified Commuter Carriers* ("*Commuter Passenger Capacity*"). To the extent that a *Commuter Passenger Capacity* of less than four hundred thousand (400,000) annual passengers is allocated to *Qualified Commuter Carriers* during any *Plan Year*, or if, for any period of time, previously allocated *Commuter Passenger Capacity* is returned to the *County*, the *Airport Director* may consider the unused capacity for purposes of formulating any recommendations he may make for supplemental allocations under Section 4.

HISTORICAL NOTE

***June 2003 Amendments*.** **This section was revised to reflect a decision by the *Orange County Board of Supervisors* to modify the passenger capacity set aside for commuter airlines from four hundred thousand (400,000) to five hundred thousand (500,000) in order to accommodate the potential impact of the modifications to the definition of a *Commuter Air Carrier* and to anticipate the further evolution of commuter airline operations patterns and code-sharing arrangements.**

July 2015 Amendments. **This section was revised to modify the passenger set aside for *Commuter Air Carriers* from five hundred thousand (500,000) to four hundred thousand (400,000) in order to reflect the continuing evolution of *Commuter Air Carrier* operations patterns and code-sharing arrangements.**

3.5.2 COMMUTER PASSENGER CAPACITY ALLOCATION PROCEDURES

All *Passenger Capacity Allocations* shall be made only under the following procedures:

(a) Not later than one hundred fifty (150) days prior to the beginning of each *Plan Year*, each *Qualified Commuter Carrier* shall submit an executed **PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER) (APPENDIX F-7) ("PCAR")** to the *Airport Director*. The requesting *Commuter Carrier* shall provide sufficient operational information to allow the *Airport Director* to make an evaluation of the reasonableness of each *Commuter Carrier's* request for a *Passenger Capacity Allocation*.

(b) Any *Commuter Carrier* which, prior to the date specified in paragraph (a) of this section, has been placed on the commuter waiting list in accordance with the procedures of Section 3.7.2, may also submit a request for a *Passenger Capacity Allocation* under this section. If such a request is made, the *Airport Director* shall promptly notify the *Board of Supervisors*, and make his recommendation to the *Board* on whether it is feasible to permit operations by any waiting list *Commuter Carriers* in the *Plan Year* for which the request is made. No *Passenger Capacity Allocation* shall be made to any requesting waiting list *Commuter Carrier* unless the *Board of Supervisors* has first authorized the *Airport Director* to commence the processes necessary for such a *Commuter Carrier* to become a *Qualified Commuter Carrier*.

(c) If the *Airport Director* determines, after a review of the **PCAR**, that any requesting *Commuter Air Carrier's* request is in excess of what it reasonably may be expected to use during the *Plan Year*, he shall so notify the requesting carrier within twenty (20) days after his receipt of the **PCAR**, or as soon thereafter as practicable, stating the basis for his conclusions. The requesting *Commuter Air Carrier* may respond in writing to the *Airport Director* within ten (10) days after the *Airport Director's* notice, providing such additional information or arguments to the *Airport Director* as the carrier may believe further explains the basis and reasonableness of its request.

(d) Sixty (60) days prior to the beginning of each *Plan Year*, or as soon thereafter as practicable, the *Airport Director* shall make a *Passenger Capacity Allocation* to each *Qualified Commuter Carrier*. The *Airport Director's* decision regarding the amount of each such allocation shall be final, and he may impose conditions on the allocation(s) as he deems necessary or desirable to implement the goals and policies of this PLAN, and all *County* rules, regulations, and publicly stated policies of the *Board* of *Supervisors* regarding the use and regulation of *JWA*. These conditions may include, but are not limited to, making an initial allocation

to one or more *Commuter Air Carriers* which is, in whole or in part, for a period less than one (1) *Plan Year*.

HISTORICAL NOTE:

July 2015 Amendments. **The July 2015 amendments modified the time period (from not later than one hundred twenty (120) days to not later than one hundred fifty (150) days prior to the beginning of each *Plan Year)* within which each *Qualified Commuter Carrier* must file with the *Airport Director* an executed Passenger Capacity Allocation Request Form (Commuter Carrier) (Appendix F-7) in order to better accommodate the *Plan Year* allocation process.**

3.5.3 COMMUTER CARRIER ALLOCATION PRIORITIES

Subject to the full discretion of the *County* and the *Airport Director* under this PLAN, *Passenger Capacity Allocations* will normally be made as follows:

(a) If, for any *Plan Year*, the total *Passenger Capacity Allocation* requests from all *Qualified Commuter Carriers* do not exceed four hundred thousand (400,000) annual passengers, then, subject to the discretion of the *Airport Director* under Section 3.5.2, each *Qualified Commuter Carrier* shall receive its requested allocation.

(b) If, for any *Plan Year*, the total *Passenger Capacity Allocation* requests exceed four hundred thousand (400,000) annual passengers, then, subject to the discretion of the *Airport Director* under Section 3.5.2, those *Qualified Commuter Carriers* requesting less than their prorata share of the *Commuter Passenger Capacity* shall receive their requested allocations, and the remaining *Commuter Passenger Capacity* shall be divided equally among the other requesting *Qualified Commuter Carriers*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to subsection (a) of this section and added the word "requesting" before "*Qualified Commuter Carriers*" in the last sentence of subsection (b) of this section.**

June 2003 Amendments**. This section was revised to reflect a decision by the *Orange County Board of Supervisors* to modify the passenger capacity set aside for commuter airlines from four hundred thousand (400,000) to five hundred thousand (500,000) in order to accommodate the potential impact of the modifications to**

the definition of a *Commuter Air Carrier* and to anticipate the further evolution of commuter airline operations patterns and code-sharing arrangements.

July 2015 Amendments. **This section was revised to modify the passenger set aside for *Commuter Air Carriers* from five hundred thousand (500,000) to four hundred thousand (400,000) in order to reflect the continuing evolution of *Commuter Air Carrier* operations patterns and code-sharing arrangements.**

3.5.4 VOLUNTARY REDUCTION OF PASSENGER CAPACITY ALLOCATION

By delivery of a **VOLUNTARY REDUCTION OF PASSENGER CAPACITY ALLOCATION FORM (COMMUTER CARRIER) (APPENDIX F-8) (PCAR Form)** to the *Airport Director*, a *Commuter Air Carrier* may voluntarily reduce its *Passenger Capacity Allocation* for any *Plan Year*, and the *County*, in its sole and exclusive discretion, may reallocate the "returned" capacity under Section 4 or Section 7. For purposes of determining compliance with the minimum use requirements of Section 8.3.7, the **VOLUNTARY REDUCTION OF PASSENGER CAPACITY ALLOCATION FORM (COMMUTER CARRIER)** must: (i) be given for a calendar quarter other than the last quarter of any *Plan Year*; (ii) be delivered to the *Airport Director* not later than forty-five (45) days prior to the date for which the reduction in capacity is to be effective; (iii) specify the amount of *Passenger Capacity* being "returned" for reallocation; and (iv) specify the exact period of time for which the *Commuter Air Carrier* will not be using the *Passenger Capacity Allocation*.

In addition, and for purposes of determining compliance with the requirements of Section 8.3.7: (i) the number of authorized passengers relinquished under this section may not exceed thirty percent (30%) of the sum of the total *Passenger Capacity Allocation* made to the *Commuter Carrier* under this Section 3.5, and any supplemental *Passenger Capacity Allocations* requested and made to the *Commuter Carrier* under Section 4.4; and (ii) no *Commuter Carrier* may utilize the provisions of this section more than a maximum cumulative period of time of twenty-four (24) months during the term of this PLAN.

HISTORICAL NOTE

***July 2015 Amendments*.** **This section was revised to provide consistency between the *Air Carrier* and *Commuter Carrier* voluntary reduction of allocation requirements and the maximum cumulative period of time the *Carriers* may utilize the voluntary reduction provisions. In addition, this section was revised to require the PCAR Form to be delivered to the *Airport Director* not later than forty-five (45) days prior to the date for which the reduction in operations is to be effective rather than forty-five (45) days prior to the first day of the calendar quarter for which the reduction in operations is to be effective.**

3.5.5 ALLOCATION OF PASSENGER CAPACITY TO AFFILIATED COMMUTER CARRIERS OR COMMUTER CARRIER MEMBERS OF AN ASSOCIATED OPERATING GROUP

(a) For purposes of any allocations made under this Section 3.5.5, any two (2) or more *Affiliated Commuter Carriers*, and any two (2) or more *Commuter Carriers* which are members of an *Associated Operating Group*, shall be treated as a single *Commuter Carrier*, and they shall submit a combined **PCAR** for any requested allocation of *Passenger Capacity*.

(b) *Authorized Commuter Carriers* submitting a combined **PCAR** under subparagraph (a) of this section may make an express election on the **PCAR** of the respective percentage of *Passenger Capacity* to be allocated to each of them under the single capacity allocation required by subparagraph (a) of this section. If no such election is made, the *Passenger Capacity Allocation* shall be divided equally among each *Affiliate Commuter Carrier* or *Commuter Carrier* member of an *Associated Operating Group*.

(c) Any failure to comply with the requirements of this section, or any action by a *Commuter Carrier* inconsistent with the purposes and requirements of this section in respect of the request for, or operation of, a *Passenger Capacity Allocation*, shall be sufficient cause for the *Airport Director* or the *County* to modify or terminate the *Passenger Capacity Allocation* to any *Commuter Carrier* violating this subsection, or operating in any manner inconsistent with the allocation process required by this subsection.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments included a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*.**

3.6 ALLOCATION OF CLASS E ADDS TO COMMUTER AND COMMERCIAL CARGO CARRIERS

3.6.1 COUNTY POLICY CONSIDERATIONS

(a) *John Wayne Airport* operates within an extremely confined geographical space of approximately five hundred four (504) acres, with less than four hundred (400)

acres available for airfield operations. There is no significant undeveloped area of the airfield suitable for normal *Commercial Cargo* operations. Virtually all existing land and structural space has long been designated for commercial passenger and general aviation uses, and normal *Commercial Cargo* operations cannot be accommodated at *JWA* without a significant displacement of preexisting aeronautical uses. At the time of adoption of the JOHN WAYNE AIRPORT MASTER PLAN (1985), there was no expressed demand for *Commercial Cargo* facilities at *JWA*, and the 1985 MASTER PLAN did not, therefore, designate or contemplate construction of significant *Commercial Cargo* facilities, or significant *Commercial Cargo* operations.

(b) Principally because of present and anticipated future congestion on the Southern California freeway system, certain *Commercial Cargo Carriers* have continued to indicate a desire to conduct regular cargo operations at most – if not all – Southern California air carrier airports – including *JWA*. This desire to increase the number of airports from which they conduct regular operations is related primarily to the "next day" package delivery services offered by some cargo airlines.

(c) The *Commercial Cargo Carriers* expressing a desire to conduct *Regularly Scheduled Air Service* at *JWA* have indicated to the *County* their desire to operate their aircraft on "long-haul" route segments which, as a practical matter, would require the allocation of at least two hundred seventy-five (275) *Class A Authorized Departures* to each cargo carrier. The possible diversion of *Class A ADDs* from passenger service to cargo service raises significant issues with respect to anticipated airport revenues and potential environmental impacts. By providing for an allocation of Regulated *Class A Authorized Departures* to *Commercial Cargo* operators as evaluated in *County* EIR 582, and as approved by the Orange County Board of Supervisors on June 25, 2002, and December 10, 2002, the *County* has addressed the existing demand for all cargo service at *JWA*.

(d) The impacts of *Commercial Cargo Carriers* with *Air Carrier Aircraft* at *JWA* has been addressed generally in County EIR 552 and County EIR 582. Future applications by *Commercial Cargo Carriers* for allocations of operational capacity beyond the level of service authorized by the *County* after consideration of EIR 582 and after approval of amendments to the 1985 Settlement Agreement would impose significant impacts and constraints on airport facilities and other airport users, and any future application for such service would have to be evaluated for environmental and operational impacts based upon circumstances which exist at the time any such application is made.

(e) Within the extremely limited operational and physical capability of *JWA* to support regular operations by *Commercial Cargo Carriers* or *Commuter Cargo*

Carriers, and within the framework of this PLAN and previously declared *County* policy regarding the development and use of facilities and operational capacity at *JWA*, the *County* will continue to cooperate with potential cargo operators willing to comply with the *County's* policy and regulatory goals for *JWA* in an attempt to meet a reasonable level of legitimate demand for cargo service at *JWA* to the extent that that objective can be realized without significantly impacting other airport users, and without jeopardizing the *County's* financial, regulatory, and policy commitments and objectives.

(f) The provisions of this PLAN allow the *County* to address *Commercial Cargo* issues without delaying the implementation and commencement of Phase 2 operations (*e.g.*, Section 6.3.3).

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was revised consistent with these amendments.**

***June 2003 Amendments*. This section was revised consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement, including defining all regulated passenger flights as *Class A* flights, eliminating the *Class AA/Class A Aircraft* definition/distinction, and authorizing the allocation of up to four (4) permanent *Class A ADDs* for *Commercial Cargo Carriers*.**

3.6.2 COMMERCIAL CARGO OPERATIONS

(a) Any *Commercial Cargo Air Carrier* or *Commuter Cargo Carrier* who wishes to operate *Regularly Scheduled Air Service* at *JWA* solely for the purpose of carrying cargo or freight, and who will not carry *Commercial Passengers* on any flight operations to or from *JWA*, may request an allocation of a *Regular Cargo Class A* or *Class E ADD* for its operations.

(b) Pursuant to amendments to this PLAN authorized by the *Board of Supervisors* in 1994 after *Board* certification of County EIR 552, and amendments to this PLAN authorized by the *Board* in 2002, after *Board* certification of EIR 582 and acceptance of Addendum 582-1, and as provided in Section 3.6.3, the *Airport*

Director may, in accordance with, and subject to, all other conditions, limitations or requirements of this PLAN applicable to *Commercial Cargo* operations, allocate a maximum of four (4) *Regulated Class A Authorized Departures* to *Commercial Cargo Air Carriers* during any *Plan Year*.

(c) In the event the *County* does not receive requests from *Commercial Cargo Carriers* for allocation of all four (4) *Regulated Class A Authorized Departures* during any *Plan Year*, the *Airport Director* may, in accordance with, and subject to, all other conditions, limitations or requirements of this PLAN applicable to *Commercial Air Carriers*, allocate a maximum of two (2) of the four (4) *Class A ADD* cargo flights on a supplemental basis to *Commercial Air Carriers* for a period of up to one (1) *Plan Year*.

(d) No person shall operate as a *Commercial Cargo Carrier* or *Commuter Cargo Carrier* at *JWA* unless it has received an allocation of a *Regulated Class A ADD* (or a specified number of *Authorized Departures*) or *Class E ADD* from the *County*.

(e) Except as authorized by subparagraph (a) of this section, no person shall conduct *Regularly Scheduled Air Service* as a *Commercial Cargo Carrier* or *Commuter Cargo Carrier* from, or using, any physical facilities at *JWA* without the prior written consent of the *Board of Supervisors*.

(f) *Commercial Cargo Carriers* may only use aircraft in operations at *JWA* which have been qualified by the *Carrier* under the requirements of Section 10.

(g) No *Commercial Cargo Carrier* may conduct operations at *JWA* unless it has first submitted to the *Airport Director* a detailed operations plan and the *Airport Director* has given written approval of those operations. The request must be delivered to the *Airport Director* not less than thirty (30) days prior to the day on which the *Cargo Air Carrier* intends to commence *Commercial Cargo Carrier* operations, and each *Commercial Cargo Carrier* shall submit additional, updated, or revised operations forms at times during or prior to the commencement of any *Plan Year* which would otherwise be required of *Air Carriers* conducting operations at *JWA* under the provisions of this PLAN. The *Airport Director* may impose such conditions or limitations in granting any *Commercial Cargo Carrier* operations request which he believes necessary to ensure compliance with the terms, provisions, and limitations of this PLAN, and any other requirements which have been defined by the *Board of Supervisors* as *County* policy in respect of *Commercial Cargo Carrier* operations at *JWA*, including the conditions and limitations set forth in Section 3.6.3.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A or Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was revised consistent with these amendments.**

***June 2003 Amendments*. This section has been revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircraft* definition/distinction, to provide reference to the four (4) permanent cargo *Class A ADDs*, and to provide reference to the ability of the *Airport Director* to allocate to the *Passenger Commercial Carriers* up to two (2) of the four (4) *Class A ADD* cargo flights on a supplemental basis for a period not to exceed one (1) *Plan Year* if there is no demand for the cargo flights by the *Cargo Air Carriers*. Certain grammatical changes were also made to subsection (e) of this section.**

3.6.3 LIMITATIONS AND CONDITIONS ON COMMERCIAL CARGO OPERATIONS

(a) No more than a combined total of four (4) *Regulated Class A Authorized Departures* may be allocated to *Commercial Cargo Carriers*.

(b) In the event the *County* does not receive requests from *Commercial Cargo Carriers* for allocation of all four (4) *Regulated Class A Authorized Departures* during any *Plan Year*, the *Airport Director* may, in accordance with, and subject to, all other conditions, limitations or requirements of this PLAN applicable to *Commercial Air Carriers*, allocate a maximum of two (2) of the four (4) *Class A ADD* cargo flights on a supplemental basis to *Commercial Air Carriers* for a period of up to one (1) *Plan Year*.

(c) Except as may expressly be authorized by the *Airport Director* in a specific instance due to emergency, mechanical, weather, air traffic control, or other delays substantially beyond the control of the operator, no *Commercial Cargo Carrier* shall operate any aircraft or conduct cargo load/unload operations at *JWA* at any times other than the *Permitted Cargo Operations Hours*.

(d) Except as may be expressly authorized in writing by the *Airport Director*, or as may expressly be authorized by the *Airport Director* (or his designee) in a specific instance due to emergency, mechanical, weather, air traffic control, or other circumstances substantially beyond the control of the operator, each

Commercial Cargo Carrier shall position its aircraft while parked at *JWA*, and shall conduct all load and unload operations, in the *Commercial Cargo Carrier Ground Operations Position* assigned to that *Carrier* by the *Airport Director*.

(e) No *Qualified Commercial Cargo Operator* shall store any *Ground Service Equipment* at *JWA* except in a *Ground Service Equipment Storage Area* designated for use by that *Carrier* by the *Airport Director*.

(f) Each *Commercial Cargo Carrier* conducting ground operations at *JWA* shall conduct those operations in full compliance with the requirements of the **AIR CARGO GROUND OPERATIONS PLAN** as it may be amended from time to time upon a determination by the *Airport Director* or the *Board of Supervisors*, in the exercise of the sole and exclusive discretion of the *County*, that any amendment is necessary to provide an appropriate level of airfield operations safety, or as necessary to reduce or eliminate any unnecessary impacts of air cargo operations on the use of *JWA* by other airport users.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board of Supervisors'* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was added consistent with these amendments.**

Section (g) of this section reflects the *Commercial Cargo Carriers'* lease term through March 31, 1997. The *Board* has approved two (2) subsequent lease renewals, the most recent for a period effective through March 31, 2000.

***June 2003 Amendments*. This section has been revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircraft* definition/distinction, to provide reference to the four (4) permanent cargo *Class A ADDs*, and to provide reference to the ability of the *Airport Director* to allocate to the *Passenger Commercial Carriers* up to two (2) of the four (4) *Class A ADD* cargo flights on a supplemental basis for a period not to exceed one (1) *Plan Year* if there is no demand for the cargo flights by the *Cargo Air Carriers*. Certain grammatical changes were also made to subsection (e) of this section.**

3.7 WAITING LIST PROCEDURES

3.7.1 COMMERCIAL AIR CARRIERS

The *Airport Director* shall maintain a separate "waiting list" of persons desiring to commence *Commercial Air Carrier* operations at *JWA* in the order in which they gave written notice to the *Airport Director* of their desire to commence service after November 1, 1989.

If the *Airport Director* determines that capacity is available for a new entrant *Commercial Air Carrier*, the *Airport Director* may, in accordance with, and subject to, all other conditions, limitations and requirements of this PLAN applicable to new entrant *Commercial Air Carriers*, allocate three (3) *Regular ADDs* and a corresponding level of allocated *Seat Capacity*, to the new entrant *Commercial Air Carrier*.

HISTORICAL NOTE

July 2015 Amendments. **This section has been revised to provide reference to the number of *Regular ADDs* and the corresponding level of *Seat Capacity* that is allocated to a new entrant *Commercial Air Carrier* at *JWA*.**

3.7.2 COMMUTER AIR CARRIERS

The *Airport Director* shall maintain a separate "waiting list" of persons desiring to commence *Commuter Air Carrier* operations at *JWA* in the order in which they gave written notice to the *Airport Director* of their desire to commence service after November 1, 1989.

3.8 OPERATIONS REPORTING REQUIREMENTS

The effective implementation of this PLAN requires that the *County* acquire certain information on a consistent and predictable basis from *Regularly Scheduled Commercial Users* operating at *JWA*. As a condition of its receipt and utilization of *Regular ADDs*, *Seat Capacity* or *Passenger Capacity Allocations*, each *Qualified Air Carrier*, and each *Qualified Commuter Carrier*, shall comply fully, completely, and in a timely manner with each of the following reporting requirements:

3.8.1 CARRIER OPERATIONS PROJECTION FORMS

Not later than thirty (30) days prior to each calendar quarter, each *Qualified Air Carrier* and each *Qualified Commuter Carrier* shall submit through the dedicated *JWA* website a **CARRIER OPERATIONS PROJECTION FORM (APPENDIX F-1)** to the *Airport Director* describing each carrier's projected operations at *JWA* for that quarter.

HISTORICAL NOTE

***February 2005 Amendments*. The February 2005 amendments to this section of the PLAN extended the period of time from forty-five (45) days to ninety (90) days prior to each quarter that each *Qualified Air Carrier* and each *Qualified Commuter Carrier* must deliver a CARRIER OPERATIONS PROJECTION FORM (APPENDIX F-1) to the *Airport Director* describing each carrier's projected operations at *JWA* for that quarter.**

***September 2010 Amendments*. The September 2010 amendments to this section of the PLAN reduced the period of time from ninety (90) days to forty-five (45) days prior to each quarter that each *Qualified Air Carrier* and each *Qualified Commuter Carrier* must deliver a Carrier Operations Projection Form (Appendix F-1) to the *Airport Director* describing each *Carrier's* projected operations at *JWA* for that quarter. This time period amendment accommodates concerns voiced by the *Carriers* that it is difficult to submit an accurate Carrier Operations Projection Form ninety (90) days prior to each quarter and that a forty-five (45) day time period is more reasonable.**

***July 2015 Amendments.* This section was revised to reduce the period of time from forty-five (45) days to thirty (30) days prior to each quarter that each *Qualified Air Carrier* and each *Qualified Commuter Carrier* must deliver a Carrier Operations Projection Form (Appendix F-1) to the *Airport Director*. This time period adjustment further accommodates continuing concerns voiced by the *Carriers* that it is difficult to submit an accurate Carrier Operations Projection Form forty-five (45) days prior to each quarter. This section was also revised to require the submittal of the Form through the dedicated *JWA* website.**

3.8.2 OPERATIONS PROJECTION FORM AMENDMENTS

Whenever a *Qualified Air Carrier* or *Qualified Commuter Carrier* implements a schedule change or other modification to its operations which would make its current **CARRIER OPERATIONS PROJECTION FORM** inaccurate or incomplete, then, not less than ten (10) days prior to implementation of the modification or change, that carrier shall submit to the *Airport Director* an **AMENDED CARRIER OPERATIONS PROJECTION FORM (APPENDIX F-9)**.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the word "Carrier" to the titles of the APPENDIX F-1 and APPENDIX F-9 Forms for purposes of consistency.**

3.8.3 DAILY OPERATIONS REPORTS

For each day on which it conducts operations at *JWA*, each *Qualified Air Carrier* and each *Qualified Commuter Carrier* shall submit to the *Airport Director* through the dedicated *JWA* website a **DAILY OPERATIONS REPORT FORM (APPENDIX F-2)**.

The **DAILY OPERATIONS REPORT FORM** shall be submitted to the *Airport Director* not later than 0900 hours (local time) on the first working day following the day for which the report has been prepared.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added "an original" to the first sentence of this section, and "0900 hours (local time) on" to the second sentence of this section. These were clarifying amendments to resolve problems encountered by airport staff in obtaining compliance from some operators with the purpose and intent of this section.**

June 2003 Amendments**. Certain grammatical changes were made to this section.**

July 2015 Amendments. **The July 2015 amendments require the submittal of the Daily Operations Report Forms through the dedicated *JWA* website.**

3.8.4 CORRECTIVE ACTION REPORTS

(a) Whenever the *Airport Director* concludes that any person regulated by this PLAN is engaged in activity which violates or threatens to violate the limitations or prohibitions of this PLAN, or is failing to take action necessary to avoid a violation of the PLAN, he may submit to that person a **CORRECTIVE ACTION REPORT FORM (APPENDIX F-10)** for completion and submission to the *Airport Director* by a specified date. The *Airport Director's* use of this procedure is discretionary and not mandatory.

(b) Any person who receives a **CORRECTIVE ACTION REPORT FORM** from the *Airport Director* shall, within the time designated by the *Airport Director*,

submit to him a completed **CORRECTIVE ACTION REPORT FORM**, together with any other information as the *Airport Director* may request.

3.9 OPERATIONS BY ASSOCIATED OPERATING GROUPS

In 1994, the *Board of Supervisors* adopted certain amendments to this PLAN, including the provisions of this section, which were intended to increase the flexibility and discretion of *Commercial Air Carriers* and *Commuter Carriers* in structuring their operations at *JWA* in the use of *ADDs* and related operating capacity allocated to them by permitting the formation and operation of *Associated Operating Groups* at *JWA*. It was not the purpose of these amendments, and it is not the intent of the *County*, that these provisions be interpreted or applied in a manner which circumvents, or is inconsistent with, the basic premise of capacity allocation fairness, or the environmentally based limitations of this PLAN. It is not the intent of the *County* that the provisions of this PLAN be interpreted or applied in a manner which unfairly prejudices other authorized *Commercial Air Carriers* or *Commuter Carriers* in the capacity allocation processes of this PLAN. Those provisions of this PLAN which relate to allocations to, and operations by, *Associated Operating Groups* will be interpreted and applied by the *Airport Director* and the *County* in a manner which ensures that the provisions of this PLAN will be implemented in a fair and reasonable manner, consistent with the *County's* assurances to the United States of America under Airport Improvement Program grant agreements, and consistent with the basic objectives of the *County* to ensure fair and reasonable operational opportunities to all *Qualified Air Carriers* and *Qualified Commuter Carriers* serving *JWA*. If the *Airport Director* determines that any person or persons are attempting to use the *Associated Operating Group* provisions of this PLAN in a manner inconsistent with the *County's* contractual obligations to the United States, or the basic objectives of the *County* in the fair and efficient administration of this PLAN, the *Airport Director* shall promptly notify the *Board* of such activities and recommend appropriate action by the *County*.

It is also not the intent of the *Associated Operating Group* provisions of this PLAN to encourage illegal anti-competitive conduct by any *Regularly Scheduled Commercial User* of *JWA*. The principle antitrust enforcement authority over commercial aviation activities rests with the United States Departments of Justice and Transportation. If the *County* or the *Airport Director* is advised by any appropriate federal authority that it believes that operations by any *Associated Operating Group* at *JWA* are occurring in a manner inconsistent with any antitrust law or policy of the United States, the *Airport Director* shall promptly advise the *Board* of the law or policy of the United States and of the relevant facts and circumstances and shall make a recommendation to the *Board* regarding appropriate action by the *County* to cooperate with the relevant federal authorities. The *County* reserves the right to modify, condition or withdraw its approval of any operations by, or allocations of operating capacity in any form to, any *Associated Operating Group* in the event that the *County* is advised by appropriate federal authorities that such operations are occurring in a manner inconsistent with any federal antitrust law or policy.

3.9.1 FORMATION OF ASSOCIATED OPERATING GROUPS

(a) Subject to the limitations of Section 3.10 and of all requirements of this section, any two (2) or more *Qualified Air Carriers*, any two (2) or more *Qualified Commuter Carriers*, or any combination of *Qualified Air Carriers* and *Qualified Commuter Carriers* (other than a combination of one (1) *Qualified Air Carrier* and one (1) *Qualified Commuter Carrier*), may declare the existence of an *Associated Operating Group* by filing with the *Airport Director* a fully completed and executed **DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP (APPENDIX F-21)** ("FORM F-21") not later than forty-five (45) days prior to the date on which any operations are conducted under the authority of this section. The *Airport Director* shall review the FORM F-21. If the FORM F-21 has been fully completed and executed, and if it appears that the proposed *Associated Operating Group* operations as disclosed on the FORM F-21 will otherwise be conducted in full compliance with this PLAN and all other applicable *County* rules, regulations, and contractual requirements, the *Airport Director* shall advise the *Qualified Air Carriers* within thirty (30) days after the *Airport Director's* receipt of the FORM F-21 that the *County* has approved operations by the *Associated Operating Group*.

(b) Any (i) two (2) or more *Affiliated Air Carriers*, (ii) two (2) or more *Affiliated Commuter Carriers*, or (iii) two (2) or more *Commuter Carriers* simultaneously *Affiliated* with the same *Air Carrier* operating at *JWA*, shall be deemed by the *County* and the *Airport Director* to be an *Associated Operating Group* for all purposes under this PLAN. No such *Air Carrier* or *Commuter Carrier* may operate other than its *Regular ADD* or *Authorized Seat Capacity* allocation unless it has first complied fully with the requirements of Section 3.9 and Section 8.2.4 of this PLAN. Whether or not such an *Associated Operating Group* conducts operations under a FORM F-21 operations proposal, it shall be treated as an *Associated Operating Group* for purposes of the Section 3.10 and all reallocation provisions of this PLAN, including the allocation of *RON* positions, any and all allocations of supplemental operating capacity, and any reallocation of operating capacity under Section 7 of this PLAN.

(c) No *Qualified Air Carrier* or *Qualified Commuter Carrier* which has requested and been authorized to conduct operations at *JWA* as part of an *Associated Operating Group* shall conduct its operations in any manner inconsistent with the operations proposal specified in the then-current approved FORM F-21 on file with the *Airport Director*, or under a subsequent approved FORM F-22 filed under subparagraph (d) of this subsection.

(d) Any *Associated Operating Group* may amend or modify its FORM F-21 operating proposal by submitting to the *Airport Director* for approval under this section at

any time during the *Plan Year* an **AMENDED DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP (APPENDIX F-22)** ("FORM F-22"). Any FORM F-22 must be filed with the *Airport Director* not less than thirty (30) days prior to the first date on which any change in operations by the *Associated Operating Group* are made or effected by any member operator of the *Associated Operating Group*. The *Airport Director* shall review and, if appropriate, approve any amended or modified FORM F-22 under the criteria and procedures, and within the time specified in subparagraph (a) of this section.

(e) Each Associated Operating Group must file a Form F-21 at least once during each *Plan Year*. No Form F-21 or Form F-22 may be effective or approved for more than one (1) *Plan Year*, and no such approval may carry forward to succeeding *Plan Years*. Nothing in this section prohibits any Qualified Air Carrier or Associated Operating Group from submitting subsequent requests under subparagraph (a) of this section for one (1) or more successive *Plan Years*.

HISTORICAL NOTE

July 2015 Amendments. **This section was revised to reduce the period of time from forty-five (45) days to thirty (30) days that any *Associated Operating Group* must deliver an Amended Declaration of Formation of Associated Operating Group Form (Appendix F-22) to the *Airport Director*. This time period adjustment accommodates concerns voiced by the *Air Carriers* that it is sometimes difficult to submit an Amended Declaration of Formation of Associated Operating Group Form forty-five (45) days prior to changes to the *Associated Operating Group*.**

3.9.2 AIR CARRIER OPERATIONS UNDER ASSOCIATED OPERATING GROUPS – REGULAR ADDS AND ASSOCIATED SECTION 3.3.2 SEAT CAPACITY

Qualified Air Carriers operating as an approved *Associated Operating Group* may conduct operations using their combined *Regular ADD* allocations, and any *Supplemental ADD* or *Supplemental Authorized Departure* allocation made to the *Associated Operating Group* during any *Plan Year*, in any manner consistent with the currently effective and approved FORM F-21 for that group. So long as the combined operations of the member *Air Carriers* of an approved *Associated Operating Group* do not exceed the limitations of this PLAN, including, but not limited to, the minimum and maximum use, maximum permitted noise levels, and any other provision or limitation of the PLAN otherwise applicable to a *Qualified Air Carrier*, the member *Air Carriers* may define their respective level of use, their combined *ADD* and *Authorized Departure* allocation, and any *Class E Departure* operations conducted under the authority of allocations made to any member *Air Carrier* pursuant to Section 3.4 of this PLAN.

3.9.3 LIMITATIONS ON TOTAL OPERATING CAPACITY AVAILABLE FOR USE BY ANY ASSOCIATED OPERATING GROUP

The *Airport Director* may not approve, and no group of *Air Carriers* shall conduct operations as an *Associated Operating Group*, if the proposed *Associated Operating Group* would utilize more than fifty percent (50%) of the authorized operating capacity under this PLAN in any *Plan Year*. To the extent that an *Associated Operating Group* would be in violation of the limitation of this subsection only as a result of the allocation of supplemental operating capacity under Section 4 of this PLAN, or the reallocation of *Regular* operating capacity under Section 7 of this PLAN, the *Airport Director* will not allocate any such operating capacity to the *Associated Operating Group* or any of its member *Air Carriers* or *Commuter Carriers* to the extent that the allocation would cause a violation of the limitations of this subsection.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments include a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*. This section was added consistent with these approved amendments.**

3.10 ASSOCIATED OPERATING GROUP COMPLIANCE WITH OTHER ALLOCATION PROVISIONS OF THE PLAN

Regularly Scheduled Commercial Users conducting operations at *JWA* as members of an authorized *Associated Operating Group* shall be permitted to exercise the same discretion as other *Qualified Air Carriers* and *Qualified Commuter Carriers* with respect to provisions of the PLAN affording discretion with respect to the use of the allocated operating capacity, including the "voluntary reduction" provisions of Sections 3.3.5, 3.5.4, and 5.11 of the PLAN. *Air Carriers* and *Commuter Carriers* conducting operations as an *Associated Operating Group* shall be treated as a single *Air Carrier* or a single *Commuter Carrier* (as appropriate) for purposes of: (i) calculating *RON* allocations under Section 5 of the PLAN; (ii) making allocations of supplemental operating capacity under Section 4 of the PLAN; and (iii) for purposes of any reallocations of capacity to incumbent operators under Section 7 of the PLAN.

3.10.1 RON ALLOCATIONS

(a) Member carriers of any *Associated Operating Group* wishing to receive a *RON* allocation under Section 5 of this PLAN shall submit a single combined **RON**

ALLOCATION REQUEST FORM (AIR CARRIER) (APPENDIX F-14), and DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP FORM (APPENDIX F-21). The member carriers, however, shall specify on the **APPENDIX F-14 and APPENDIX F-21** forms the total number of loading bridge (*i.e.*, gate or hard-stand) *RON* positions requested by each member carrier. Subject to the limitations set forth below, in any calculation of allocations of *RON* positions under Sections 5.3, 5.4 and 5.5 of this PLAN, all *Air Carrier* members of an *Associated Operating Group* which actually declare their intent to use a *RON* position on the **APPENDIX F-14 and APPENDIX F-21** form filed by the *Associated Operating Group* shall be considered as a single *Air Carrier*, and their relevant *Regular ADD* allocations shall be combined for purposes of the calculation of the *RON* positions to be allocated to the *Associated Operating Group*. *Regular ADDs* of *Air Carriers* which are members of an *Associated Operating Group*, but which do not intend, or which do not in fact, use at least one (1) *RON* position during the *Plan Year* for which the *RON* is allocated, shall not be included in calculating the *RON* positions to be allocated to the *Associated Operating Group*.

(b) *Associated Operating Group* agreements shall be disregarded for the limited purpose of the one (1) loading bridge allocation guarantee provided in Section 5.3 of the ACCESS PLAN. Therefore, each requesting *Qualified Air Carrier* shall receive an allocation of at least one (1) loading bridge *RON* position.

(c) In the event any *Air Carrier* which is allocated one (1) loading bridge *RON* position consistent with the requirements of Section 5.3 does not meet the minimum utilization of *RON* allocation requirements specified in Section 8.3.9 for the loading bridge *RON* position allocated, the *Air Carrier* loading bridge *RON* position shall be terminated immediately, consistent with the requirements specified in Section 8.7.1 of the ACCESS PLAN, and the loading bridge *RON* position shall be reallocated in accordance with Section 5.5 of this PLAN.

(d) If any *Associated Operating Group* is formed during a *Plan Year*, the *Plan Year* allocation of *RON* positions shall be recalculated by the *Airport Director* under this subsection, and as if the *Associated Operating Group* existed at the time the *RON* allocations were first made. It is the intent of this subparagraph that carriers not be permitted to manipulate the *RON* allocation process by forming *Associated Operating Groups* during a *Plan Year*, and after the annual *RON* allocation has been made, in order to obtain an advantage over other *Air Carriers* in the application of the mathematical formula used under Section 5 of this PLAN for purposes of allocating *RON* positions. The *Airport Director* shall make any adjusted allocation required as a result of the provisions of this subparagraph and shall reallocate any excess *RON* position(s) resulting from application of this subparagraph in accordance with the provisions of Section 5.5 of this PLAN.

(e) If any member of an *Associated Operating Group* whose *Regular ADD* allocation was used for purposes of making the initial *Plan Year* allocation of *RON* positions abandons its use of all *RON* positions allocated to it during any *Plan Year*, the abandonment shall be deemed an abandonment by the *Associated Operating Group*, and the abandoned *RON* positions shall be reallocated in accordance with Section 5.5 of this PLAN.

(f) Subject to the provisions of this subsection, members of an *Associated Operating Group* may, after compliance with Section 5.2.2 of the PLAN, use *RON* positions allocated to the *Group* as they may determine to be appropriate from time to time during any *Plan Year* (or other period for which the *RON* position(s) has been allocated).

HISTORICAL NOTE

***January 2004 Amendments*. This section was revised to provide a one (1) loading bridge allocation guarantee, as provided in Section 5.3 of the ACCESS PLAN, subject to certain specific requirements.**

3.10.2 ALLOCATIONS OF SUPPLEMENTAL OPERATING CAPACITY

In any allocation of supplemental operating capacity under Section 4 of this PLAN (or otherwise), all members of an *Associated Operating Group* shall be treated as a single *Air Carrier* or a single *Commuter Carrier* (as appropriate) for purposes of making such allocations.

3.10.3 REALLOCATIONS OF REGULAR ADDS

(a) In any reallocation of *Regular ADDs* under Section 7 of this PLAN (or otherwise), all *Air Carrier* members of an *Associated Operating Group* shall be treated as a single *Air Carrier* for purposes of making such allocations.

(b) In making an allocation of *Regular ADD(s)* to any *Associated Operating Group* under the authority of this subsection and Section 7 of this PLAN, the *ADD(s)* shall be deemed to have been made to the member *Air Carrier(s)* in accordance with the following priorities:

(i) If an allocation of one or more *Regular ADDs* from an incumbent operator to a “new entrant” member of an *Associated Operating Group* has been made under Section 3.3.6, the incumbent operator(s) will be deemed to have priority within the *Associated Operating Group (i.e.,* as between the incumbent operator and the "new entrant") to receive the

reallocated *ADD* of the same class originally reallocated to the new entrant operator under Section 3.3.6 until the incumbent operator has been allocated the same number of *ADD(s)* which were reallocated from it to the new entrant member of the *Group*.

(ii) In all other circumstances, the reallocated *ADD* will be deemed to have been allocated as a *Regular ADD* to the member *Air Carrier* of the *Associated Operating Group* with the fewest number of *Regular ADDs* in the class of *ADD* which is available for reallocation. In the event two (2) or more member *Air Carriers* of an *Associated Operating Group* have an equal number of *Regular ADDs* in the class of *ADD* being reallocated, the *Airport Director* shall follow the "tie-breaking" procedures of Section 5.4(ii) of the PLAN.

HISTORICAL NOTE

November 2008 Amendment. **On November 18, 2008, the *Orange County Board of Supervisors* approved amendments to Section 3.10.3 of the ACCESS PLAN to clarify that the reallocation priority relates only to the reallocation priority within an *Associated Operating Group*.**

3.10.4 EFFECT OF FORMATION OF ASSOCIATED OPERATING GROUP ON WITHDRAWAL PRIORITIES UNDER SECTION 6 OF THE PLAN

In the event of a reallocation of *Regular ADDs* (and any associated *Seat Capacity*) under Section 3.3.6 of this PLAN, the *Airport Director* shall adjust the *Class A* and *Class E ADD* withdrawal priority lists, and the *Seat Block* withdrawal priority list, in accordance with Section 7.4 of this PLAN.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments included a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*. This section has been added consistent with these amendments.**

June 2003 Amendments**. This section has been revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. This section has also been revised to reference permanent *Class E ADDs*. These**

revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.

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SECTION 4

SUPPLEMENTAL ALLOCATIONS

4.1 COUNTY POLICY AND DISCRETION

Because of the current shortfall of airport capacity in Orange County to serve the full level of *County*-generated air passenger demand, and because the extent of this capacity shortfall is expected to increase consistently and substantially during the term of this PLAN, it is the policy of the *County*, within the *Map Limitation*, *Regulated ADD Limitation*, and other environmental, operational, and safety limitations applicable to operations at *JWA*, to serve the maximum feasible number of *Commercial Passengers* at *JWA* during each *Plan Year*.

The *County* reserves to itself the right, and the sole and exclusive discretion, to make allocations of supplemental operational capacity, whether by means of supplemental *Authorized Departures*, supplemental *Seat Capacity*, supplemental *Commuter Passenger Capacity*, or otherwise, in such a manner, to such an extent, to such persons, and on such terms and conditions as it may deem appropriate and as best serving, in the sole and exclusive judgment of the *Board of Supervisors*, the goals, policies, and regulations of the *County* in its management, operation, and development of *JWA*.

4.2 SUPPLEMENTAL ALLOCATIONS OF CLASS A AND CLASS E DEPARTURES

4.2.1 AIRPORT DIRECTOR RECOMMENDATIONS

Not less than forty-five (45) days prior to the commencement of any *Supplemental Allocation Period*, the *Airport Director* may make a recommendation to the *Board of Supervisors*, for its consideration on a regular agenda, regarding the number and class of supplemental departures to be allocated for use during the *Plan Year* or the *Supplemental Allocation Period*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section.**

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment, and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

4.2.2 SUPPLEMENTAL DEPARTURE ALLOCATION REQUESTS

(a) Prior to submitting his recommendations to the *Board of Supervisors* under Section 4.2.1, the *Airport Director* shall notify each *Qualified Air Carrier* of his intended recommendations, and invite each *Qualified Air Carrier* to submit written requests for supplemental departure allocations by a date specified in the *Airport Director's* notice.

(b) Each request for an allocation of supplemental departures shall be submitted on a **SUPPLEMENTAL AUTHORIZED DEPARTURE REQUEST FORM (AIR CARRIER) (APPENDIX F-11(S))**.

4.2.3 SUPPLEMENTAL DEPARTURE ALLOCATION PRIORITIES

Subject to the discretion of the *County* set forth in Section 4.1, in the event any supplemental *Authorized Departures* are authorized for distribution by the *Board of Supervisors* during any *Supplemental Allocation Period*, they normally will be allocated in accordance with the following priorities:

(a) *Class A* and *Class E* supplemental departures will be allocated equally among all requesting *Qualified Air Carriers* which, at the beginning of the quarter for which the supplemental allocation is to be made, have fully qualified *Class A* or *Class E Aircraft* (as necessary for allocations in each class) for use at *JWA* in accordance with all provisions of Section 10;

(b) If any *Qualified Air Carrier* requests less than its prorata share of any supplemental allocation (as determined by the number of *Qualified Air Carriers* requesting supplemental departure allocations in each class), it shall receive the number of departures requested, and the remainder shall be divided equally among the remaining requesting *Qualified Air Carriers*; and

(c) To the extent that the *Board of Supervisors* has authorized supplemental departure allocations for use during any *Plan Year* or *Supplemental Allocation Period*, and the supplemental departures are not fully allocated under this section, the *Airport Director* may make additional allocations of the previously authorized but unallocated supplemental departures to requesting *Qualified Air Carriers* during the remainder of the *Plan Year* or *Supplemental Allocation Period* on a first-come/first-served basis.

HISTORICAL NOTE

December 1990 Amendments. **The word "equally" was added to subsection (b) on the request of United Airlines and the concurring recommendation of the *Airport Commission*. This was a clarifying amendment, since subsection (b), as amended, describes a procedure used in past access plans and is consistent with the staff interpretation of the original language.**

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment, and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

4.2.4 SUPPLEMENTAL DEPARTURE SEAT CAPACITY LIMITATIONS

Whenever the *Airport Director* advises a *Qualified Air Carrier* that it has received a supplemental departure allocation in any class, he shall designate a specific *Seat Capacity* limitation applicable to the allocation. To the extent practicable, the *Seat Capacity* allocation made with each supplemental departure allocation shall be equal to the number of *Seat Capacity* necessary for operations by the aircraft type(s) which the requesting carrier has designated on its **SUPPLEMENTAL AUTHORIZED DEPARTURE REQUEST FORM (AIR CARRIER) (APPENDIX F-11(S))** as being the aircraft type(s) it intends to use in connection with the supplemental departure allocation.

4.3 SUPPLEMENTAL SEAT CAPACITY ALLOCATIONS TO AIR CARRIERS

Regardless of whether the *County* makes an allocation of supplemental departures during any *Supplemental Allocation Period*, the *County* may, in the exercise of its sole and exclusive discretion, and in furtherance of the policies and considerations set forth in Section 4.1 and other relevant provisions of this PLAN, make an allocation to *Qualified Air Carriers* of supplemental *Seat Capacity* to be used during the *Plan Year*, or during a specific *Supplemental Allocation Period*.

4.3.1 AIRPORT DIRECTOR RECOMMENDATIONS

Not less than forty-five (45) days prior to the commencement of any *Supplemental Allocation Period*, the *Airport Director* may make a recommendation to the *Board of Supervisors* for their consideration on a regular agenda regarding the amount of supplemental *Seat Capacity* to be allocated for the *Supplemental Allocation Period*, or for the remainder of any *Plan Year*.

4.3.2 SUPPLEMENTAL SEAT CAPACITY ALLOCATION REQUESTS

(a) Prior to submitting his recommendations to the *Board of Supervisors* under Section 4.3.1, the *Airport Director* shall notify each *Qualified Air Carrier* of his intended recommendations, and invite each *Qualified Air Carrier* to submit written requests for supplemental *Seat Capacity* allocations by a date specified in the *Airport Director's* notice.

(b) Each request for an allocation of supplemental *Seat Capacity* shall be submitted on a **SUPPLEMENTAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER) (APPENDIX F-12(S))**.

4.3.3 SUPPLEMENTAL SEAT CAPACITY ALLOCATION PRIORITIES

Subject to the discretion of the *County* set forth in Section 4.1, in the event any supplemental *Seat Capacity* is authorized for distribution by the *Board of Supervisors* during any *Supplemental Allocation Period*, it normally will be allocated in accordance with the following priorities:

(a) Supplemental *Seat Capacity* will be allocated equally among all requesting *Qualified Air Carriers*;

(b) If any *Qualified Air Carrier* requests less than its prorata share of the supplemental allocation (as determined by the number of *Qualified Air Carriers* requesting supplemental *Seat Capacity* allocations), the carrier shall receive the supplemental *Seat Capacity* requested, and the remainder shall be divided equally among the remaining requesting *Qualified Air Carriers*; and

(c) To the extent that the *Board of Supervisors* has authorized supplemental *Seat Capacity* allocations for use during any *Plan Year*, and the authorized supplemental *Seat Capacity* is not fully allocated under this section, the *Airport Director* may allocate the previously authorized but unallocated supplemental *Seat Capacity* to requesting *Qualified Air Carriers* during the remainder of the *Plan Year* on a first-come/first-served basis.

4.4 SUPPLEMENTAL PASSENGER CAPACITY ALLOCATIONS TO COMMUTER CARRIERS

Regardless of whether the *County* makes an allocation of supplemental departures or supplemental *Seat Capacity* to *Commercial Air Carriers* during any *Supplemental Allocation Period*, the *County* may, in the exercise of its sole and exclusive discretion, and in furtherance of the policies and considerations set forth in Section 4.1 and other relevant provisions of this PLAN, make supplemental *Passenger Capacity Allocations* to *Qualified Commuter Carriers* to be used during a specific *Plan Year*.

4.4.1 AIRPORT DIRECTOR RECOMMENDATIONS

Not less than forty-five (45) days prior to the commencement of any *Supplemental Allocation Period*, the *Airport Director* may make a recommendation to the *Board of Supervisors* for their consideration on a regular agenda regarding the amount of supplemental *Passenger Capacity* to be allocated for use during the *Plan Year*.

4.4.2 SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION REQUESTS

(a) Prior to submitting his recommendations to the *Board of Supervisors* under Section 4.4.1, the *Airport Director* shall notify each *Qualified Commuter Carrier* of his intended recommendations, and invite each *Qualified Commuter Carrier* to submit written requests for supplemental *Passenger Capacity Allocations* by a date specified in the *Airport Director's* notice.

(b) Each request for a supplemental *Passenger Capacity Allocation* shall be submitted on a **SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER) (APPENDIX F-13(S))**.

4.4.3 SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION PRIORITIES

Subject to the discretion of the *County* set forth in Section 4.1, in the event supplemental *Passenger Capacity Allocations* are authorized for distribution by the *Board of Supervisors* during any *Plan Year*, the allocation normally will be made in accordance with the following priorities:

(a) All Supplemental *Passenger Capacity Allocations* will be made equally to all requesting *Qualified Commuter Carriers*;

(b) If any *Qualified Commuter Carrier* requests less than its prorata share of any such supplemental allocation (as determined by the number of *Qualified Commuter Carriers* requesting supplemental *Passenger Capacity Allocations*), it shall receive the supplemental *Passenger Capacity Allocation* requested, and the remainder shall be divided equally among the remaining requesting *Qualified Commuter Carriers*; and

(c) To the extent that the *Board of Supervisors* has authorized supplemental *Passenger Capacity Allocations* for use during any *Plan Year*, and the authorized supplemental *Passenger Capacity* is not fully allocated under this section, the *Airport Director* may allocate the previously authorized but unallocated supplemental *Passenger Capacity* to requesting *Qualified Commuter Carriers* during the remainder of the *Plan Year* on a first-come/first-served basis.

4.5 CONDITIONS ON SUPPLEMENTAL ALLOCATIONS

4.5.1 BOARD OF SUPERVISORS CONDITIONS

All supplemental allocations made under this Section 4 shall be made on, and subject to, such conditions as the *Board of Supervisors* may determine at the time it authorizes the allocation, and shall become effective only upon receipt by the *Airport Director* of an executed addendum to the lease or operating agreement of each *Qualified Air Carrier* or *Qualified Commuter Carrier* receiving any of the allocation which: (i) incorporates the *Board* required conditions; and (ii) which is in a form acceptable to the *Airport Director* and to the County Counsel.

HISTORICAL NOTE

July 1999 Amendments. **The July 1999 amendments made grammatical changes to Section 4.5.1 by adding the word "of."**

4.5.2 AIRPORT DIRECTOR CONDITIONS

In addition, any supplemental allocations made under the authority of Sections 4.2.3(c), 4.3.3(c), or 4.4.3(c) shall also be made on, and subject to, whatever additional conditions the *Airport Director* may determine to be appropriate at the time he actually makes the allocation.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to this section.**

4.5.3 AIR CARRIER LIMITS

No *Air Carrier* may receive an allocation of supplemental departures during any *Supplemental Allocation Period* which is greater than the prorata number of departures which the *Air Carrier* would be authorized to operate during the period as a result of its *Regular ADD* allocation(s) made under Section 3.1.1 and Section 3.1.2, plus the prorata number of *Class E Departures* previously authorized for use by the *Air Carrier* during that period by the *Airport Director* under Section 3.4.

4.5.4 COMMUTER CARRIER LIMITS

No *Commuter Carrier* may receive an allocation of supplemental *Passenger Capacity* during any *Supplemental Allocation Period* in an amount greater than the prorata amount of *Passenger*

Capacity allocated to the *Commuter Carrier* for use during that *Supplemental Allocation Period* under Section 3.5.

4.5.5 NO CAPACITY CARRYFORWARDS

No supplemental allocation made under this Section 4 may be carried forward to a subsequent *Plan Year*, and all supplemental allocations of *Authorized Departures*, *Seat Capacity*, and *Passenger Capacity* shall expire completely, and without further action of the *County* or the *Board of Supervisors*, at the close of business on the last day of the *Plan Year* for which the allocations were made. If any supplemental capacity allocation is made expressly applicable to any *Supplemental Allocation Period*, then the allocation will expire completely, and without further action of the *County*, at the close of business on the last day of the *Supplemental Allocation Period*.

4.5.6 CLASS E DEPARTURES TO COMMUTER CARRIER AFFILIATES

Any allocation of supplemental *Class E Departures* with *Class E Aircraft* configured with more than seventy (70) passenger seats, or regularly operating at gross takeoff weights of more than ninety thousand (90,000) pounds, may be requested by any *Qualified Air Carrier* for use by a *Qualified Commuter Carrier Affiliate* in accordance with the provisions and limitations of Section 3.4.2.

HISTORICAL NOTE

***June 2003 Amendments*. The definition of *Commuter Air Carrier* was revised to include *Class E Aircraft* regularly configured with not more than seventy (70) passenger seats, instead of fifty (50) passenger seats, and operating at a gross takeoff weight of not more than ninety thousand (90,000) pounds, instead of sixty thousand (60,000) pounds, consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement.**

4.6 REPORTING OBLIGATIONS AS A CONDITION TO ANY SUPPLEMENTAL ALLOCATION

No *Qualified Air Carrier* or *Qualified Commuter Carrier* shall be eligible for any supplemental allocation under this section unless, at the time it submits the request for a supplemental allocation required by Section 4.2.2(b), Section 4.3.2(b), or Section 4.4.2(b), it is in full and current compliance with all reporting obligations and requirements of this PLAN, including (but not limited to) the requirements of Section 8.2.4 and Section 10.3.3.

4.7 COMPLIANCE WITH MAP LIMITATION AND REGULATED ADD LIMITATION

No allocation of supplemental *Authorized Departures*, *Seat Capacity*, or *Passenger Capacity* may be made which will cause the *MAP Limitation* or the *Regulated ADD Limitation* to be exceeded during any *Plan Year*. Any supplemental allocation of *Authorized Departures*, *Seat Capacity*, or *Passenger Capacity* is subject to immediate modification or revocation by the *Airport Director* if he deems that action is necessary in order to remain within the *MAP Limitation* or the *Regulated ADD Limitation*.

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SECTION 5

RON ALLOCATIONS

The limited physical facilities available at *JWA* during the period of this PLAN for parking *Air Carrier* and *Commuter Carrier* aircraft requires that the *County*, in the interests of safe and efficient operations at *JWA*, and in support of an appropriate mix of uses of the airport, limit the number of *Air Carrier* and *Commuter Carrier RON* positions, control the location and use of *Air Carrier* and *Commuter Carrier RON* positions, and place certain other restrictions on *RON* activity at the airport.

5.1 AIR CARRIER RON LIMITATIONS

It is the present policy of the *County* to assign and, if necessary, allocate *RON* positions to *Qualified Air Carriers* for periods of one (1) *Plan Year*.

5.1.1 LIMIT ON NUMBER OF RON AIRCRAFT

Except for such emergency circumstances as the *Airport Director* may determine reasonably requires authorizing a temporary *RON* to a specific *Qualified Air Carrier*, on any day during the period of this PLAN, there shall not be more than twenty-seven (27) *Air Carrier* aircraft which are permitted to *RON* at *JWA*.

HISTORICAL NOTE

September 1993 Amendments. **In September 1993, the *Airport Director* revised the number of available *RON* positions from twenty-two (22) positions to twenty-seven (27) positions.**

5.1.2 RON ALLOCATION REQUIRED

Except as the *Airport Director* may specifically direct in an emergency situation, no *Air Carrier* shall cause any aircraft to *RON* at *JWA* unless the *Air Carrier* has received for the current *Plan Year* a *RON* position allocation from the *Airport Director*.

5.1.3 PROHIBITION AGAINST EXCESS RON AIRCRAFT

Except as the *Airport Director* may specifically direct in an emergency situation, no *Air Carrier* shall, at any time, cause more aircraft to *RON* at *JWA* than the number of *RON* positions which have been allocated to it for the current *Plan Year* by the *Airport Director*.

5.1.4 USE OF SPECIFIC RON POSITION REQUIRED

Except as the *Airport Director* may specifically direct in an emergency situation, no *Air Carrier* shall cause any aircraft to *RON* at *JWA* at any place other than the specific *RON* position assigned to that aircraft by the *Airport Director*.

5.1.5 USE OF AIR CARRIER APRON MANDATORY

Except as the *Airport Director* may specifically direct in an emergency situation, no *Air Carrier* shall, at any time, operate, park, or cause any aircraft to: (i) *RON* on the leased premises of any Fixed Base Operator at *JWA*; or (ii) operate or park on any other pavement surface at *JWA* where the aircraft has a gross weight in excess of the *Maximum Permitted Ground Operations Weight* for that pavement surface. It is the intent of this section that *Air Carriers* will park their aircraft, for *RON* or any other purpose, only on the air carrier apron adjacent to the airline passenger terminal.

5.2 AIR CARRIER RON ALLOCATION REQUESTS

5.2.1 TIMELY RON REQUEST FORM REQUIRED

Not later than one hundred fifty (150) days prior to the beginning of each *Plan Year*, each *Qualified Air Carrier* wishing to receive an allocation of *RON* position(s) for that *Plan Year* shall submit a completed request to the *Airport Director* on a **RON ALLOCATION REQUEST FORM (AIR CARRIER) (APPENDIX F-14).** Each *Qualified Air Carrier* requesting an allocation of *RON* positions for that *Plan Year* must specify both the total number of loading bridge *RON* positions requested (*i.e.*, hard-stand and gate positions) and the total number of apron *RON* positions requested.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

***July 2015 Amendments.* This section was revised to increase the period of time from ninety (90) days to one hundred fifty (150) days prior to each *Plan Year* that each *Qualified Air Carrier* must submit a completed RON Allocation Request Form (Appendix F-14) to the *Airport Director*. This time period adjustment provides the necessary time for the *Airport* to process and allocate *RON* capacity prior to each *Plan Year*.**

5.2.2 AMENDED RON REQUEST FORM

At any time an *Air Carrier* which has received a *RON* allocation for the current *Plan Year* proposes to change its scheduled operations at *JWA* in any manner which would make any information contained in the *Air Carrier's* current **RON ALLOCATION REQUEST FORM (AIR CARRIER)** inaccurate, the *Air Carrier* shall submit an **AMENDED RON INFORMATION FORM (APPENDIX F-15)** to the *Airport Director* not less than thirty (30) days prior to the implementation of any such schedule or other operational change.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

5.3 RON ALLOCATION PROCEDURES

If the **RON ALLOCATION REQUEST FORMS (AIR CARRIER)** submitted to the *Airport Director* indicate that more than twenty-seven (27) *Air Carrier RON* spaces have been requested for the following *Plan Year*, he shall allocate the *Air Carrier RON* spaces in accordance with the following priorities and procedures:

(i) Any *RON* request for a period less than the full *Plan Year* shall be denied; if further allocation is necessary, then

(ii) Any *RON* request intended for use for less than six (6) days per week shall be denied; if further allocation is necessary, then

(iii) Any *RON* request for an aircraft scheduled to depart after 0900 hours shall be denied; if further allocation is necessary, then

(iv) *RON* spaces shall be allocated to the requesting *Qualified Air Carriers* in the proportion that their *Regular Class A* and permanent *Class E ADDs* (less any *ADDs* not actively assigned to the carrier at the time of the allocation [*see, e.g.,* Section 3.1.4]) bears to the total number of *Regular Class A* and *Class E ADDs* allocated to all requesting *Air Carriers*, except that the *RON* allocation formula shall be modified to consider any permanent *Class E ADDs* allocated on a two-for-one (2:1) basis as compared to *Class A* allocations, and except that each requesting *Qualified Air Carrier* shall receive an allocation of at least one (1) loading bridge *RON* position (*i.e.*, gate or hardstand position). If a loading bridge *RON* is not requested, each requesting *Qualified Air Carrier* shall receive an allocation of at least one (1) *RON* apron position. Fractional allocations shall be rounded to the nearest whole number, except that the total *Air Carrier RON* allocation shall not exceed twenty-seven (27) *RON* positions.

(v) The *Air Carriers* shall make specific loading bridge and apron *RON* position assignments by consensus within thirty (30) days from the date when the loading bridge and apron *RON* allocations are made. If the *Air Carriers* fail to reach a consensus regarding the specific loading bridge and apron *RON* position assignments within that time period, the *Airport Director* shall make specific loading bridge and apron *RON* position assignments in the manner, and within the timeframe, he determines is appropriate. In exercising his discretion, the *Airport Director* may take into account such factors as which *Air Carriers* have been required to utilize the hard-stand position(s) over the past *Plan Year(s)*.

(vi) The *Airport Director* reserves to himself the right, and the sole and exclusive discretion, to make allocations of gate and other *RONs* in a manner, to such an extent, to such persons, and on such terms and conditions as he may deem appropriate and as best serving, in his sole and exclusive judgment, the goals, policies, and regulations of the *County* in its management and development of *JWA*.

Preference for loading bridge *RON* assignments (*i.e.*, gate or hardstand positions) shall be given to an aircraft scheduled to depart on or before 0730 hours (local time).

(vii) All aircraft using a loading bridge *RON* position (*i.e.*, gate or hardstand) for departures scheduled at or before 0900 hours (local time) shall occupy the loading bridge *RON* position for a period of not more than forty-five (45) minutes, beginning at 0645 hours (local time), Monday through Saturday, and beginning at 0745 hours (local time) on Sunday. This requirement may also be imposed by the *Airport Director* on aircraft occupying remote *RON* positions not at Loading Bridge *RON* positions during the early morning departure time period, at or before 0900 hours (local time).

HISTORICAL NOTE

September 1993 Amendments. **In September 1993, the *Airport Director* revised the number of available *RON* positions from twenty-two (22) positions to twenty-seven (27) positions.**

June 2003 Amendments**. This section was revised to modify the *RON* allocation procedures to provide the *Airport Director* with the discretion to allocate gate and other *RONs* and to impose a turn-around time-limit rule for gate *RON* positions. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

February 2005 Amendments**. This section was revised to imposed a preference for loading bridge *RON* assignments (*i.e.*, gate or hard-stand positions) to aircraft scheduled to depart on or before**

0730 hours (local time), to impose a forty-five (45) minute turn-around time limit, and to require the *Air Carriers* to make specific loading bridge and apron *RON* position assignments by consensus within thirty (30) days from the date when the loading bridge and apron *RON* allocations are made by the *Airport Director*.

5.4 "TIE-BREAKING" RON ALLOCATION PROCEDURES

In the event application of the allocation formulas of Section 5.3 results in two (2) or more requesting *Qualified Air Carriers* having an equal mathematical "remainder" interest in one (1) or more available *RON* positions, and if meeting all such allocation requests would result in an allocation of more than twenty-seven (27) *Air Carrier RON* positions, then the *Airport Director* shall apply the following "tie-breaking" procedures:

(i) The "remainder" *RON* position(s) shall be allocated to the *Air Carrier(s)*: (A) with the lowest number of allocated *RON* positions before use of the tie-breaking procedures; and (B) which received fewer *RON* position allocations than they originally requested. If further allocation is necessary, then

(ii) The *Airport Director* shall conduct a coin toss which affords each of the affected *Air Carriers* an equal chance to be selected for the allocation. The *Airport Director* shall give at least seventy-two (72) hours verbal notice to the local station manager or other local official of each affected airline of the time and place where the coin toss will be held and allow such representatives, if they so desire, to be present at the time of the coin toss.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments changed the notice period required by this section from twenty-four (24) hours to seventy-two (72) hours. The amendment was requested by airline commentators.**

September 1993 Amendments. **In September 1993, the *Airport Director* revised the number of available *RON* positions from twenty-two (22) positions to twenty-seven (27) positions.**

June 2003 Amendments**. The June 2003 amendments made grammatical changes to this section.**

5.5 AIR CARRIER RON WAITING LIST

For each *Plan Year* in which the number of allocated *Air Carrier RON* positions is less than the total number of requested *RON* positions, the *Airport Director* shall maintain a list of *Air Carrier RON*

requests which have been denied, prioritizing them by reference to the fractional share of one (1) *RON* space to which each requesting *Qualified Air Carrier* would otherwise have been entitled at the time of its request ("the *RON* waiting list"). The eligible *Air Carriers* shall be listed beginning with the *Air Carrier* with the most negative fraction to the *Air Carrier* with the most positive fraction (as calculated by subtracting the number of *RON* positions allocated to the carrier from the unrounded calculation required by Section 5.3(iv)). In the event any *Air Carrier* thereafter abandons or forfeits an allocated *RON* position, the *Airport Director* may reallocate the available *RON* position for the remainder of the *Plan Year* by offering allocation of the position to the *Air Carrier(s)* in the order in which they appear on the *RON* waiting list. Any *Air Carrier* which receives a reallocated *RON* position under this section shall then be placed at the end of the *RON* waiting list.

HISTORICAL NOTE

July 1999 Amendments. **In July 1999, the term "largest" was replaced with the term "most" in order to accurately reflect the meaning of this section.**

5.6 COMMUTER CARRIER RON LIMITATIONS

It is the present policy of the *County* to assign and, if necessary, to allocate *RON* positions to *Qualified Commuter Carriers* for periods of one (1) *Plan Year*.

5.6.1 LIMIT ON NUMBER OF RON AIRCRAFT

Except for such emergency circumstances as the *Airport Director* may determine reasonably requires authorizing a *RON* position to a specific *Qualified Commuter Carrier*, and except for *RON* positions authorized under Section 5.12, on any day during the period of this PLAN there shall not be more than six (6) *Commuter Carrier* aircraft which are permitted to *RON* at *JWA*. Although not subject to the numerical limits of this section, any *RON* positions authorized under Section 5.12 are subject to the provisions of Sections 5.6.2 through 5.6.4.

5.6.2 RON ALLOCATION REQUIRED

Except as the *Airport Director* may specifically direct in an emergency situation, no *Commuter Carrier* shall cause any aircraft to *RON* at *JWA* unless the *Commuter Carrier* has received for the current *Plan Year* a *RON* position allocation or approval from the *Airport Director* under Section 5.8 or Section 5.12.

5.6.3 PROHIBITION AGAINST EXCESS RON AIRCRAFT

Except as the *Airport Director* may specifically direct in an emergency situation, no *Commuter Carrier* shall, at any time, cause more aircraft to *RON* at *JWA* than the total number of *RON* positions currently: (i) allocated to it under Section 5.8; and (ii) approved by the *Airport Director* under Section 5.12.

5.6.4 USE OF SPECIFIC RON POSITION REQUIRED

Except as the *Airport Director* may specifically direct in an emergency situation, no *Commuter Carrier* shall cause any aircraft to *RON* at *JWA* at any place other than the specific *RON* position assigned to that aircraft (or approved under Section 5.12) by the *Airport Director*.

5.6.5 USE OF AIR CARRIER APRON MANDATORY

Except as the *Airport Director* may specifically direct in an emergency situation, and except as provided in Section 5.12, no *Commuter Carrier* shall, at any time, operate, park, or cause any aircraft to: (i) *RON* on the leased premises of any Fixed Base Operator at *JWA*; or (ii) operate or park on any other pavement surface at *JWA* where the aircraft has a gross weight in excess of the *Maximum Permitted Ground Operations Weight* for that pavement surface. It is the intent of this section that, except as permitted by Section 5.12, *Commuter Carriers* will park their aircraft, for *RON* or any other purpose, only on the air carrier apron adjacent to the airline passenger terminal.

5.7 COMMUTER CARRIER RON ALLOCATION REQUESTS

Not later than one hundred fifty (150) days prior to the beginning of each *Plan Year*, each *Qualified Commuter Carrier* wishing to receive an allocation of *RON* position(s) for that *Plan Year* shall submit a request to the *Airport Director* on a **RON ALLOCATION REQUEST FORM (COMMUTER CARRIER) (APPENDIX F-16)**.

HISTORICAL NOTES

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

***July 2015 Amendments.* The July 2015 amendments revised this section to increase the period of time from one hundred twenty (120) days to one hundred fifty (150) days prior to beginning of each *Plan Year* that each *Qualified Commuter Carrier* must deliver a RON Allocation Request Form (Appendix F-16) to the *Airport Director*. This time period adjustment provides the necessary time for the *Airport* to process and allocate *RON* capacity prior to each *Plan Year*.**

5.8 COMMUTER CARRIER RON ALLOCATION PROCEDURES

The *Airport Director* shall allocate *RON* positions to the requesting *Qualified Commuter Carriers* in increments of one (1) *RON* position, beginning with the *Commuter Carrier* with the largest *Passenger Capacity Allocation* made under Section 3.5 for the *Plan Year* for which the *RON* allocation is made, and proceeding sequentially to the requesting *Commuter Carrier* with the smallest *Passenger Capacity Allocation*. The *Airport Director* shall continue the allocation to requesting *Qualified Commuter Carriers* using the same "top-down" order of allocation until all requesting *Qualified Commuter Carriers* have received their requested *RON* position allocations, or until six (6) *Commuter Carrier RON* positions have been allocated, which ever first occurs.

5.9 COMMUTER CARRIER RON WAITING LIST

For each *Plan Year* in which the number of allocated *Commuter Carrier RON* positions is less than the total number of requested *Commuter Carrier RON* positions, the *Airport Director* shall maintain a list of *Qualified Commuter Carrier RON* requests which have been denied, prioritizing them by use of the Section 5.8 allocation order list ("the *Commuter Carrier RON* waiting list"). The eligible *Commuter Carriers* shall be listed beginning with the first requesting *Qualified Commuter Carrier* which did not receive a requested *RON* position (using and assuming the sequential allocation process of Section 5.8). In the event any *Commuter Carrier* thereafter abandons or forfeits an allocated *RON* position, the *Airport Director* may reallocate the available space for the remainder of the *Plan Year* by offering allocation of the abandoned or forfeited *RON* position to the *Commuter Carrier(s)* in the order in which they appear on the *RON* waiting list. Any *Commuter Carrier* which receives a reallocated *RON* position under this section shall then be placed at the end of the *Commuter Carrier RON* waiting list.

5.10 NOTIFICATION TO CARRIERS

In the event an allocation of *RON* positions is required under Section 5.3 or Section 5.8, the *Airport Director* shall notify the affected *Air Carriers* or *Commuter Carriers* in writing of the results of his *RON* position allocation as soon as reasonably practicable. The *Airport Director* shall make reasonable efforts to give the notice not less than sixty (60) days prior to the beginning of the *Plan Year* for which the allocation is made.

5.11 VOLUNTARY ABANDONMENT OF RON ALLOCATION

Any *Air Carrier* or *Commuter Carrier* which has received an allocation of a *RON* position may voluntarily abandon the allocation by giving written notice to the *Airport Director* of its intent to cease using the allocation for the remainder of the *Plan Year* not less than forty-five (45) days prior to the date on which the allocation will be abandoned. If notice of a voluntary abandonment is given within the time permitted by this section, the provisions of Sections 8.3.9 and 8.7.1 shall not apply to the abandonment.

HISTORICAL NOTES

December 1990 Amendments. **The December 1990 amendments added the phrase "for the remainder of the *Plan Year*," and substituted "ninety (90)" days for "thirty (30)" days. The first change was a clarifying amendment. The second change was recommended by staff to allow a sufficient period of time to reallocate the *RON* position in a manner which will maximize achievement of the *County's* objective of maximizing use of allocated *RON* positions.**

July 2015 Amendments. **The July 2015 amendments revised this section to decrease the period of time from ninety (90) days to forty-five (45) days for any *Air Carrier* or *Commuter Carrier* to provide the *Airport Director* with notice of its intent to cease using a *RON* position.**

5.12 SUPPLEMENTAL COMMUTER CARRIER RON POSITIONS

Because aircraft typically used by *Commuter Carriers* are relatively small in size, and because, during the term of this PLAN, the demand for *Commuter Carrier RON* positions may significantly exceed the space available to accommodate such aircraft, the *County* may permit (in its sole and exclusive discretion), in individual cases, *Qualified Commuter Carrier* aircraft to *RON* at locations other than the air carrier ramp. All such allocations are subject to the additional conditions of the following subsections:

5.12.1 WRITTEN AUTHORIZATION REQUIRED

No *Commuter Carrier* shall *RON* any aircraft at *JWA* unless it has first received: (a) a *RON* position allocation under Section 5.8; or (b) written authorization from the *Airport Director* under the authority of this section which specifies: (i) the exact location of the authorized *RON* position; and (ii) the duration of the authorization, which shall not be greater than one (1) *Plan Year*.

HISTORICAL NOTE

***June 2003 Amendments*.** **The June 2003 amendments made grammatical changes to this section.**

5.12.2 COMMUTER CARRIER SUPPLEMENTAL RON POSITION REQUESTS

Any *Commuter Carrier* wishing to cause any aircraft to *RON* at *JWA* at locations other than the air carrier ramp shall submit a **RON ALLOCATION REQUEST FORM (COMMUTER CARRIER) (APPENDIX F-16)** to the *Airport Director* together with all additional information and documents requested by that form.

HISTORICAL NOTES

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

***July 2015 Amendments.* This section was revised to delete reference to Section B of Form F-16 as that Section is no longer required to be submitted to the *Airport Director*.**

5.12.3 AIRPORT DIRECTOR AUTHORIZATION

In reviewing any request made under Section 5.12.2, the *Airport Director* shall consider: (i) the size of the aircraft proposed for use of the requested *RON* position and its impact on the design strength of the pavement surface at the intended *RON* position; (ii) the impact use of the requested *RON* position would have on the safe and efficient operation of *JWA*; (iii) the potential impact of the request, if any, on general aviation facilities, operations at, and use of, *JWA*; and (iv) the *JWA* passenger service goals of the *County*.

If he finds that use of the requested *RON* position would not jeopardize the pavement surfaces, the ability of general aviation to use and operate at *JWA* at a level, and in a manner, consistent with declared *County* policy on general aviation use of *JWA*, or interfere with the safe and efficient operation of *JWA*; and if he finds that use of the requested *RON* position would enhance the ability of the *County* to realize its *JWA* passenger service level goals, the *Airport Director* may give written authorization for use of the *RON* position for a period of time not greater than one (1) *Plan Year*, subject to such conditions as the *Airport Director* may impose. The provisions of this section do not preclude subsequent or sequential *RON* requests.

5.12.4 USE OF AUTHORIZED RON POSITION MANDATORY

Except as specifically directed by the *Airport Director* in an emergency situation, no *Commuter Carrier* which has received authorization to cause an aircraft to *RON* at *JWA* under Section 5.12.3 shall cause any aircraft to *RON* at any location other than the exact location specified in the *Airport Director's* written authorization.

5.12.5 PROHIBITION AGAINST LARGE AIRCRAFT RON

Except as the *Airport Director* may specifically direct in an emergency situation, no *Commuter Carrier* operating "*Air Carrier*" *Class E Aircraft* under the provisions of Section 3.4.2 shall cause any such aircraft to *RON* at *JWA*, unless, and only to the extent that: (i) the *Air Carrier* affiliate has received a *RON* allocation; (ii) the *Air Carrier Affiliate* has consented in writing to the use of one (1) or more of its allocated *RON* positions to its *Commuter Carrier Affiliate*; and (iii) the *Airport Director* has consented in writing to the use of the *RON* position(s) by the *Commuter Carrier Affiliate*. Any approval

for *Commuter Carrier Affiliate* use of *Air Carrier RON* position allocations made under this section may be made on such terms, and subject to such conditions, as the *Airport Director* may determine to be in the best interests of the *County* in its management and regulation of *JWA*.

HISTORICAL NOTE

December 1990 Amendments. **All language after "*JWA*" on the third line of this section was added on recommendation of the *Airport Commission*, and at the request of WestAir, the United Express affiliate at *JWA*. This was a liberalizing amendment, permitting *Commuter Carriers* to *RON* large aircraft at *JWA* under the specified circumstances.**

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SECTION 6

CAPACITY WITHDRAWALS

6.1 GENERAL WITHDRAWAL AUTHORITY

The *County* reserves the right to withdraw previously allocated operational capacity at such times, on such conditions, and for such reasons as the *County*, in its sole and exclusive discretion, determines are appropriate to ensure that the *MAP Limitation* and the *Regulated ADD Limitation* are not exceeded during any *Plan Year*, or for any other reason. To the extent practical, and absent emergency circumstances (as determined in the sole and exclusive discretion of the *Board*), it is the present intent of the *County* to conduct such capacity withdrawals in accordance with the terms of this section. Nothing in this section is intended to limit the discretion or actions of the *County* in effecting or implementing capacity withdrawals: Rather, this section is intended to provide guidance to the *Regularly Scheduled Commercial Users* of *JWA* and to *County* staff regarding the probable capacity withdrawal procedures and policies of the *County* in non-emergency situations.

6.2 WITHDRAWAL PROCEDURES

6.2.1 MONITORING OF REGULATED DEPARTURES AND PASSENGERS

During each *Plan Year*, the *Airport Director* shall monitor continuously the actual extent of commercial departures in each aircraft noise class conducted at *JWA*, and the actual number of *Commercial Passengers* served at *JWA* by all *Regularly Scheduled Commercial Users*. The *Airport Director* shall adopt procedures intended to predict (to the extent reasonably feasible), at the end of any month during any *Plan Year*, the *Plan Year* level of *Commercial Passengers* served at *JWA*, and the number of *Class A*, permanent *Class E*, and other *Class E Departures* which will be operated during the *Plan Year*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircraft* definition/distinction, and to reference the new permanent *Class E ADDs*. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

6.2.2 RECOMMENDATIONS FOR CAPACITY WITHDRAWAL

Whenever the *Airport Director* determines that there is a substantial risk that *Regularly Scheduled Commercial Users* operating at *JWA* will exceed the *MAP Limitation* or *Regulated ADD Limitation* during any *Plan Year* for any reason other than the violation of this PLAN by any specific *Air Carrier(s)* or *Commuter Carrier(s)*, he shall promptly take the following actions:

(a) The *Airport Director* shall prepare and submit to the *Board of Supervisors* a report for its consideration on a regular *Board of Supervisors* agenda which, at a minimum: (i) describes the specific circumstances leading to preparation of his report; and which (ii) makes specific recommendations regarding capacity withdrawals necessary to ensure that the *MAP Limitation* and *Regulated ADD Limitation* are not exceeded; and

(b) The *Airport Director* shall advise all *Qualified Air Carriers* and *Qualified Commuter Carriers* of his recommendations for capacity withdrawals, and the date on which the *Board of Supervisors* will consider the matter.

In formulating and presenting his recommendations for capacity withdrawals, the *Airport Director* shall attempt to formulate recommendations which, to the extent practical and feasible: (i) maintain an appropriate level of equity and fairness among all approved users of *JWA*; (ii) will best serve the interests of the air traveling public using *JWA*; and (iii) which are consistent with the policies and objectives of the *County* in its management and operation of *JWA*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to the first and last paragraphs of this section.**

6.2.3 WITHDRAWAL PRIORITIES AND POLICIES

The *County* retains and reaffirms its sole and exclusive discretion to require mandatory withdrawals of operational capacity in any form if the *County* determines such action to be appropriate to ensure continued compliance with the *MAP Limitation* or the *Regulated ADD Limitation*, or for any other reason. There is no capacity withdrawal priority as among the operational capacity categories set forth below. However, in many circumstances, the *County* presently expects that it generally will prefer capacity withdrawals in the following order: (i) *Seat Blocks*; (ii) supplemental *Authorized Departures*; (iii) supplemental *Passenger Capacity*; (iv) *Regulated ADDs*; and then (v) *Passenger Capacity*. However, if capacity withdrawals are required by the *County*, the withdrawal will be structured in a manner which best serves the interests of the *County*, local communities, and the air traveling public; and

the withdrawal will be structured in light of then-existing circumstances, facts, and commercial operations patterns at *JWA*.

HISTORICAL NOTE

July 1999 Amendments. **The July 1999 amendments changed the second subsection (iv) to (v).**

6.3 AIR CARRIER CAPACITY WITHDRAWALS

In accordance with action approved by the *Board of Supervisors* on November 14, 1989, the *County* conducted a preliminary lottery to establish a withdrawal priority for certain of the *Regular ADDs* allocated under Sections 3.1.1 and 3.1.2, and to establish a withdrawal priority for certain *Seat Blocks* of the *Seat Capacity* tentatively allocated to the *Qualified Air Carriers* under Section 3.3.1. These lotteries were conducted subject to ratification by the *Board of Supervisors*. By adoption and approval of this PLAN, the *Board of Supervisors* ratified those lotteries. The protocol under which the initial lotteries were conducted is reflected in **APPENDIX A**.

On May 28, 2003, the *County* tentatively allocated the new operating capacity authorized by the Settlement Amendment approved by the *Orange County Board of Supervisors* on June 25, 2002, and December 10, 2002, regarding the development and use of *JWA*. In light of the new of additional capacity and the allocation of permanent *Class E ADDs*, the *Air Carrier* capacity withdrawal priorities were required to be reestablished. In accordance with actions approved by the *Board of Supervisors* on June 3, 2003, authorizing implementing amendments to the ACCESS PLAN and the allocation of new capacity, the *County* conducted a new lottery on June 5, 2003, to establish a new withdrawal priority for certain of the *Regular ADDs* and to establish a new withdrawal priority for certain *Seat Blocks* of the *Seat Capacity* tentatively allocated to the *Qualified Air Carriers*. This lottery was once again conducted subject to ratification by the *Board of Supervisors*. By adoption and approval of amendments to this PLAN, the *Board of Supervisors* ratifies the results of the lottery. The protocol under which the lottery was conducted is reflected in **APPENDIX G**.

On July 14, 2015, the *County* approved the re-allocation of existing capacity authorized by the Settlement Amendment and approved by the *Orange County Board of Supervisors* on September 30, 2014, and July 14, 2015 and approved the allocation of additional permanent *Class E ADDs*. In light of the re-allocation of existing capacity and the allocation of additional permanent *Class E ADDs*, the *Air Carrier* capacity withdrawal priorities were required to be reestablished. In accordance with actions approved by the *Board of Supervisors* on July 14, 2015, authorizing implementing amendments to the ACCESS PLAN and the re-allocation of capacity, the *County* conducted a new lottery on December 2, 2015, to establish a new withdrawal priority for certain of the *Regular ADDs* and to establish a new withdrawal priority for certain *Seat Blocks* of the *Seat Capacity* tentatively allocated to the *Qualified Air Carriers*. **APPENDIX C** reflects the results of the withdrawal lottery for *Regulated ADDs* subject to

priority withdrawal. **APPENDIX D** reflects the results and order of the withdrawal lottery for *Seat Blocks* subject to priority withdrawal.

If the *Board of Supervisors* authorizes a mandatory withdrawal of *Air Carrier* operational capacity in any form, the following procedures will normally be followed by the *County* with respect to capacity withdrawals in individual categories.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to reference the new lottery that was conducted on June 5, 2003, to establish new withdrawal priorities for certain of the *Regular ADDs* and certain *of the Seat Blocks* of *Seat Capacity* allocated to the *Qualified Air Carriers*.**

July 2015 Amendments.* This section was revised to reference the new lottery that was conducted in 2015 to establish new withdrawal priorities for certain of the *Regular ADDs* and certain of the *Seat Blocks* of *Seat Capacity* allocated to the *Qualified Air Carriers.

***December 2015 Amendments.* This section was revised to reference the December 2, 2015, withdrawal lottery and to delete reference to subsequent ratification by the Board of Supervisors in light of the Board's previous approval actions on September 30, 2014, and July 14, 2015. In addition, Appendix C and Appendix D have been updated to reflect the results of the December 2, 2015, withdrawal lottery.**

6.3.1 SEAT BLOCKS

The *County* will withdraw *Seat Blocks* in the order reflected in **APPENDIX D**, beginning with the *Seat Block* identified as *Seat Block* "Withdrawal Priority 1," and proceeding sequentially until the required number of *Seat Blocks* has been withdrawn. In any subsequent *Seat Block* withdrawal during the term of this PLAN, whether or not in the same *Plan Year* as the original withdrawal, the withdrawal order will begin with the next *Seat Block* in order after the last *Seat Block* withdrawn. The *Airport Director* shall keep appropriate records of the withdrawal of *Seat Blocks* to ensure that subsequent withdrawals are appropriately sequential in accordance with the intent of this section.

6.3.2 SUPPLEMENTAL DEPARTURES

Whenever the *County* determines that it is necessary to withdraw previously allocated authority to conduct supplemental departures in any aircraft classification, the *County* would, absent unusual circumstances, intend to withdraw an equal number of departures from all *Qualified Air Carriers* which received an allocation of the supplemental departures.

6.3.3 REGULATED ADDS

If the *County* determines that it is necessary to withdraw *Regulated ADDs* for purposes of reallocation, or for any other purpose, and regardless of the period of time for which the *ADD* will be withdrawn, the *County* will normally withdraw *Regulated ADDs*, or portions of *Regulated ADDs*, in the order reflected in **APPENDIX C**, beginning with the *Class A* or permanent *Class E ADD* (as appropriate) identified as *ADD* "Withdrawal Priority 1," and proceeding sequentially until the required number of *Class A* and/or permanent *Class E ADDs* have been withdrawn. In any subsequent *Regulated ADD* withdrawal during the term of this PLAN, whether or not in the same *Plan Year* as the original withdrawal, the withdrawal order will begin with the next *Class A* or *permanent Class E ADD* in order after the last *Regulated ADD* withdrawn. The *Airport Director* shall keep appropriate records of the withdrawal of *Regulated ADDs* to ensure that subsequent withdrawals are appropriately sequential in accordance with the intent of this section.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made a grammatical change to this section, deleting the word "such" before "*Regulated ADD* withdrawn" in the next to the last sentence of this section.**

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircraft* definition/distinction, and to reference the new permanent *Class E ADDs*. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

6.4 COMMUTER CARRIER CAPACITY WITHDRAWAL

Whenever the *County* determines that it is necessary to withdraw previously allocated *Passenger Capacity*, the *County* would, absent unusual circumstances, intend: (i) to first withdraw any supplemental *Passenger Capacity* allocated during the *Plan Year* by withdrawing the capacity prorata from the *Qualified Commuter Carriers* who have received any such supplemental allocation during the current *Plan Year*, as determined by the amount of supplemental *Passenger Capacity* allocated to each of the carriers; and then, if necessary, (ii) to withdraw non-supplemental *Passenger Capacity* authority prorata from all *Qualified Commuter Carriers*, as determined by the non-supplemental *Passenger Capacity* allocation made to them under Section 3.5 at the beginning of the *Plan Year*.

6.5 NOTICE TO AFFECTED COMMERCIAL OPERATORS

Whenever the *Board of Supervisors* authorizes any operational capacity withdrawal under the terms of this PLAN, the *Airport Director* shall give written notice of the *Board* action to all *Regularly Scheduled Commercial Users* affected by the *Board* action as promptly as possible, specifying what capacity reductions must be made by each such person.

6.6 COMMERCIAL OPERATOR ADJUSTMENT PLAN

Not later than fifteen (15) days after the *Airport Director's* notice under Section 6.5, each person receiving and affected by such a notice shall submit to the *Airport Director*: (i) an **OPERATIONS ADJUSTMENT PLAN (APPENDIX F-19)** which provides, in detail satisfactory to the *Airport Director*, a description of the precise operational adjustments which the affected carrier intends to implement in order to comply with the mandated capacity reduction, including the dates on which the affected carrier intends to implement the adjustments; and (ii) an **AMENDED CARRIER OPERATIONS PROJECTION FORM (APPENDIX F-9)**, as necessary to properly reflect those operations adjustments.

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SECTION 7

DISQUALIFICATION AND REALLOCATIONS

7.1 DISQUALIFICATION OF REGULARLY SCHEDULED COMMERCIAL USER(S)

In addition (and without prejudice) to any and all other provisions of this PLAN, contractual rights and remedies of the *County*, and enforcement of *County* ordinances and regulations, a *Regularly Scheduled Commercial User* will cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier* upon any of the following events:

7.1.1 BREACH OF AGREEMENT

The carrier breaches or defaults under any provision of its lease, operating agreement, or any other written agreement with the *County*. If the breach or default is capable of cure, then the operator will cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier* if, within ten (10) days after delivery of a written notice of default to the operator from the *County*, the operator has failed to effect a complete cure of its breach or default.

7.1.2 VIOLATION OF RULE, REGULATION, OR ORDINANCE

The carrier violates any rule, regulation, or ordinance of the *County* in its operations at *JWA*, including (but not limited to) any provision of this PLAN.

7.1.3 LOSS OF OPERATIONAL CAPACITY

The carrier disposes, or otherwise ceases to have operational control for a period of more than thirty (30) days, of sufficient operational *Class A* or *Class E Aircraft* (as appropriate for its allocations or operations) necessary to operate a regular schedule at *JWA* with its allocated *Regular ADDs*, or its *Passenger Capacity Allocation*; except that: If this section applies only in part to an *Air Carrier* (if for example, it has both *Class A* and *Class E ADD* allocations and disposes of its *Class E* but not its *Class A* equipment), it shall cease to be a *Qualified Air Carrier* only to the extent which, in the sole judgment of the *Airport Director*, it is necessary to achieve a balance between its qualified operational equipment available for immediate use at *JWA* and its *Regular ADD* or *Passenger Capacity Allocations*, and the carrier's *Regular ADD*, *Seat Capacity*, and *Passenger Capacity Allocations* will be adjusted accordingly.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

7.1.4 CESSATION OF OPERATIONS

(a) An *Air Carrier*: (i) ceases or abandons flight operations at *JWA*; or (ii) fails to conduct flight operations at *JWA* at a prorata level of at least fifty percent (50%) of its total authorized *Regular ADD* level (of all classes) for any thirty (30) day period.

(b) A *Commuter Carrier*: (i) ceases or abandons flight operations at *JWA*; or (ii) fails to conduct flight operations at *JWA* during any thirty (30) day period at a prorata level of aircraft seat availability of at least fifty percent (50%) of the aircraft seat availability projected in connection with the *Commuter Carrier's Passenger Capacity Allocation* under Section 3.5.

7.2 DISQUALIFIED OPERATORS

7.2.1 TERMINATION OF OPERATIONS CAPACITY ALLOCATIONS

In the event any *Regularly Scheduled Commercial User* ceases to be a *Qualified Air Carrier* or a *Qualified Commuter Carrier*, its then existing *Regular ADD*, *Passenger Capacity*, *RON* and *Seat Capacity* allocations, and any supplemental allocations of operational capacity, shall be terminated immediately.

7.2.2 NOTICE TO DISQUALIFIED OPERATOR

In addition to any and all other remedies which may be available to the *County* under this PLAN, or otherwise, the *County* may give written notice to any disqualified *Regularly Scheduled Commercial User* operating at *JWA* that it is no longer a *Qualified Air Carrier*, or *Qualified Commuter Carrier*, and such disqualification shall be effective: (i) ten (10) days after the delivery of the notice; or (ii) if a different disqualification date is specified in the notice, then at the close of business on the specified date.

7.2.3 DUTY TO TERMINATE OPERATIONS

Not later than the first working day following the date on which it is deemed to have received any notice given under Section 7.2.2 (*see*, Section 11.2.3), the person receiving the notice shall: (i) take all steps necessary to advise all computer databases listing that person's flights from *JWA* that such flights have been canceled effective not later than ten (10) days after delivery of the Section 7.2.2 notice (or, if the notice specifies a different date, the specified date); (ii) take all reasonable steps necessary to personally advise persons holding reservations on such canceled flights of the cancellation; and (iii) take all reasonable steps available to assist persons holding reservations on canceled flights to make alternative air travel arrangements.

Not more than ten (10) days after delivery of a written notice issued under Section 7.2.2 (or, if the notice specifies a different date, at the close of business on the specified date), the operator receiving the notice shall cease all operations at *JWA*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments corrected a cross-referencing error in this section. The original references to "Section 7.1.2" were changed to "Section 7.2.2."**

7.3 REALLOCATION OF DISQUALIFIED CARRIER'S OPERATING PRIVILEGES

7.3.1 REAFFIRMATION OF REALLOCATION AUTHORITY

In the event any *Regularly Scheduled Commercial User* ceases to be a *Qualified Air Carrier* or *Qualified Commuter Carrier* at *JWA* for any reason, or if, for any other reason, previously allocated operational capacity becomes available for reallocation, the *County* reserves the right to transfer or reallocate operational capacity immediately, including any and all supplemental *Authorized Departures*, *Regular ADDs*, *Seat Capacity*, *RON* positions, or *Passenger Capacity Allocations*. The available operations capacity may be reallocated to other persons in such a manner, and under such terms and conditions, as the *County* deems appropriate to minimize the adverse effects on the local community and the air traveling public of any disqualification, abandonment or reduction in service.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to the last sentence of this section.**

7.3.2 REALLOCATION PRIORITIES – POTENTIAL NEW ENTRANT CARRIER

In the event of a disqualification of an *Air Carrier*, or if, for any other reason, *Regular ADDs* become available for reallocation, the *County* reserves the right, in its sole and exclusive discretion: (i) to retain the *Regular ADD* capacity under direct *County* control for any reason; (ii) to reallocate the *Regular ADDs*; (iii) to authorize negotiations for the entry of an additional *Air Carrier* into service at *JWA*; or, (iv) to implement any combination of those actions.

If a "new entrant" carrier is authorized to commence *Regularly Scheduled Air Service* at *JWA* at any time, its operational capacity allocation shall be subject to the following priorities and limitations:

(a) Notwithstanding any other provision of this PLAN, including the order in which the waiting list required by Section 3.7.1 is maintained by the *Airport Director*, the *County* will give preference for any allocation of *Regulated ADDs* to any operation(s) who will use the capacity with: (i) in the case of *Commercial Air Carriers* carrying *Commercial Passengers*, aircraft regularly configured with more than seventy (70) passenger seats; or (ii) in the case of *Commercial Cargo Carriers*, and to the extent of the maximum permitted number of *Regulated Authorized Departures* which may be allocated to *Commercial Cargo Carriers* under the relevant provisions of Section 3 of this PLAN, aircraft with a certificated *Commercial Cargo* payload capacity of more than ninety thousand (90,000) pounds, over any operator(s) proposing to use the capacity with aircraft configured with seventy (70) or fewer *Passenger Seats* or ninety thousand (90,000) or fewer pounds of cargo carrying capacity; and

(b) Notwithstanding any other provision of this PLAN, including the order in which the *Air Carrier* waiting list is maintained by the *Airport Director* under Section 3.7.1, no new entrant *Air Carrier* will be allocated more *Regular ADDs* of any class, or more *Seat Capacity*, than had previously been allocated to the disqualified *Air Carrier*.

HISTORICAL NOTE

***December 1994 Amendments*. On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board's* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was added consistent with these series of amendments.**

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

***September 2010 Amendments.* This Section was revised to accurately reflect the distinction between a *Commuter Air Carrier* and a *Commercial Air Carrier* at *JWA*. See, Section 2.18 which provides the definition of a *Commuter Air Carrier*.**

7.3.3 REALLOCATION PRIORITIES – INCUMBENT OPERATORS

If, for any reason, any *Air Carrier* operational capacity is available for reallocation to incumbent carriers, then, subject to the full, sole, and exclusive discretion of the *County*, *Regular ADDs* available for reallocation (and the associated *Seat Capacity*) will normally be reallocated, if at all, in whole *ADD* increments, based upon the "reallocation order" of the then-incumbent *Air Carriers* (as determined for *Class A* Aircraft in accordance with the procedures of Section 7.3.4), subject to the following priorities and limitations:

(a) Notwithstanding any other provision of this PLAN, including the order in which the waiting list required by Section 3.7.1 is maintained by the *Airport Director*, the *County* will give preference for any reallocation of *Regular Class A ADDs* to any operator(s) who will use the capacity with aircraft regularly configured with more than seventy (70) *Passenger Seats*, over any operator(s) proposing to use the capacity with aircraft regularly configured with seventy (70) or fewer *Passenger Seats*;

(b) The *County* may, in the sole and exclusive exercise of its discretion, allocate the capacity for a period(s) less than the then-remaining term of this PLAN; and

(c) The *County* may, in the sole and exclusive exercise of its discretion, "convert" the operational capacity, and then allocate the capacity temporarily (or for the then-remaining term of this PLAN) as *Class E ADDs* or *Authorized Departures*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

***September 2010 Amendments.* This Section was revised to accurately reflect the distinction between a *Commuter Air Carrier* and a *Commercial Air Carrier* at *JWA*. See, Section 2.18 which provides the definition of a *Commuter Air Carrier*.**

7.3.4 DETERMINATION OF AIR CARRIER "REALLOCATION ORDER"

In conducting the preliminary allocation of *Regulated ADDs* referenced in Section 3 (*see also*, **APPENDIX A**), the *County* allocated certain *Class A ADDs* based upon a "bottom-up" prioritization which was determined by the number of *Regular Class A ADDs* tentatively allocated to each *Air Carrier* immediately prior to the "bottom-up" allocation. In conducting the allocation of the new *Regulated ADDs* also referenced in Section 3 (*see also*, **APPENDICES G and H**), the *County* allocated certain *Class A ADDs* based upon a new "bottom-up" prioritization, which was determined by the number of *Regular Class A ADDs* allocated to each *Air Carrier* immediately prior to the "bottom-up" allocation. It is the present intent of the *County* to maintain the new *Class A* reallocation priority list as a continuation of the "reallocation" process, subject to the provisions and limitations of this section. **APPENDIX B (INCUMBENT AIR CARRIER REALLOCATION PRIORITY LIST)** reflects this reallocation priority order for *Class A ADDs*. Where two (2) or more carriers have identical allocations of *Class A ADDs*, the "ties" in list priority have been resolved based upon each carrier's date of commencement of service at *JWA* (as determined by the date of formal action by the *Board of Supervisors* approving a lease or operating agreement with that carrier for service at *JWA*, except where a successor carrier not previously operating at *JWA* acquired a 100% equity interest in an incumbent airline and the successor carrier subsequently received *County* consent to an assignment of the acquired carrier's existing lease or operating agreement with the *County*, and the acquiring carrier was on the *County* air carrier "waiting list" at the time of the acquisition, in which case the priority determination date shall be the date on which the acquisition was completed), with those carriers whose date of commencement of service is first in time receiving the first priority.

(a) Whenever any incumbent *Air Carrier* receives any reallocation of a *Class A ADD*, that *Air Carrier* shall then be placed at the bottom of the **INCUMBENT AIR CARRIER REALLOCATION PRIORITY LIST,** and all other *Air Carriers* on the list shall be moved up one (1) position in the listed priority order.

(b) As and if reallocations of *Regulated ADDs* are made to the then incumbent *Air Carriers*, the *Airport Director* shall make appropriate notations or amendments to **APPENDIX B**, as necessary to reflect the then-current order of each reallocation priority list.

(c) Upon action of the *Board of Supervisors* formally authorizing the commencement of service at *JWA* by a "new entrant" *Air Carrier*, then that *Air Carrier* shall be placed last on the then-current incumbent *Air Carrier* reallocation priority lists.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made two changes to this section. First, the qualification clause was added to the first paragraph of this section (*i.e.,* "except where a successor carrier . . . on which the acquisition was completed"). The second change was to amend subsection (b) of this section to require that, under the circumstances contemplated by subsection (b), the carrier acquiring and qualifying *Class AA* aircraft which did not have qualified *Class AA* aircraft at the time of the original determination of reallocation priorities under this section would be added to the reallocation priority list in the appropriate "bottom-up" order rather than being added to the reallocation priority list as the last carrier on the list.**

Both changes were requested by Alaska Airlines. The requirement that the "acquiring carrier" be on the *County Air Carrier* "waiting list" was added on recommendation of the *Airport Commission* and approved by the *Board of Supervisors*.

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircraft* definition/distinction, and to reference the allocation of new operating capacity at the *Airport* and the corresponding designation of a new Incumbent Air Carrier Reallocation Priority List These revisions are consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement on June 25, 2002, and December 10, 2002, and actions of the *Board* on June 3, 2003, and June 24, 2003, approving implementing amendments to the ACCESS PLAN and authorizing the allocation of new capacity at the *Airport*.**

7.3.5 AIRPORT DIRECTOR RECOMMENDATIONS

In the event of a disqualification of an *Air Carrier* or *Commuter Carrier*, or if previously allocated *Regular ADDs* become available for reallocation for any other reason, the *Airport Director* shall, as soon as practicable:

(a) Advise the *Board of Supervisors* of: (i) the disqualification or availability of *Regular ADDs* for reallocation; (ii) the then-current status of the *Air Carrier* or *Commuter Carrier* waiting lists maintained under Section 3.7, as appropriate; and (iii) his recommendations regarding reallocation of any affected *Regular ADDs*, *Seat Capacity*, supplemental *Authorized Departure* allocations, or *Passenger Capacity Allocations*, as appropriate.

(b) In making his recommendations to the *Board of Supervisors* under paragraph (a), if the *Air Carrier* waiting list contains the name of a certificated *Air Carrier* whose proposed operations would meet the priority requirements of Section 7.3.2(b), he shall assume that that operator will be permitted to become a new entrant *Air Carrier* with an allocation of three (3) *Regular ADDs* and a corresponding level of allocated *Seat Capacity*, and he shall make a separate recommendation regarding reallocation of any additional *Regular ADDs* (and the corresponding *Seat Capacity*) which may be available for reallocation.

HISTORICAL NOTE

September 2010 Amendments. **This section was revised to reflect policy revisions with respect to the number of *Class A ADDs* that are allocated to a new entrant *Air Carrier* (the number was revised from two (2) to three (3) *Class A ADDs*). These revisions are consistent with the *Orange County Board of Supervisors'* actions on November 18, 2008, authorizing and approving implementing amendments to the ACCESS PLAN.**

7.4 EFFECT OF REALLOCATION ON CAPACITY WITHDRAWAL PRIORITIES

7.4.1 COMMUTER CARRIERS

In the event of any reallocation under this section of a disqualified *Commuter Carrier's Passenger Capacity Allocation*, the priorities and procedures for mandatory withdrawal of *Passenger Capacity Allocations* under Section 6.4 shall be applicable to the withdrawal.

7.4.2 AIR CARRIERS

In the event of any reallocation under this section of *Regulated ADDs* or *Seat Capacity*, the *County* will make adjustments to the priorities for withdrawal of *Regulated ADDs* and *Seat Capacity* (as referenced and specified in Section 6.3 and **APPENDICES C AND D**) which, in the sole and exclusive legislative discretion of the *County*, are appropriate, and which maintain fairness as between operators at *JWA*. In making any recommendations under Section 7.3.5(a), the *Airport Director* shall present his recommendations regarding adjustments to *Air Carrier* withdrawal priorities.

7.4.3 PRESUMED AIR CARRIER WITHDRAWAL PRIORITY ADJUSTMENTS

Generally, it will be the position of the *County* that: (i) All *Air Carriers* should continue to have a maximum of five (5) *Regulated ADDs* exempt from priority withdrawal; (ii) that all *Seat Blocks* for tentative *Seat Capacity* allocations above 711,750 *Passenger Seats* shall be (or remain) prioritized for withdrawal; and (iii) the actual withdrawal priority positions for *Regulated ADDs* and *Seat Blocks* reallocated under this section or any other relevant provision of this PLAN, and which do not become exempt from priority withdrawal by reallocation to *Air Carriers* whose total allocations do not, after the reallocation, exceed the thresholds referred to in this paragraph, shall remain the same as they were before reallocation.

HISTORICAL NOTE

December 1990 Amendments. **All of Section 7.4 was added by the December 1990 amendments. The section addresses an issue overlooked in the original plan text, which is the effect of a Section 7 reallocation on withdrawal priorities previously established for the reallocated *ADDs* or *Seat Blocks*. Although the *County* retains significant discretion under this section, the section is intended to continue the basic withdrawal priority processes and premises used to establish the withdrawal priorities in the first instance in most cases.**

***June 2003 Amendments*. This section was revised to eliminate the distinction between *Class AA/Class A ADDs*.**

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SECTION 8

PENALTIES AND PROHIBITIONS

In addition to all other prohibitions and restrictions contained in this PLAN, and in any and all regulations, ordinances, policies, leases, and agreements of the *County* adopted or entered into in its capacity as the proprietor and certificated operator of *JWA*, the following prohibitions and penalties shall be applicable to all actual or potential *Regularly Scheduled Commercial Users* conducting (or proposing to conduct) operations at *JWA*.

8.1 GENERAL PROHIBITIONS

8.1.1 REGULARLY SCHEDULED AIR SERVICE

No person shall conduct aircraft flight operations at *JWA* in support of *Regularly Scheduled Air Service*, or otherwise permit any *Commercial Passenger* or any *Commercial Cargo* to be boarded upon, or deplaned from, any aircraft operated by the person, unless the person is a *Qualified Air Carrier* or *Qualified Commuter Carrier*.

HISTORICAL NOTE

December 1990 Amendments. **The word "flight" was added to the first line of this section on recommendation of the *Airport Commission*, and the request of Air/Lyon, the owner of certain FBO operations at *JWA*. This was a clarifying amendment, and was consistent with the staff interpretation of the section prior to the amendment.**

8.1.2 COMMERCIAL AIR CARRIERS – ADDS REQUIRED

No person shall operate at *JWA* as a *Commercial Air Carrier* unless: (i) that person conducts its operations with *ADDs* or other *Authorized Departures* directly and formally allocated to that person by action of the *Board of Supervisors*; (ii) the person conducts all of its operations with aircraft which have been qualified and certified as *Class A* or *Class E Aircraft* under Section 10; and (iii) the person has met, and continues to meet at all times, all other requirements of the *County* which are conditions to conducting *Regularly Scheduled Air Service* at *JWA*, including the approval by the *County* and the execution of appropriate written agreements which are a necessary precondition to conducting commercial activities at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

8.1.3 COMMUTER CARRIERS – PASSENGER CAPACITY ALLOCATION REQUIRED

No person shall operate at *JWA* as a *Commuter Air Carrier* unless: (i) that person has received a *Passenger Capacity Allocation* under Section 3.5 for the *Plan Year* during which the operations are conducted; (ii) the person conducts all of its operations with aircraft which have been qualified and certified as *Class E Aircraft* under Section 10; and (iii) the person has met all other requirements of the *County* which are a condition to conducting *Regularly Scheduled Air Service* at *JWA*, including the approval by the *County* and the execution of appropriate written agreements which are a necessary precondition to conducting commercial activities at *JWA*.

8.1.4 NO SIMULTANEOUS OPERATIONS IN TWO OR MORE USER CATEGORIES

Except as expressly permitted by the *County* under the authority of Section 3.4.2, no person shall conduct operations at *JWA* both as an *Air Carrier* and as a *Commuter Carrier*.

8.1.5 REPORTING REQUIREMENTS AS A CONDITION OF OPERATION

No person shall engage in *Regularly Scheduled Air Service* at *JWA* unless that person is in full compliance with all requirements of the following sections of this PLAN:

Section 3.8.1	**Section 3.8.2**	**Section 3.8.3**
Section 3.8.4	**Section 8.2.4**	**Section 10.3.3**

8.1.6 NO ASSISTANCE IN VIOLATION OF THE PLAN

No person shall assist any other person in violating any term or provision of this PLAN. Any person who takes action assisting another person to commit a violation of this PLAN shall be deemed to have committed the same violation, and shall be subject to the same penalties and sanctions.

8.1.7 USE OF AIR TERMINAL FOR PASSENGERS OR BAGGAGE REQUIRED

(a) Except as may be allowed under the authority of subsection (b), no *Air Carrier* or *Commuter Carrier* shall provide services or engage in activities related to the service of air passengers and their baggage except through and in facilities designated for that purpose by the *County* in the THOMAS F. RILEY TERMINAL.

(b) Any *Qualified Commuter Carrier* may apply to the *Airport Director*, in writing, for permission to conduct passenger or related operations at the location of a Fixed Base Operator ("FBO") which is a tenant of the *County*. The application shall provide such information as may be required or requested by the *Airport Director*. If the *Airport Director* or the *Board of Supervisors* authorizes *Commuter Carrier* operations at a FBO location, the authority of the applicant to conduct such operations shall be subject to such conditions as the *Airport Director* or the *Board* may impose on such operations.

HISTORICAL NOTE

December 1990 Amendments. **This section was added by the December 1990 amendments, although it is simply a restatement of preexisting policy of the *County* (and existing limitations on the carriers through their leases and otherwise). This limitation on use is an element of the City of Newport Beach "settlement agreement," and amending the PLAN to include this restatement of existing limitations is intended principally to make the PLAN itself a more complete and self-contained statement of *County* regulation of commercial use of *JWA*.**

8.2 AFFILIATE OPERATIONS – PROHIBITION

Except as expressly permitted by this section, and except as permitted by Sections 3.9 and 3.10 of this PLAN and any other relevant provisions of the PLAN relative to the operation of *Associated Operating Groups*, *Affiliated Carriers* shall not simultaneously conduct *Regularly Scheduled Air Service* at *JWA*.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments included a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*. This section was revised consistent with these approved amendments.**

8.2.1 OPERATIONS BY AFFILIATED CARRIERS – PERMITTED EXCEPTION

During the term of this PLAN, one (1) *Air Carrier* and one (1) *Commuter Carrier* of any group of *Affiliated Carriers* may, during any *Plan Year*, simultaneously engage in *Regularly Scheduled Air Service* at *JWA*, except that, nothing in this subsection prohibits *Affiliated Carriers* from conducting operations as members of an *Associated Operating Group* under, and in compliance with, Sections 3.9 and 3.10 of this PLAN, and all other sections of this PLAN relevant to the operation of *Associated Operating Groups* at *JWA*.

8.2.2 DESIGNATION OF AUTHORIZED AFFILIATED OPERATORS AT JWA

In the event more than one (1) *Air Carrier* or more than one (1) *Commuter Carrier* of any group of *Affiliated Carriers* desires to provide *Regularly Scheduled Air Service* at *JWA*, the operators which will be authorized to provide the service will be determined as follows:

(a) If all members of the *Affiliated Group* who desire to serve *JWA* execute and submit a written election to the *Airport Director* identifying which of the *Affiliated Carriers* will actually serve *JWA*, then the *County* will, under normal circumstances, accept the joint designation. However,

(b) If an election is not made under paragraph (a), the *Air Carrier* and *Commuter Carrier* of the *Affiliated Group* with seniority at *JWA* shall be the carrier(s) authorized to provide *Regularly Scheduled Air Service* at *JWA*. For purposes of this section, "seniority" among *Regularly Scheduled Commercial Users* or other carriers shall be determined first: (i) by reference to the date on which the operator was first authorized by official action of the *Board of Supervisors* to conduct *Regularly Scheduled Air Service* at *JWA*; and, second, (ii) by reference to the order in which the person(s) is listed on the Section 3.7 waiting list(s).

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

8.2.3 FORMATION OF AFFILIATE RELATIONSHIP DURING A PLAN YEAR

(a) If any *Qualified Air Carrier(s)* and/or *Qualified Commuter Carrier(s)* form an *Affiliate* relationship during any *Plan Year* which would otherwise result in a violation of Section 8.2, and if those person(s) have complied fully, completely, and in a timely manner with the reporting requirements of Section 8.2.4, then, by reference to the provisions of Section 8.2.2, all operators whose operations at

JWA have caused the *Affiliate Group* to be in violation of Section 8.2 shall automatically cease to be *Qualified Air Carrier(s)* or *Qualified Commuter Carrier(s)* (as necessary to restore the *Affiliate Group* to full compliance with Section 8.2.1), without further action of the *County*, at the close of business on the last day of the *Plan Year* during which the *Affiliate* relationship was created.

(b) If any member of the *Affiliate Group* conducting operations at *JWA* fails to comply fully, completely, and in a timely manner with the reporting requirements of Section 8.2.4, then the operator(s) to be disqualified under this section shall, automatically, and without further action of the *County*, cease to be qualified operator(s) at the end of the tenth (10th) day following the day on which the Section 8.2.4 report was required to be filed with the *Airport Director*.

8.2.4 NOTICE OF FORMATION OF AFFILIATE RELATIONSHIP

(a) Not later than September 30, 1990, each *Air Carrier* and each *Commuter Carrier* intending to conduct operations at *JWA* at the commencement of the term of this PLAN shall file with the *Airport Director* a **NOTICE OF AFFILIATE RELATIONSHIP FORM (APPENDIX F-17)**.

(b) Not later than five (5) days after any *Qualified Air Carrier* or *Qualified Commuter Carrier* initiates, approves, or is the subject of, any transaction which would create an *Affiliate* relationship, whether or not the relationship is with (directly or indirectly) another person conducting *Regularly Scheduled Air Service* at *JWA*, **each** such *Qualified Air Carrier* or *Qualified Commuter Carrier* shall complete and submit to the *Airport Director* a **NOTICE OF AFFILIATE RELATIONSHIP FORM (APPENDIX F-17)**.

(c) No person who has approved, or who is negotiating or actively implementing the formation or possible formation of an *Affiliate* relationship, whether or not the relationship is with (directly or indirectly) another person conducting *Regularly Scheduled Air Service* at *JWA*, shall submit any request for any allocation of operational capacity under this PLAN, whether for an allocation of *ADDs*, supplemental *Authorized Departures*, *Allocated Seat Capacity* (supplemental or otherwise), *RON* positions, or *Passenger Capacity Allocations*, unless that person has first submitted to the *Airport Director* a **NOTICE OF AFFILIATE RELATIONSHIP FORM (APPENDIX F-17)** describing the transaction or contemplated transaction.

8.3 SPECIFIC OPERATIONS PROHIBITIONS

Because of the unique historical, environmental, and regulatory history of *JWA*, the agreement of each person engaging in *Regularly Scheduled Air Service* at *JWA* to operate at *JWA* within defined

minimum and maximum parameters is an essential and irreplaceable element of the consideration for which the *County* has consented to permit any person to become a *Qualified Air Carrier* or *Qualified Commuter Carrier* for, and during, the term of this PLAN. The ability of the *County* to meet its environmental and service level goals for *JWA* is dependent upon strict compliance by each *Air Carrier* and each *Commuter Carrier* with the provisions of the following sections:

8.3.1 EXCESS REGULATED OPERATIONS

No person requiring an allocation of *ADDs* for operations at *JWA* shall operate more than its total *Authorized Departures* (including any supplemental *Authorized Departures* allocated under Section 4) during any *Plan Year*. This prohibition applies separately to *Class A*, permanent *Class E*, and other *Class E* allocations.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights, to eliminate the *Class AA/Class A Aircr*aft definition/distinction, and to reference permanent *Class E* allocations. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

8.3.2 OPERATIONS RESULTING IN EXCESS USE OF SEAT CAPACITY

No *Qualified Air Carrier* shall conduct operations at *JWA* during any *Plan Year* in a manner which results in a total *Seat Capacity* for all of its operations which exceeds the sum of: (i) the *Seat Capacity* allocated to the carrier under Section 3.3.2; (ii) any *Seat Capacity* reallocated to the carrier under the authority of Section 7; and (iii) any supplemental *Seat Capacity* allocated to the carrier under Sections 4.2 or 4.3 for use during the *Plan Year*.

8.3.3 OPERATIONS RESULTING IN EXCESS USE OF PASSENGER CAPACITY ALLOCATIONS

No *Qualified Commuter Carrier* shall conduct operations at *JWA* during any *Plan Year* in a manner which results in service to a number of *Commercial Passengers* which exceeds the sum of: (i) the *Passenger Capacity Allocation* made to the *Commuter Carrier* under Section 3.5 for that *Plan Year*; and (ii) any supplemental *Passenger Capacity* allocated to the *Commuter Carrier* under Section 4.4 for use during the *Plan Year*.

8.3.4 OPERATIONS WITH UNQUALIFIED AIRCRAFT

No person conducting *Regularly Scheduled Air Service* at *JWA* shall:

(a) Operate any aircraft at *JWA* other than an aircraft previously qualified and certified by the *Airport Director* under Section 10, or an aircraft previously qualified and certified by the *Airport Director* under a previously effective *County* adopted "access plan;" nor shall any such person

(b) Operate any aircraft in connection with any allocation made under this PLAN for any specific aircraft noise "class" unless that aircraft has previously been qualified and certified by the *Airport Director* under Section 10 (or under a previously effective *County* adopted "access plan") as authorized for use in that specific aircraft noise "class."

8.3.5 MAXIMUM CALENDAR QUARTER PRORATA OPERATIONS LEVELS

Unless it has received special written authority from the *Airport Director* under Section 8.3.8, no person receiving an allocation of *ADDs*, *Seat Capacity*, or *Passenger Capacity* (including any supplemental capacity allocations) shall conduct its operations in a manner which causes the person to operate **more** than the following percentages of its calendar quarter prorata operational capacity allocation(s) for any *Plan Year* (calculated by reference to the number of days in each relevant calendar quarter):

DURING ANY	MAXIMUM PERCENTAGE
Calendar Quarter:	115%
Three Consecutive Calendar Quarters:	105%

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments revised this section to replace the word "minimum" with the word "maximum" on the first line of the table. This was a clarifying amendment, and was consistent with the staff interpretation of the section prior to the amendment.**

***July 2015 Amendments.* This section was revised to delete the maximum percentage requirement for two consecutive calendar quarters because the requirement was identical to each calendar quarter requirement.**

8.3.6 MINIMUM MONTHLY, QUARTERLY, AND PLAN YEAR OPERATIONS LEVELS – AIR CARRIERS

Unless it has received special written authority from the *Airport Director* under Section 8.3.8, no *Qualified Air Carrier* shall conduct its operations in a manner which causes the person to operate **less** than the following percentages of its calendar month, quarter, and *Plan Year* prorata proportion of: (i) its *Regular ADD* and any supplemental *Authorized Departure* allocation; or (ii) its *Allocated Seat Capacity* and any supplemental *Seat Capacity* allocation(s) for any *Plan Year* (calculated by reference to the number of days in each relevant calendar quarter):

DURING ANY	MINIMUM PERCENTAGE
Calendar Month:	50%
Calendar Quarter:	70%
Plan Year:	90%

In computing this minimum use requirement with respect to allocations of *Regular ADDs* and supplemental *Class A* and *Class E Authorized Departures*, the requirement shall apply separately to each *ADD* noise class.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments changed the minimum use percentage requirement for the *Plan Year* to ninety percent (90%) from ninety-five percent (95%). This was a liberalizing amendment requested by the *Air Carriers*.**

July 1999 Amendments. **The July 1999 amendments revised this section to reference monthly, quarterly, and *Plan Year* operations levels consistent with the application of this section to operations levels.**

***June 2003 Amendments*.** **This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. These revisions are consistent with the *Orange County Board of Supervisors'* actions on June 25, 2002, and December 10, 2002, certifying EIR 582 and approving the Settlement Amendment; and actions on June 3, 2003, and June 24, 2003, authorizing and approving implementing amendments to the ACCESS PLAN.**

8.3.7 MINIMUM MONTHLY, QUARTERLY, AND PLAN YEAR OPERATIONS LEVELS – COMMUTER CARRIERS

Unless it has received prior written authority from the *Airport Director* under Section 8.3.8, no *Qualified Commuter Carrier* shall conduct its operations in a manner which causes the person to operate **less** than the following percentages of its calendar month, quarter, and *Plan Year* prorata proportion of its *Plan Year Passenger Capacity Allocation*, and any supplemental allocations of *Passenger Capacity* (calculated by reference to the number of days in each relevant calendar quarter):

DURING ANY	MINIMUM PERCENTAGE
Calendar Month:	50%
Calendar Quarter:	70%
Plan Year:	90%

HISTORICAL NOTE

July 1999 Amendments. **The July 1999 amendments revised this section to reference monthly, quarterly, and *Plan Year* operations levels consistent with the application of this section to operations levels.**

8.3.8 REQUEST FOR MODIFICATION OF MINIMUM/MAXIMUM USE PERCENTAGES

Any *Qualified Air Carrier* or *Qualified Commuter Carrier* may submit a written request to the *Airport Director* for modifications to the maximum and minimum use requirements of Sections 8.3.5, 8.3.6, 8.3.7, and 8.3.9 subject to the following limitations and conditions:

(a) The *Airport Director* may not permit or authorize modifications of the minimum full *Plan Year* requirements of Sections 8.3.6 or 8.3.7;

(b) No request may be made or granted for any period of time greater than one (1) *Plan Year*;

(c) A request must be submitted to the *Airport Director* on a **MODIFICATION OF MINIMUM/MAXIMUM USE PERCENTAGE REQUEST FORM (APPENDIX F-18)** not later than forty-five (45) days prior to the last day of the calendar month or calendar quarter for which the request is intended to be effective; and

(d) If the request is granted in whole or in part, the *Airport Director* shall specify the modified minimum or maximum use requirements authorized by him, and the

percentage values will then be binding on the applicant operator for the period for which the request has been granted as if contained in Sections 8.3.5, 8.3.6, 8.3.7, or 8.3.9 as appropriate.

The *Airport Director* may deny, grant, or grant with conditions the requested modification. In considering any request made under this section, the *Airport Director* shall consider the following factors: (i) the reasonableness of the request under the relevant circumstances; (ii) the interests of the air traveling public and the impact of the request, if any, on the ability of the *County* to realize its *JWA* passenger service level goals and policies during any *Plan Year*; and (iii) the effect of the request, if any, on the environmental goals, policies, and regulations of the *County* in its management and operation of *JWA*.

HISTORICAL NOTE

July 2015 Amendments. **This section was revised to reference both minimum and maximum use percentage requirements in Form F-18. In addition, this section was revised to reduce the requirement for submittal of the F-18 form from sixty (60) days prior to the first day of the *Plan Year* to forty-five (45) days prior to the last day of the calendar month or calendar quarter for which the request is intended to be effective. In addition, the prohibition against submitting a request for modifications to the maximum/minimum use requirements during the last quarter of any *Plan Year* was eliminated.**

8.3.9 MINIMUM UTILIZATION OF RON ALLOCATION AND SCHEDULED DEPARTURE TIMES

During any calendar month no *Commercial Air Carrier* or *Commuter Carrier* shall use an allocated *RON* position for less than eighty percent (80%) of the days for which the *RON* position was scheduled for use at the time of its allocation under Section 5.

In addition, during any *Plan Year*, no *Commercial Air Carrier* shall publish or advertise a *Scheduled Departure Time* for any flight originating from *JWA* utilizing an *RON* position at the *Airport* which is after 0900 hours (local time), Monday through Sunday.

These prohibitions are not applicable to *RON* positions authorized under Section 5.12.

HISTORICAL NOTE

June 2003 Amendments**. This section has been revised to clarify existing *Airport* policy provided in Section 5.3 of the PLAN with respect to mandatory compliance with the *RON* preference for departures scheduled at or before 0900 hours (local time).**

8.4 PROHIBITIONS AGAINST EXCESS NOISE

8.4.1 AIR CARRIERS

No person requiring an allocation of *ADDs* for operations at *JWA* shall operate its aircraft during any *Noise Compliance Period* at energy averaged *SENEL* levels which exceed those permitted for the specific class of *ADD* being utilized for the operations by those aircraft. If any person is authorized to operate more than one (1) aircraft type in connection with his use of any class of *ADD*, the prohibitions of this section apply separately to each aircraft type.

8.4.2 COMMUTER CARRIERS

No person requiring a *Passenger Capacity Allocation* for operations at *JWA* shall operate its aircraft during any *Noise Compliance Period* at energy averaged *SENEL* levels which exceed those permitted for *Class E Aircraft*. If any person is authorized to operate more than one (1) aircraft type in connection with his operations at *JWA*, the prohibitions of this section apply separately to each aircraft type.

8.5 OTHER PROHIBITIONS AND REQUIREMENTS

8.5.1 AIRCRAFT WEIGHTS

(a) No person shall operate any aircraft type at *JWA* at weights which exceed the *Maximum Permitted Gross Takeoff Weight* for that aircraft type.

(b) No person shall operate any aircraft at *JWA* on any pavement surface at *JWA* at weights which exceed the *Maximum Permitted Ground Operations Weight* for that pavement surface (as reflected and defined in Appendix E), except as expressly permitted by the *Airport Director*.

HISTORICAL NOTE

July 2015 Amendments. **This section was revised to provide the *Airport Director* with the discretion relating to the maximum permitted ground operations weight of aircraft at *JWA*, to the extent necessary.**

8.5.2 PERMITTED COMMERCIAL AND CARGO OPERATIONS HOURS

(a) Except as expressly authorized by this section, no *Air Carrier*, *Commuter Carrier*, nor *Commercial Cargo Carrier* shall operate any aircraft at *JWA* at any other times other than the *Permitted Commercial Operations Hours* and *Permitted Cargo Operations Hours*.

The *Airport Director* or senior *County* operations representative then on duty may (but is not required to) authorize a departure or landing outside of the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours*, as applicable to a specific commercial operation, only under the following conditions and limitations, and only upon his determination that the specific operation is not being performed under circumstances inconsistent with the basic intent of the *County* in establishing the *Permitted Commercial Operations Hours* and *Permitted Cargo Operations Hours*, respectively in the first instance:

(b) The flight was scheduled to arrive or depart during the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours* and was delayed by not more than one-half hour beyond the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours* by emergency, mechanical, air traffic control, or weather delays substantially beyond the control of the operator; and

(c) If any person is granted permission under this section to conduct a departure or arrival outside of the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours* and was delayed by not more than one-half hour beyond the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours* by air traffic control or weather delays substantially beyond the control of the operator; and

(d) If any person is granted permission under this section to conduct a departure or arrival outside of the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours*, that person must file a written report with the *Airport Director* within forty-eight (48) hours after the arrival or departure which describes in detail the specific circumstances which caused the person to make the request. Any failure to file the written report within the time permitted by this paragraph will render the *Airport Director's* authorization invalid and void.

Nothing in this section establishes a "right" or privilege of any person to conduct air operations outside of the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours*. No person may conduct operations outside the *Permitted Commercial Operations Hours* or *Permitted Cargo Operations Hours* under the authority of this section unless that person has first received express approval for the specific operation from the *Airport Director* or senior *County* operations officer on duty at the time the operation is conducted.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments: (i) added the parenthetical statement in the second paragraph of this section; (ii) added the requirement that the *Airport Director* make a determination that the authorized operation occur only under circumstances consistent with the basic intent of the *County* in establishing the airport time of day restrictions; (iii) added the reference in subsection (a) to CALIFORNIA PUBLIC UTILITIES CODE §21662.4; (iv) changed the time reference in subsection (b) to one-half (½) hour; and (v) added the last paragraph of this section.**

These were, for the most part, clarifying amendments. The added reference to the newly enacted PUBLIC UTILITIES CODE §21662.4 made the section consistent with the terms of that section, as adopted by the state legislature by the passage of AB 2630 (1990) (La Follette).

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board's* certification and approval of COUNTY NVIRONMENTAL IMPACT REPORT NO. 552. This section was revised consistent with these series of approved amendments.**

8.5.3 SCHEDULED DEPARTURE TIMES

No *Air Carrier* or *Commuter Carrier* shall publish or advertise a *Scheduled Departure Time* for any flight originating from *JWA* which is: (i) prior to 0645 hours, local time, or after 2145 hours, local time, Monday through Saturday; or (ii) prior to 0745 hours, local time, or after 2145 hours, local time, on Sundays. Nothing in this section authorizes any person to conduct air operations at *JWA* at times other than the *Permitted Commercial Operations Hours*.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments liberalized the restrictions of this section by changing the permitted scheduled departure times from 0650 and 0750 hours, local time, to 0645 and 0745 hours, local time. This amendment was requested by American Airlines and supported by other *Air Carriers*.**

8.5.4 USE OF LOADING BRIDGES MANDATORY

Except as may specifically be authorized in writing by the *Airport Director:* (i) no *Air Carrier* shall cause or allow any member of the public to board any aircraft from the departure level of the passenger terminal by any means other than a loading bridge (*i.e.* gate or hard-stand), the use of which has been assigned to that carrier; and (ii) except in an emergency threatening life or property, no *Air Carrier* shall permit any member of the public to deplane an aircraft except through a loading bridge (*i.e.*, gate or hard-stand), the use of which has been assigned to that carrier. It is the intent and purpose of this section that *Air Carriers* will not cause or allow their passengers to use the *Air Carrier* apron or other operational areas of the airfield for the purpose of boarding or deplaning any *Air Carrier* aircraft, unless that area has been assigned to that *Air Carrier*.

8.5.5 UNEXECUTED OR INCOMPLETE FORMS

Whenever any person submits to the *Airport Director* any mandatory or discretionary form under the terms of this PLAN, the form shall be executed by a responsible officer or other responsible person employed by the operator, and the form shall contain all requested information available to the person on whose behalf the form is submitted. For purposes of this PLAN, the person actually signing the form will be deemed to have the authority to make the representations of fact contained in the completed form on behalf of the person submitting the form.

HISTORICAL NOTE

July 1999 Amendments. **The July 1999 amendments added the word "person" between the words "the" and "on."**

8.6 PENALTIES – REPORTING REQUIREMENTS

Any person violating the reporting requirements of this PLAN shall be subject to the sanctions set forth in the following sections:

8.6.1 MANDATORY REPORTS

Any failure to file required reports within (and at) the times required by this PLAN, and which are in full compliance with Section 8.5.5, shall result in the following administrative penalties:

(a) For **each** of the first fifteen (15) calendar days during which the required form is late, an administrative penalty of $500 per day.

(b) For **each** of the next fifteen (15) calendar days during which the required form is late, an administrative penalty of $1,000 per day.

(c) If, within the first fifteen (15) calendar days during which the report is late, the *Airport Director* delivers a written demand for the required form to the person failing to file the form, then, after the expiration of the period set forth in subparagraph (b) above, the person failing to file the required form shall immediately cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier*.

(d) If the *Airport Director* does not deliver a demand under subparagraph (c) above, then for **each** day the required form is late after the expiration of the period set forth in subparagraph (b) above, an administrative penalty of $2,500 per day.

(e) If the *Airport Director* does not deliver a written demand within the time set forth in subparagraph (c) above, but later delivers such a demand; and if the person required to file the form does not then deliver the form in full compliance with Section 8.5.5 within fifteen (15) days after the date of the *Airport Director's* demand, then the person shall immediately cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier*.

Nothing in this section requires the *Airport Director* to make a demand under subparagraphs (c) or (e) above.

Those forms contained in appendices to this PLAN which, for purposes of this section, are "required" or "mandatory" forms are:

APPENDIX F-1	**APPENDIX F-2**	**APPENDIX F-4**
APPENDIX F-7	**APPENDIX F-9**	**APPENDIX F-10**
APPENDIX F-11	**APPENDIX F-15**	**APPENDIX F-17**
APPENDIX F-19		

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

***July 2015 Amendments.* The July 2015 amendments added reference to Appendix F-11.**

8.6.2 DISCRETIONARY REPORTS

For purposes of this section, "discretionary reports (or forms)" are reports which are only required if the applicant carrier wishes to be allocated special or supplemental allocations, or which are required only in connection with discretionary activity to be initiated by the carrier under this PLAN. For purposes of this section, the forms contained in the appendices to this PLAN which are "discretionary" are:

APPENDIX F-3	**APPENDIX F-5**	**APPENDIX F-6**
APPENDIX F-8	**APPENDIX F-11(S)**	**APPENDIX F-12(S)**
APPENDIX F-13(S)	**APPENDIX F-14**	**APPENDIX F-16**
APPENDIX F-18	**APPENDIX F-20**	**APPENDIX F-21**
APPENDIX F-22		

If any person submits a "discretionary report (or form)" to the *Airport Director* which does not comply with Section 8.5.5, or which is not submitted within the time permitted by this PLAN, the form may be deemed **not** to have been received by the *County* or the *Airport Director*, and it shall be ineffective for purposes of requesting any allocations or other operating privileges under this PLAN.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the "affiliate policy" provisions of the ACCESS PLAN. These amendments included adding APPENDIX F-21 and APPENDIX F-22 regarding the Declaration and Amended Declaration of Formation of an *Associated Operating Group* as "discretionary reports."**

July 2015 Amendments. **The July 2015 amendments added an (S) to Forms F-11, F-12, and F-13.**

8.6.3 UNEXECUTED OR INCOMPLETE FORMS – EFFECT OF NON-COMPLIANCE

(a) Whenever any person submits a required or discretionary form to the *Airport Director* under the terms of this PLAN which is unexecuted, or which omits requested information available to the person submitting the form, or which otherwise violates Section 8.5.5, then, in addition to the other remedies available to the *County*, including the penalties set forth in Section 8.6.1, the *County* may deem the report or form **not** to have been received by the *County* or the *Airport Director* for any purpose related to this PLAN.

(b) In the event the *Airport Director* receives a mandatory or discretionary form or report which has, as its only defect, a failure to meet the signature requirements

of Section 8.5.5, he shall, within fifteen (15) days of his receipt of the form, give written notice to the person submitting the form of the deficiency. If no such notice is given within fifteen (15) days, the form will be deemed to be in compliance with the signature requirements of Section 8.5.5 on the date the form was originally submitted to the *Airport Director* (*see*, Section 11.2.4).

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments expanded the title of this section for clarification.**

8.7 PENALTIES – UNDER-UTILIZATION OF OPERATIONS CAPACITY

8.7.1 UNDER-UTILIZATION OF RON ALLOCATIONS AND VIOLATION OF SCHEDULED DEPARTURE TIMES

Any *Air Carrier* or *Commuter Carrier* which violates Section 8.3.9 with respect to the use of its *RON* position allocations may be subject to the following penalties:

(a) In the event a *Commercial Air Carrier* or *Commuter Carrier* violates Section 8.3.9, the *Airport Director* may declare that its allocation of the under-utilized or misused *RON* position has been terminated immediately, or terminated effective on such other date as the *Airport Director* may declare. Written notice of any such termination will be effective immediately upon delivery of any such notice by the *Airport Director*, unless a different termination effective date is specified in the *Airport Director's* notice.

(b) If, during the term of this PLAN, the termination provisions of paragraph (a) have been applied to any *Commercial Air Carrier* or *Commuter Carrier* on three (3) separate occasions, that *Air Carrier* or *Commuter Carrier* shall be disqualified from eligibility to receive any allocation of *RON* positions during the *Plan Year* immediately following the *Plan Year* during which the third unauthorized under-utilization occurred. Thereafter, every application of subparagraph (a) above to the same *Commercial Air Carrier* shall disqualify the *Air Carrier* from eligibility to receive any allocation of *RON* positions during the next succeeding *Plan Year*.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments revised this section to insert the word "misused" in subparagraph (a). This was a clarifying amendment and was consistent with the staff interpretation of the section prior to the amendment. Certain grammatical changes were also made to subparagraph (b) of this section.**

8.7.2 UNDER-UTILIZATION OF AUTHORIZED DEPARTURES OR SEAT CAPACITY

Any *Commercial Air Carrier* which violates Section 8.3.6 with respect to the use of its *Authorized Departures* or *Seat Capacity* may be subject to the following penalties:

(a) If the violation is a failure to serve fifty percent (50%) of the *Air Carrier's* prorata *Regular ADD* or *Seat Capacity* allocation during any month, the *Airport Director* may recommend to the *Board of Supervisors*: (i) immediate disqualification of the *Air Carrier*; or (ii) a reduction in the *Air Carrier's* remaining unused *Regular ADD*, supplemental *Authorized Departure*, and *Seat Capacity* allocations for the *Plan Year*, or for some other, longer, period of time. The *Airport Director* shall base any recommendations made under this paragraph upon all relevant circumstances under which the carrier failed to meet the fifty percent (50%) requirement.

Violations of Section 8.3.6, other than failing to meet the fifty percent (50%) requirement, are subject to the following penalties:

(b) If the *Air Carrier* violates Section 8.3.6 solely as a result of its allocation of supplemental *Authorized Departures*, but the *Air Carrier* would not have violated Section 8.3.6 if the percentage requirement of that section were applied only to the *Air Carrier's Regular ADD* allocation, then the *Air Carrier* shall be disqualified from receiving any supplemental *Authorized Departure* allocations of any class for the *Plan Year* following the *Plan Year* during which the violation occurred.

(c) If the disqualification provisions of subparagraph (b) of this section are applied to any *Commercial Air Carrier* on three (3) separate occasions during the term of this PLAN, the *Air Carrier* shall be disqualified from receiving any supplemental *Authorized Departure* allocations for the two (2) *Plan Years* next following the *Plan Year* during which the third violation of subparagraph (b) above occurred.

(d) If the *Commercial Air Carrier* violates Section 8.3.6 with respect to its allocation of any class of *Regular ADDs*, then: (i) for the remainder of the term of this PLAN, that *Air Carrier's Regular ADD* allocation in the *ADD* class for which the violation occurred shall be reduced to the *ADD* level actually operated by the *Air Carrier* during the period when the violation occurred, rounded to the nearest one-half (.5) *ADD*; and (ii) the *Air Carrier* shall be disqualified from receiving any supplemental allocations of *Authorized Departures* in any class for the *Plan Year* following the *Plan Year* during which the violation occurred.

HISTORICAL NOTE

July 1999 Amendments. **The July 1999 amendments expanded the title of this section for clarification.**

June 2003 Amendments**. The June 2003 amendments made grammatical changes to this section.**

8.7.3 UNDER-UTILIZATION OF PASSENGER CAPACITY ALLOCATIONS

Any *Commuter Carrier* which violates the provisions of Section 8.3.7 may be subject to the following penalties:

(a) If the violation is a failure to serve fifty percent (50%) of the *Commuter Carrier's* prorata *Passenger Capacity Allocation* during any month, the *Airport Director* may recommend to the *Board of Supervisors*: (i) immediate disqualification of the *Commuter Carrier*; or (ii) a reduction in the *Commuter Carrier's* remaining unused *Passenger Capacity Allocation* for the *Plan Year*, or for some other, longer, period of time. The *Airport Director* shall base any recommendations made under this paragraph upon all relevant circumstances under which the carrier failed to meet the fifty percent (50%) requirement.

(b) If the violation is a failure to serve seventy percent (70%) of the *Commuter Carrier's* prorata *Passenger Capacity Allocation* during a calendar quarter, then that *Commuter Carrier's Passenger Capacity Allocation* for each calendar quarter during the remainder of the *Plan Year* shall be reduced to a level equal to the passenger level actually served by the *Commuter Carrier* operator during the quarter in which the violation occurred.

(c) If the violation is a failure to serve ninety percent (90%) of the *Commuter Carrier's Passenger Capacity Allocation* during a *Plan Year*, then that *Commuter Carrier's Passenger Capacity Allocation* for the succeeding *Plan*

Year may not exceed the passenger level actually served by the *Commuter Carrier* during the *Plan Year* in which the violation occurred.

8.8 PENALTIES – EXCESS UTILIZATION OF OPERATIONS CAPACITY

8.8.1 COMMERCIAL AIR CARRIERS

Any *Commercial Air Carrier* which violates Sections 8.3.1, 8.3.2, or 8.3.5 shall be subject to the following penalties:

(a) If the violation is a violation of any of the percentage limitations of Section 8.3.5, then the *Air Carrier* shall reduce its level of operations during the succeeding calendar quarter(s) of the remainder of the *Plan Year* to levels specified by the *Airport Director*.

(b) If the violation is: (i) a violation of Sections 8.3.1 or 8.3.2; or (ii) a failure to comply with subparagraph (a) of this section during any calendar quarter for which the *Airport Director* has given a notice under the authority of subparagraph (a); the *Air Carrier* shall immediately cease to be a *Qualified Air Carrier*, and the *Airport Director* may immediately terminate any tenancy and operating privileges of the *Air Carrier* at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

8.8.2 COMMUTER CARRIERS

Any *Commuter Carrier* which violates Section 8.3.3 or 8.3.5 of this PLAN shall be subject to the following penalties:

(a) If the violation is a violation of any of the percentage limitations of Section 8.3.5, then the *Commuter Carrier* shall reduce its level of operations and passenger service levels during the succeeding calendar quarter(s) of the remainder of the *Plan Year* to levels specified by the *Airport Director*.

(b) If the violation is: (i) a violation of Sections 8.3.3; or (ii) a failure to comply with paragraph (a) of this section during any calendar quarter for which the *Airport Director* has given a notice under the authority of subparagraph (a) above; the *Commuter Carrier* shall immediately cease to be a *Qualified Commuter Carrier*,

and the *Airport Director* may immediately terminate any tenancy and operating privileges of the *Commuter Carrier* at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

8.9 PENALTIES – NOISE LEVEL VIOLATIONS

8.9.1 DISQUALIFICATION OF AIRCRAFT TYPE

In the event any person violates Section 8.4.1 or Section 8.4.2 with any aircraft type previously qualified and certified under Section 10, the *Airport Director* shall immediately disqualify that aircraft type from further service at *JWA* by that operator, in the *ADD* noise classification for which the violation occurred.

8.9.2 EFFECT OF DISQUALIFICATION ON CONTINUED JWA SERVICE

In the event the *Airport Director* disqualifies any aircraft type under the authority of Section 8.9.1, then:

(a) If the disqualified aircraft type is the only aircraft type qualified by the *Air Carrier* or *Commuter Carrier* under Section 10, that person shall immediately cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier*.

(b) If the disqualified aircraft type is the only aircraft type qualified by an *Air Carrier* under Section 10 for use with a specific noise class of *Regular ADD* (or supplemental *Authorized Departure* allocations), the *Air Carrier* shall immediately cease all operations at *JWA* undertaken in reliance upon *ADD* or *Authorized Departure* allocations in that class, and any *Regular ADDs* or *Authorized Departures* of that class previously allocated to the *Air Carrier* shall immediately be available for reallocation by the *County* under Section 4.2 or Section 7.3, at the sole and exclusive discretion of the *County*.

8.9.3 REQUALIFICATION OF DISQUALIFIED AIRCRAFT

If any aircraft type as operated at *JWA* by any *Air Carrier* or *Commuter Carrier* is disqualified under the authority of Section 8.9.1, the disqualified aircraft type may not be requalified by the *Air Carrier* or *Commuter Carrier* under Section 10, except as follows:

(a) The aircraft may not have been disqualified under Section 8.9.1 on more than one (1) occasion during the term of this PLAN;

(b) The requalification may not occur during the first two (2) *Noise Compliance Periods* following the *Noise Compliance Period* for which the violation occurred;

(c) The person requesting requalification must establish to the satisfaction of the *Airport Director* that it has identified the reason(s) for the excessive noise levels previously generated by that aircraft type at *JWA*; and

(d) If the applicant meets the requirements of subparagraphs (a) and (b) above, and if he successfully requalifies the aircraft type under Section 10, the *Airport Director*, in connection with his Section 10 certification of the aircraft type, may impose such conditions on the applicant's use of the requalified aircraft type at *JWA* as he deems necessary or appropriate to ensure subsequent and continued compliance with the prohibitions of Section 8.4.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

8.9.4 OPERATIONS OUTSIDE OF THE PERMITTED COMMERCIAL OPERATIONS HOURS

Any person who violates Section 8.5.2 shall be subject to the following administrative penalties:

(a) For **each** of the first five (5) violations occurring during the term of this PLAN, $2,500 per violation;

(b) For **each** of the next five (5) violations occurring during the term of this PLAN, not less than $3,500 or more than $5,000 per violation; and

(c) For **each** violation after ten (10) violations during the term of this PLAN, an administrative penalty of not less than $5,000 or more than $10,000 per violation.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments removed references to reductions in *RON* positions from subsection (c) of this section, which had been included inadvertently.**

June 2003 Amendments**. The June 2003 amendments made grammatical changes to this section.**

8.9.5 MONETARY PENALTIES

In addition (and without prejudice) to any and all other sanctions and penalties applicable under this section, or any other relevant provision of this PLAN, any person who violates Section 8.4.1 or Section 8.4.2 may be subject to an administrative penalty in an amount not to exceed $500,000.

8.9.6 OPERATIONS OUTSIDE OF THE PERMITTED CARGO OPERATIONS HOURS

Any *Commercial Cargo Carrier* who violates Section 8.5.2 shall be subject to the following administrative penalties:

(a) For **each** of the first five (5) violations occurring during the term of this PLAN, an administrative penalty of $2,500 per violation;

(b) For **each** of the next five (5) violations occurring during the term of this PLAN, an administrative penalty of not less than $3,500 or more than $5,000 per violation; and

(c) For **each** violation after ten (10) violations during the term of this PLAN, an administrative penalty of not less than $5,000 or more than $10,000 per violation.

HISTORICAL NOTE

September 2010 Amendment**. This section was revised to tie the monetary penalties to the term of the ACCESS PLAN rather than the term of the *Commercial Cargo Carrier's* lease or operating agreement with the County consistent with other monetary penalty provisions of the ACCESS PLAN.**

Total cumulative violation occurrences beyond ten (10) violations will, at the sole and exclusive discretion of the *County*, be a material event of default under the *Commercial Cargo Carrier's* lease or operating agreement with the *County*, and will subject the *Commercial Cargo Carrier* to immediate disqualification and termination of its operating privileges at *JWA*.

For purposes of this section, multiple violations of the *Permitted Cargo Operations Hours* provisions made in respect of a single operation will be deemed a single violation for purposes of calculating the applicable enforcement remedy and sanction.

HISTORICAL NOTE

December 1994 Amendments. **On December 6, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the PHASE 2 ACCESS PLAN in order to provide the *Airport Director* with the discretion to allocate *Regulated* (*Class A* or *Class AA*) *ADDs* to *Commercial Cargo Carriers* consistent with the findings made in connection with the *Board's* certification and approval of COUNTY ENVIRONMENTAL IMPACT REPORT NO. 552. This section was added consistent with these series of approved amendments.**

8.10 PENALTIES – OTHER VIOLATIONS

8.10.1 RON PROHIBITIONS

Any person who violates any provision of Sections 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.2.1, 5.6.2, 5.6.3, 5.6.4, 5.6.5, 5.12.1, or 5.12.4 shall be subject to the following administrative penalties:

(a) For **each** of the first five (5) violations occurring during the term of this PLAN, $1,000 per violation;

(b) For **each** of the next five (5) violations occurring during the term of this PLAN, $2,500 per violation;

(c) For **each** violation after ten (10) violations during the term of this PLAN, a reduction of one (1) *RON* position in each future *RON* allocation period for which the carrier requests a *RON* position **and** an administrative penalty of $5,000 per violation.

For purposes of this section, **each** occurrence of an event or activity which, independently, would constitute a violation for which a penalty could be imposed under this section, will be deemed to be a **separate** violation.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the words "each" and "separate" to the last sentence of this section for purposes of clarification and consistency with other related sections of the PLAN.**

8.10.2 CONDUCTING CLASS E OPERATIONS WITHOUT PRIOR APPROVAL

Any person who violates Section 3.4.2 shall be subject to an administrative penalty of $5,000 for **each** departure conducted in violation of that section.

8.10.3 OPERATIONS WITH UNQUALIFIED AIRCRAFT

Any person who violates Section 8.3.4 or Section 10.2 shall be subject to the following administrative penalties:

(a) For **each** of the first five (5) violations occurring during the term of this PLAN, $1,000 per violation;

(b) For **each** of the next five (5) violations occurring during the term of this PLAN, $5,000 per violation;

(c) For **each** violation after ten (10) violations during the term of this PLAN, an administrative penalty of $10,000 per violation.

For purposes of this section, **each** occurrence of an event or activity which, independently, would constitute a violation for which a penalty could be imposed under this section, will be deemed to be a **separate** violation.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the word "separate" to the last sentence of this section for purposes of clarification and consistency with other related sections of the PLAN. The amendments also removed the inadvertent and inappropriate reference to *RON* position allocations.**

8.10.4 VIOLATION OF ALLOCATION CONDITIONS

(a) Each person who violates any condition imposed by the *County* or the *Airport Director* in respect of any special or supplemental allocation under the terms of this PLAN shall be subject to an administrative penalty of $5,000 per violation, in addition (and without prejudice) to any other applicable penalty or sanction under any other provision of this PLAN.

(b) Each person who continues to violate any such condition after receiving a notice to cease and desist from the *Airport Director* shall be subject to an administrative penalty of $25,000 per violation, and shall immediately cease to be a *Qualified Air Carrier* or *Qualified Commuter Carrier*, in addition (and without prejudice) to any other applicable penalty or sanction under any other provision of this PLAN.

For purposes of this section, **each** occurrence of an event or activity which, independently, would constitute a violation for which a penalty could be imposed under this section, will be deemed to be a **separate** violation.

8.10.5 FAILURE TO FILE ADJUSTMENT PLAN

In addition (and without prejudice) to all other sanctions available under this PLAN, each person who fails to file the **OPERATIONS ADJUSTMENT PLAN (APPENDIX F-19)** within the time permitted, and as required by, Section 6.6, shall be subject to the following administrative penalties:

(a) For **each** day after the day on which the **OPERATIONS ADJUSTMENT PLAN** was due, an administrative penalty of $2,500;

(b) For **each** day after the first day on which the *Airport Director* has delivered a written demand for the late **OPERATIONS ADJUSTMENT PLAN**, an administrative penalty of $10,000.

8.10.6 FAILURE TO FILE NOTICE OF AFFILIATION

For any violation of the requirements of Section 8.2.4, the person failing to make the required filing shall be subject to the following administrative penalties:

(a) If the violation is a violation of Section 8.2.4(a), the person failing to make the required filing shall not conduct any operations at *JWA* during the term of this PLAN until the filing has been made.

(b) If the violation is a violation of Section 8.2.4(b), the person(s) failing to make the required filing in a timely manner shall each: (i) be subject to an administrative

penalty of $5,000 per day for each day the required report(s) is late; and (ii) any allocations made to any such person at a time when the report was required to be filed may be rescinded, revoked, or modified as determined in the sole and exclusive discretion of the *Board of Supervisors*.

8.10.7 FAILURE TO TERMINATE

Any person who fails to meet any requirement of Section 7.2.3 shall be subject to an administrative penalty of $25,000 per day for each day during which the person has failed to meet any Section 7.2.3 obligation.

8.10.8 FAILURE TO FILE REVISED DEPARTURE PROCEDURES

Any person who fails to comply with the requirements of Section 10.3.3 shall be subject to an administrative penalty of $500 per day for every day the required filing is late.

8.10.9 OTHER VIOLATIONS

Any person who violates any provision of this PLAN, other than those sections specifically referenced in Sections 8.7, 8.8, 8.9, and 8.10, shall, in addition (and without prejudice to) all other remedies and sanctions available under this PLAN, be subject to an administrative penalty of $1,000 per violation.

For purposes of this section, **each** occurrence of an event or activity which, independently, would constitute a violation for which a penalty could be imposed under this section, will be deemed to be a **separate** violation.

8.11 NOTICE TO PENALIZED OPERATORS

Whenever the *Board of Supervisors* or the *Airport Director* take enforcement action under the authority of this Section 8, or any other relevant provision of this PLAN, the *County* shall give written notice of the enforcement action as soon as practicable in accordance with the provisions of Section 11.2. The notice shall state the nature of the violation and summarize the basis for imposition of the penalty or sanction.

8.12 CUMULATIVE SANCTIONS OR PENALTIES

The sanctions and penalties provided for in this PLAN are cumulative. Whenever this PLAN identifies or provides for more than one (1) possible sanction or penalty with respect to any violation of this PLAN, the person(s) committing the violation may be subject to each of the possible penalties or sanctions, or any combination of penalties or sanctions.

8.13 PAYMENT OF MONETARY PENALTIES

Whenever the *Airport Director* or the *County* impose any monetary penalties under the terms of this PLAN, the penalties shall be paid not later than thirty (30) days after the date of the *Airport Director*'s written notice under Section 8.11. Any person who fails to make payment of the penalty within the thirty (30) day period permitted by this section shall be subject to an additional administrative penalty of $1,000 per day for **each** day the penalty payment is late.

8.14 ENFORCEMENT AND SANCTIONS IN RESPECT OF OPERATIONS BY MEMBERS OF AN AUTHORIZED ASSOCIATED OPERATING GROUP

Each member *Air Carrier*, and member *Commuter Carrier*, of any *Associated Operating Group* shall have compliance responsibility, and shall be subject to any and all sanctions under this PLAN, in respect of its use, operation, non-use, or other obligations under this PLAN in respect of any and all *Regular* or supplemental *ADDs*, *Authorized Departures*, *Seat Capacity*, *RON* allocations, *Passenger Capacity*, or any other capacity allocation identified for use by that operator on any approved **PCAR** submitted under Section 3.5.5, or FORM F-21 or FORM F-22 submitted under Section 3.9. If, and to the extent, withdrawal or other capacity limitation sanctions are applied against any such carrier in respect of capacity which otherwise would be deemed to be *Passenger Capacity*, *Regular ADD*, related *Seat Capacity*, or any supplemental operating capacity allocated to another *Air Carrier* member of the *Associated Operating Group*, that second *Air Carrier* will be deemed to have consented to the imposition of the sanction at the time it consents to, and participates in, the filing of the relevant **PCAR**, FORM F-21 or FORM F-22 by the *Associated Operating Group*.

HISTORICAL NOTE

October 1994 Amendments. **On October 4, 1994, the *Orange County Board of Supervisors* approved a series of amendments to the affiliate policy provisions of the ACCESS PLAN. These amendments included a number of regulations which apply to the formation of, allocations to, and general operation of *Associated Operating Groups*. This section was added consistent with these approved amendments.**

SECTION 9

REVIEW OF SANCTIONS

9.1 APPEAL OF PENALTY OR SANCTION

Any person who is assessed any penalty or other sanction imposed by the *Airport Director* under the terms of this PLAN may request *County* administrative review of the initial decision to impose the penalty or sanction in accordance with the terms of this section. The relief sought in connection with any such request for review may be: (i) a determination that the penalty or sanction should not be imposed, or should be rescinded, in whole or in part; (ii) a modification of the penalty or sanction; or (iii) the imposition of some other penalty or sanction under the terms of this PLAN.

9.2 COUNTY POLICY

It is the basic purpose of these rules to provide a reasonable, fair, constitutionally appropriate, and expeditious means by which persons contesting penalties or sanctions imposed by the *Airport Director* can obtain review of the penalty or sanction decision by administrative means.

It is not in the best interests of the citizens of Orange County, the air traveling public, or other users of *JWA*, and it is not the intent of these rules, to provide a procedure by which persons can create or cause extended delays in the assessment, collection, or enforcement of any penalty or sanction imposed under this PLAN; nor is it the intent of these rules to create or authorize a procedure by which persons subject to penalties or sanctions under this PLAN can contest the penalty or sanction by unmeritorious or unsupportable claims or assertions.

As stated in Section 1.5 (*and see*, Section 1.8 and Section 1.9), operating capacity allocations under this PLAN are privileges and do not, at any time, become "vested" rights or "vested property rights." To the extent this Section 9 provides procedural processes and safeguards in excess of the minimum requirements of the United States and California Constitutions, those procedures are a courtesy to the users of *JWA* only, and not an acknowledgment of any claim that this PLAN creates any "vested" rights.

9.3 REQUEST FOR REVIEW

9.3.1 INFORMAL REQUEST FOR REVIEW

Not later than seven (7) days after the effective date (*see*, Section 11.2.3) of the *Airport Director's* notice of penalty or sanction delivered under Section 8.11, or any other section of this PLAN, the person subject to the penalty or sanction described in the notice may request and receive an

opportunity to meet informally with the *Airport Director* to discuss, and request reconsideration of, the penalty or sanction.

9.3.2 FORMAL REQUEST FOR REVIEW

Not later than thirty (30) days after the effective date (*see*, Section 11.2.3) of the *Airport Director's* notice of penalty or sanction delivered under Section 8.11, or any other section of this PLAN, the person subject to the penalty or sanction described in the notice may submit an original and nine (9) copies of a written "Request for Review of Sanction or Penalty" ("REQUEST FOR REVIEW") to the *Airport Director*. A REQUEST FOR REVIEW may be submitted only by the person subject to the penalty or sanction for which review is sought.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments added the words "of Sanction or Penalty" to the first sentence of this section for purposes of consistency.**

July 2015 Amendments. **The July 2015 amendments revised the time period within which a person may make a formal request for review from fifteen (15) days to thirty (30) days after the effective date of the notice of penalty or sanction.**

9.4 PROHIBITION AGAINST UNMERITORIOUS OR SHAM REQUESTS FOR REVIEW

No person shall submit any REQUEST FOR REVIEW for the sole or principal purpose of causing a delay in the implementation or enforcement of any penalty or sanction imposed under this PLAN, or which is otherwise submitted, in whole or in significant part, in "bad faith."

(a) For purposes of this section, a REQUEST FOR REVIEW is not submitted in "bad faith" if the factual and legal issues raised by the REQUEST FOR REVIEW identify legal or factual issues which a reasonable man would conclude, under all relevant circumstances, present a fair and colorable dispute over whether the challenged penalty or other sanction should be rescinded or modified.

(b) For purposes of this section, each factual and legal issue raised by the REQUEST FOR REVIEW must separately meet the "bad faith" test of this section, and nothing in this section precludes the *County* from determining that some, but not all, of the issues raised by the REQUEST FOR REVIEW have been presented in "bad faith."

9.5 REQUIRED CONTENTS OF REQUEST FOR REVIEW

Any written REQUEST FOR REVIEW delivered under Section 9.3 must comply with each of the following requirements:

9.5.1 STATEMENT OF DISPUTED ISSUES

The REQUEST FOR REVIEW shall contain a "**Statement of Disputed Issues**" which shall be a concise statement of: (i) **each** factual issue; and (ii) **each** legal issue, relevant to the penalty or sanction which is contested by the person submitting the request. In addition, the "Statement of Disputed Issues" shall begin with a summary of the basic contentions of the party seeking review as to why the penalty or sanction should not be imposed, or why it should be modified.

9.5.2 DOCUMENTARY EVIDENCE

The REQUEST FOR REVIEW shall also contain true and correct copies, authenticated by affidavit or declaration made under penalty of perjury, of all documents which the person seeking review believes to be relevant to the factual or legal issues raised by its "Statement of Disputed Issues." Each such document shall be separately numbered, beginning with document number 1, and proceeding in numerical sequence to the last document. The REQUEST FOR REVIEW shall contain an index to the documents.

9.5.3 PERSONAL TESTIMONY – AFFIDAVITS

The REQUEST FOR REVIEW shall also contain any and all personal testimony by persons other than *County* employees, officers, or officials, which the person requesting review believes relevant to the issues raised by its REQUEST FOR REVIEW. The testimony shall be presented in affidavit or declaration form, made under penalty of perjury, and in full compliance with the requirements of CALIFORNIA CODE OF CIVIL PROCEDURE §2015.5. The affidavits or declarations shall: (i) be prepared in narrative format, as if offered as "direct" testimony; (ii) establish the qualifications of the witness to make the testimony contained in the affidavit or declaration, including his personal knowledge of the facts stated; and (iii) identify in the first paragraph of the declaration or affidavit the specific issues as to which the testimony is offered.

9.5.4 STATEMENT OF RELIEF REQUESTED

The REQUEST FOR REVIEW shall also contain a concise statement of the relief sought by the person requesting review.

9.5.5 CITATIONS TO LEGAL AUTHORITIES

The REQUEST FOR REVIEW shall also contain appropriate and full citations to any legal authorities relied on by the person requesting review, and a separate table which lists the authorities. If the authorities cited include any case or statutory authorities other than the: (i) constitutions, statutes, or regulations of the United States or the State of California; or (ii) decisions of any courts other than the courts of the United States or the State of California; then full copies of all other authorities shall be submitted with the REQUEST FOR REVIEW.

9.6 AIRPORT DIRECTOR REVIEW AND ACTION

9.6.1 INITIAL REVIEW AND PRELIMINARY DETERMINATIONS

Upon his receipt of any REQUEST FOR REVIEW, the *Airport Director* shall promptly take the following actions:

(a) The *Airport Director* shall provide one (1) copy of the REQUEST FOR REVIEW to County Counsel and one (1) copy of the REQUEST FOR REVIEW to each member of the *Airport Commission*;

(b) The *Airport Director*, in consultation with County Counsel, shall review the REQUEST FOR REVIEW and its contents and determine whether to: (i) grant the requested relief administratively, and without further proceedings under this section; (ii) make an "offer of compromise" to the person requesting review; or (iii) contest the REQUEST FOR REVIEW by referral to the *Airport Commission*;

(c) The *Airport Director*, in consultation with County Counsel, shall determine whether any of the legal or factual issues raised by the REQUEST FOR REVIEW are being presented in "bad faith" within the meaning of Section 9.4;

(d) The *Airport Director*, in consultation with County Counsel, shall determine whether any of the legal or factual issues raised by the REQUEST FOR REVIEW directly implicate or affect the legal rights or interests of any other person ("interested parties").

(e) The *Airport Director* shall give written notice to the person requesting review of his decisions and determinations under subparagraphs (b), (c), and (d) of this section not later than fourteen (14) days after his receipt of the REQUEST FOR REVIEW.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

9.6.2 NOTICE OF PRELIMINARY DETERMINATION OF "BAD FAITH" FILING

If the *Airport Director* determines under Section 9.6.1(c) that some or all of the issues raised by the REQUEST FOR REVIEW are made in "bad faith" (within the meaning of Section 9.4), his written notice under Section 9.6.1(e) shall identify each of those issues and afford the person requesting review to withdraw or modify the REQUEST FOR REVIEW accordingly. Withdrawal or modification may be made without penalty within ten (10) days after the *Airport Director's* notice under Section 9.6.1(e). If the *Airport Director* does not give notice of his Section 9.6.1(c) determination within fourteen (14) days after his receipt of the REQUEST FOR REVIEW, the *County* will not thereafter assert or allege that any portion of the REQUEST FOR REVIEW was made in "bad faith" within the meaning of Section 9.4.

9.6.3 NOTICE OF "INTERESTED PARTIES"

If the *Airport Director* determines under Section 9.6.1(d) that there are any "interested parties" to the proceeding, he shall give written notice of that fact to the person requesting review and to each "interested party;" and the party requesting review shall immediately serve upon each "interested party" a complete copy of the REQUEST FOR REVIEW, and copies of any other documents previously filed or presented to the *Airport Director* or the *County* regarding the issues raised by the REQUEST FOR REVIEW.

Thereafter, both the *County* and the person requesting review shall serve each "interested party" with copies of all documents prepared or filed by them with the *Airport Commission* or the *Airport Director*, unless the "interested party" states in writing to the *Airport Director* that he does not wish to participate further in the *County's* consideration of the REQUEST FOR REVIEW.

9.6.4 REFERRAL TO AIRPORT COMMISSION

If the *Airport Director* determines under Section 9.6.1(b)(iii) that the *County* should contest the REQUEST FOR REVIEW, in whole or in part, then, within fourteen (14) days of his receipt of the REQUEST FOR REVIEW, he shall give written notice to the party requesting review, any "interested party," and to the members of the *Airport Commission*, of his determination and of the date of the *Airport Commission* meeting at which the matter will be heard. In selecting the date for the hearing by the *Airport Commission*, the *Airport Director* shall seek to obtain the most expeditious review of the issues possible, taking into consideration the times for filing various documents set forth in Section 9.7, and the rights of the parties to a fair adjudication of the issues.

9.7 RESPONSES TO REQUEST FOR REVIEW

Responses to the REQUEST FOR REVIEW by the *Airport Director* and any "interested party," and a reply by the person requesting review, must be made within the time, and under the procedures, set forth in this section.

9.7.1 RESPONSE BY "INTERESTED PARTIES"

Within fifteen (15) days after the *Airport Director's* notice under Section 9.6.1(e), any person designated by the *Airport Director* as an "interested party" under Section 9.6.1(d) may submit a written response to the REQUEST FOR REVIEW (or any contested part thereof) which is organized in a manner substantially similar to the format requirements of Section 9.5, except that: (i) in addition to providing such documentary evidence, testimony, or written argument which the "interested party" believes to be relevant to the contested issues, the "interested party's" response may also address and respond specifically to the evidence, testimony, or contentions raised by, or in connection with, the REQUEST FOR REVIEW; and (ii) the documentary exhibits submitted by the "interested party" shall be designated by numbers preceded by a two (2) letter code which is representative of the identity of the "interested party."

9.7.2 AIRPORT DIRECTOR'S RESPONSE

If the *Airport Director* determines under Section 9.6.1(b)(iii) to contest the REQUEST FOR REVIEW, in whole or in part, then, within thirty (30) days after the date of his notice given under Section 9.6.1(e), the *Airport Director* shall present to the *Airport Commission*, and serve one (1) copy on the person requesting review and each of the "interested parties," a written response to the REQUEST FOR REVIEW (or any contested part thereof), which is organized and presented in a manner substantially similar to the format and content requirements of Section 9.5, except that: (i) in addition to providing whatever documentary evidence, testimony, or written argument which the *Airport Director* believes to be relevant to the contested issues, the *Airport Director's* response may also address and respond specifically to the evidence, testimony, or contentions raised by, or in connection with, the REQUEST FOR REVIEW; (ii) the *Airport Director* may comment upon or respond to any evidence or contentions made by any "interested party" who files a response to the REQUEST FOR REVIEW under Section 9.7.1; and (iii) the documentary exhibits submitted by the *Airport Director* shall be designated by letters instead of numbers.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments corrected the cross-reference in the last clause of this section from a reference to Section 9.7.2 to Section 9.7.1.**

9.7.3 WRITTEN REPLY

Within ten (10) days after the date of the *Airport Director's* response to the REQUEST FOR REVIEW, the party requesting review may file with the *Airport Director* an original and nine (9) copies, and serve one (1) copy on each "interested party," of a written reply to the issues or evidence presented by the *Airport Director*, or any "interested party." The reply shall be limited to a direct response to new matters raised by the *Airport Director* or any "interested party" in the responses filed by them under Section 9.7.1 or Section 9.7.2, and shall not introduce new issues into the proceeding.

9.7.4 "WITNESS REQUESTS"

When the *Airport Director* or any "interested party" files a response to the REQUEST FOR REVIEW under Section 9.7.1 or Section 9.7.2, and when the party requesting review files his reply under Section 9.7.3, they may simultaneously file and serve a request for an opportunity to present oral testimony or to cross-examine witnesses (a "Witness Request"). Any such "Witness Request" shall: (i) identify each person desired to be examined; and (ii) state why written testimony could not be presented, or why the proposed witness' written testimony, if previously presented, is not sufficient for *Airport Commission* consideration and resolution of the disputed issues.

9.8 AIRPORT COMMISSION CONSIDERATION OF PENALTIES OR SANCTIONS

Because the *County* has assigned review responsibilities to the *Airport Commission* under this section, and notwithstanding any *County* policies or directives to the contrary, the *Airport Director* shall not communicate to the *Airport Commission* for their information or consideration the fact of, or any issues directly relating to, his intended penalty or sanction assessment against any person regulated by this PLAN prior to the expiration of the period set forth in Section 9.3.2.

Prior to the expiration of the period set forth in Section 9.3.2 or Section 9.13, which ever is later, and so long as any proceedings or potential proceedings under Section 9 are pending, no person shall make any *ex parte* contact regarding the subject matter of, or any issue in the proceeding with any member of the *Airport Commission* or the *Board of Supervisors*; and any and all communications during that time with the *Airport Commission* or the *Board of Supervisors*, or any of their members, regarding the subject matter of, or any issue in the proceeding, shall be made only in writing.

9.9 AIRPORT COMMISSION DETERMINATION

Unless the *Airport Commission* acts to direct further proceedings (*i.e.*, Section 9.10.1, *etc.*), or to otherwise continue the proceedings to a date certain, on the date noticed for consideration of the REQUEST FOR REVIEW by the *Airport Director* under Section 9.6.4, the *Airport Commission* shall, after a review of the materials and information submitted by the parties, make a determination by a majority vote of those members present of whether there is a substantial basis for imposition of the penalty or sanction contested by the REQUEST FOR REVIEW. If the vote of the *Airport Commission* is tied, the

decision of the *Airport Commission* shall be deemed to be a decision that there is a substantial basis for imposition of the *Airport Director's* penalty or sanction.

If the *Airport Commission* determines that there is a substantial basis for imposition of the penalty or sanction, the REQUEST FOR REVIEW shall be denied. If the *Airport Commission* determines that there is not a substantial basis for imposition of the contested penalty or sanction, it may: (i) grant the relief requested by the REQUEST FOR REVIEW, in whole or in part; (ii) modify the penalty or sanction; or (iii) impose some other greater or lesser penalty or sanction which the *Airport Commission* deems more appropriate within the terms and policies of this PLAN for the act or activity which resulted in the imposition of the penalty or sanction.

9.10 AIRPORT COMMISSION PROCEEDINGS

9.10.1 PROCEDURAL ACTIONS

In connection with its review and consideration of the REQUEST FOR REVIEW, the *Airport Commission* may take any of the following actions:

(a) The *Airport Commission* may determine whether to grant, in whole or in part, and subject to any conditions imposed by the *Airport Commission*, any "Witness Request;"

(b) The *Airport Commission* may direct any party to produce additional information or testimony if it finds the information to be reasonably necessary to permit a fair adjudication of the issues raised by the parties;

(c) The *Airport Commission* may continue the proceedings to some future date certain if it determines that a continuance is in the best interests of justice and reasonably necessary for a fair adjudication of the issues;

(d) The *Airport Commission* may set a reasonable limit on oral argument by representatives of the party requesting review or the *County* regarding the evidence or issues in the proceeding; and

(e) The *Airport Commission* may determine whether to permit any "interested party" to participate directly in the proceedings of the *Airport Commission*, or to present any oral argument during the proceeding, after consideration of: (i) the interests of justice; (ii) the actual potential effects of the proceedings on the rights or interests of the "interested party;" and (iii) the policy objectives reflected in Section 9.2. If the *Airport Commission* determines to allow any direct "interested party" participation under this paragraph, it may impose whatever conditions it deems necessary to meet the policies reflected in Section 9.2.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

9.10.2 DISPUTED ISSUES OF FACT – AUTHORITY TO APPOINT MASTER

If the *Airport Commission* determines that there are material disputed issues of fact, it shall, whenever possible, resolve the factual issue(s) based upon the relevant documents and written testimony offered by the parties. If resolution of the factual issue(s) cannot feasibly be accomplished by reference to the documentary evidence and written testimony offered by the parties, and if the disputed factual issue(s) may be determinative of the results of the *Airport Commission's* review, the *Airport Commission* may take any of the following actions:

(a) The *Airport Commission* may sit as a body of the whole to take testimony or evidence on such issues;

(b) The *Airport Commission* may appoint one of its members as a special master to take testimony or evidence on factual issues specified by the *Airport Commission*, and to prepare a written report to the full *Airport Commission* of his findings on each such issue; or

(c) The *Airport Commission* may designate party witnesses who may be deposed under oath by the parties on specific factual issues specified by the *Airport Commission*. Any such depositions shall be taken under such terms, procedures, and conditions as the *Airport Commission* may determine to be appropriate. The transcript of each deposition shall be submitted to the *Airport Commission* by a time designated by them.

9.10.3 COSTS OF SPECIAL PROCEEDINGS

In the event the *Airport Commission* determines to proceed to resolve material factual disputes under Section 9.10.2(c), and if a fee or cost is associated with the procedure, the party requesting the opportunity to further examine the deponent shall pay all such fees and costs, except for the cost of a copy of any deposition transcript ordered by any other party, which shall be paid directly by them. At the conclusion of its proceedings, the *Airport Commission* may direct a different allocation of such fees and costs among all parties participating in the proceeding, including the *County*, if it determines that reallocation of those costs would be in the interests of justice.

9.11 AIRPORT COMMISSION FINDINGS AND RESOLUTION OF APPEAL

At the conclusion of its proceedings, the *Airport Commission* shall make written findings regarding the factual and legal issues raised by the parties, and shall make a final determination, within its authority under this section, of the REQUEST FOR REVIEW. The *Airport Commission* may direct either the *Airport Director* or the person seeking review to prepare and serve draft proposed findings for review and final action by the *Airport Commission*.

Except as provided in Section 9.13, the decision of the *Airport Commission* shall be the final decision and action of the *County* in respect of the REQUEST FOR REVIEW, and the *Airport Commission* decision shall be binding upon each of the parties, including the *County*.

9.12 NOTICE TO PARTIES OF RESOLUTION OF PROCEEDINGS

Whenever the *Airport Commission* adopts final findings under Section 9.11, it shall promptly provide a copy of its findings and decisions to each party to the review proceeding.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made a grammatical correction to this section.**

9.13 NOTICE TO BOARD OF SUPERVISORS OF RESOLUTION OF PROCEEDINGS

Whenever the *Airport Commission* adopts final findings and a final decision under Section 9.11, it shall promptly provide a copy of its findings and its decision to each member of the *Board of Supervisors*. Within twenty (20) days after the date of the service on the Board, any member of the *Board* may request that the *Board of Supervisors* vote on whether to undertake a full review of the REQUEST FOR REVIEW and the decision of the *Airport Commission*.

If a majority of the *Board of Supervisors* votes to undertake an independent review of the REQUEST FOR REVIEW and the issues considered by, or the decision of, the *Airport Commission*, the *Board* may: (i) conduct its review on terms, at times, and under procedures deemed by the *Board* to be appropriate under the circumstances and as affording, at least, the minimum due process guarantees of the United States and California Constitutions; (ii) waive the penalty or sanction in the interests of justice, or in the interests of *County* policies regarding the operation of *JWA*, without addressing the merits of the issues disputed by the parties; or (iii) remand the matter to the *Airport Commission* for further proceedings as specifically directed by the *Board of Supervisors*.

Nothing in this section obligates the *Board of Supervisors*, or any member, to conduct a review of the proceedings or decision of the *Airport Commission*. Nothing in this section permits any person, other than a member of the *Board of Supervisors*, to formally move or require a vote of the *Board* with

respect to any such review. Neither the *Airport Director* nor any other party to the proceedings of the *Airport Commission* shall communicate orally with any member of the *Board of Supervisors*, directly or indirectly, regarding the decision or proceedings of the *Airport Commission*, except at a duly noticed public hearing of the *Board*. Any communications in writing to the *Board* regarding possible *Board* review of the decision or proceedings of the *Airport Commission* shall be delivered at least forty-eight (48) hours in advance of the time of the *Board* consideration of the request of any member for *Board* review, and copies of all such written communications shall be served on all parties to the proceeding.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments made grammatical changes to the first paragraph of this section, and added the words "on the *Board*" to the second sentence of the first paragraph of this section.**

9.14 REQUESTS FOR EXTENSIONS OF TIME

Any party may request an extension of any of the deadlines specified in this section. Any such request is subject to the following requirements and conditions:

(a) The request must be made in writing to the *Airport Commission*, with copies served on the *Airport Director* and each "interested party."

(b) The request must state clearly the basis for the person's inability to comply with the original deadline, and must state the period of time for which an extension is being requested.

(c) The *Airport Commission* may not extend any deadline imposed by this section by more than a cumulative total of thirty (30) days.

9.15 EFFECT OF PENDENCY OF APPEAL PROCEEDINGS ON ENFORCEMENT OF PENALTY OR SANCTION

9.15.1 NO "AUTOMATIC STAY"

Nothing in this Section 9 shall be deemed to stay, suspend, or modify automatically any obligation of any party to take any action, or to pay any penalty, within the time otherwise permitted by this PLAN.

9.15.2 REQUEST FOR STAY OF PENALTY OR SANCTION

Not later than the time it files its REQUEST FOR REVIEW with the *Airport Director*, the party requesting review may request the *Airport Director* to concur in a stay of the penalty or sanction at issue during the pendency of proceedings under this section.

(a) If the *Airport Director* agrees to the stay, he shall so advise the party requesting review and each "interested party" in writing within seven (7) days after his receipt of the request for a stay of the penalty or sanction.

(b) If the *Airport Director* declines to agree to a stay, he shall forward the written request for stay to the *Airport Commission* for consideration at its next regularly scheduled meeting. The *Airport Director* may submit a written response to the "request for stay" prior to the *Airport Commission's* consideration of the request.

(c) The *Airport Commission* shall decide the request for stay after consideration of the written documents filed with it by the parties, and any other documents which the *Airport Commission*, in its discretion, may choose to receive or consider at the time of its hearing. In considering any request for a stay of any sanction or penalty, the *Airport Commission* shall consider and balance: (i) the potential harm to the person requesting the stay if the stay is not granted; (ii) the potential harm to the *County*, other airport users, the air traveling public, or the general public, if the stay is granted; and (iii) the effective implementation of this PLAN and the policies reflected in Section 9.2.

If it grants a stay under this section, the *Airport Commission* may impose such conditions as it deems necessary or appropriate to maintain fairness and equity between the parties and the other persons referred to in paragraph (c).

9.16 AIRPORT COMMISSION AUTHORITY TO ADOPT RULES OF PROCEDURE

The *Airport Commission* may adopt rules of procedure for proceedings before it under this section if it finds such rules to be consistent with the purpose of this section, and reasonably necessary for the efficient administration and completion of its proceedings. Any such rules, or amendments to rules, shall be provided to the *Board of Supervisors* prior to their implementation by the *Airport Commission*, and the rules or amendments shall not become effective sooner than thirty (30) days after they are provided to the *Board*.

9.17 AIRPORT COMMISSION DETERMINATION OF "BAD FAITH" AND SANCTIONS

9.17.1 DETERMINATION

If the *Airport Director* gives a notice under Section 9.6.1(e) that he has made a preliminary determination of "bad faith" under Section 9.6.1(c), and if the *Airport Director* raises the "bad faith" issue(s) at the time he files his response to the REQUEST FOR REVIEW under Section 9.7.1, the *Airport Commission* shall make a determination of, and resolve, any contentions of "bad faith" at the time it makes its final findings under Section 9.11.

9.17.2 SANCTIONS FOR "BAD FAITH" PROCEEDINGS

If the *Airport Commission* determines that any person requesting review has raised or pursued issues in "bad faith" within the meaning of Section 9.4, it may impose any or all of the following sanctions, in addition to any and all other sanctions or penalties imposed or affirmed by the *Airport Commission*:

(a) The *Airport Commission* may dismiss the REQUEST FOR REVIEW;

(b) The *Airport Commission* may require the party requesting review to reimburse the *County* and any "interested party" for attorneys fees and reasonable expenses incurred by them in opposing any issue raised or pursued in "bad faith;" or

(c) The *Airport Commission* may impose a monetary penalty, not to exceed $25,000, to reimburse the *County* for the costs and expenses of conducting review proceedings with respect to any issue raised or pursued in "bad faith."

The *Airport Commission* may conduct supplemental proceedings with respect to the possible imposition of sanctions under this section if it determines that such proceedings are necessary to fairly determine the sanction(s) to be imposed under this section.

9.18 SANCTIONS FOR *EX PARTE* COMMUNICATIONS

Any person who violates the *ex parte* communication prohibitions of Section 9.8 may be subject to any, or all, of the following sanctions and penalties:

(a) If the person violating Section 9.8 is the person requesting review, or an attorney, agent, employee, officer, or other person acting on his behalf, the *Airport Commission* may dismiss the REQUEST FOR REVIEW, on the merits, and terminate the proceeding.

(b) If the person violating Section 9.8 is the person requesting review, the *County*, an interested party, or an attorney, agent, employee, officer, or other person acting on behalf of any of the parties, the *Airport Commission* may: (i) preclude or limit that person's

further participation in the proceeding; (ii) deem one (1) or more issues in the proceeding to have been resolved in favor of a party other than the party committing the violation if the issue relates to the subject or substance of the *ex parte* communication; or (iii) impose other limits or conditions on further party participation in the proceeding.

(c) In addition, the *Airport Commission* may impose an administrative penalty on **each** person committing the Section 9.8 violation, other than an employee or officer of the *County*, in an amount not to exceed $5,000 for any individual natural person, and not to exceed $50,000 for any other person.

(d) If the person committing the Section 9.8 violation is an employee or officer of the *County*, then, in addition to any sanctions imposed under paragraph (b), the *Airport Commission* shall submit a written report regarding the violation to the *Board of Supervisors*.

9.19 REIMBURSEMENT OF MONETARY PENALTY

If a person requesting review has paid a monetary penalty, and if the *Airport Commission* subsequently finds that no monetary penalty should have been imposed, then the *Airport Commission* shall also direct the *Airport Director* to reimburse the monetary penalty, plus simple interest at the rate of eight percent (8%) per year, from the date the penalty was paid to the date of reimbursement.

9.20 RIGHT TO REPRESENTATION BY COUNSEL

Any person initiating or participating in any proceeding under this Section 9, including the *County*, may be represented by counsel of their choice at all stages of the proceeding.

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SECTION 10

AIRCRAFT QUALIFICATION TESTS

10.1 PROHIBITION AGAINST UNAUTHORIZED AIRCRAFT TESTING

No person shall utilize any of the facilities at *JWA*, including, but not limited to, the runways, taxiways, buildings, services of airport tenants, or the noise monitoring system, for the purpose of conducting any aircraft noise, operations, or performance tests without first receiving written authorization from the *Airport Director*.

10.2 AIRCRAFT QUALIFICATION AND CERTIFICATION REQUIREMENT

No person shall operate any aircraft in *Regularly Scheduled Air Service* at *JWA* unless and until that aircraft type has been certified and qualified for operation by that person in accordance with the provisions and procedures of this section. This section applies to all *Regularly Scheduled Commercial Users*. Other persons desiring to perform noise tests at *JWA* for any purpose, including aircraft manufacturers, general aviation operators, or any person other than the United States of America, shall also comply with the procedures of this section.

10.3 AIRCRAFT QUALIFICATION AND CERTIFICATION PROCEDURES

Every person required to qualify and certify an aircraft for operation at *JWA* shall meet the requirements of this section. In addition, the *Airport Director* may establish additional requirements or procedures in order to insure compliance with this PLAN and other regulations for *JWA*, and with the established goals and policies of the *Board of Supervisors* in respect of the operation and management of *JWA*.

10.3.1 INFORMATION REQUIREMENTS

Any person proposing to qualify an aircraft as a *Class A* or *Class E Aircraft* shall first submit to the *Airport Director* an **AIRCRAFT NOISE QUALIFICATION TEST REQUEST FORM (APPENDIX F-20)**, together with all documents required as attachments to the form. If he exercises his authority under Section 11.3 with respect to this form, the *Airport Director* shall ensure that any substitute form for the **AIRCRAFT NOISE QUALIFICATION TEST REQUEST FORM** requires the following information:

(a) All information and material available to applicant substantiating its belief that the proposed aircraft can operate as a *Class A* or *Class E Aircraft* at *JWA*;

(b) The aircraft model number and type, and the engine model number(s) and type(s);

(c) All operator, manufacturer and aircraft manuals which reflect or relate to the maximum operational gross weight of the aircraft in service at *JWA*;

(d) A statement of the applicant's projected typical operational weight range of the aircraft in service at *JWA*, based upon representative fuel and passenger loads, and a statement of what assumptions the applicant has used in projecting the typical operating weight range;

(e) A complete description, together with all applicable descriptions from manufacturer and airline manuals, of the specific departure procedures the applicant intends to use in operating the aircraft at *JWA* and, if the applicant believes that the departure procedure is in regular use at *JWA* by another operator using the same aircraft model with the same engine types, a statement of the identity of such other operator(s); and

(f) Any applicant airline shall also provide a statement in writing from the Air Carrier stating: (i) that FAA has reviewed the particular operational procedure(s) proposed by the qualifying airline in connection with its use of the aircraft in operations at *JWA*; (ii) that the procedure complies with all applicable rules and regulations of FAA, and meets all FAA requirements for safety of aircraft in flight; and (iii) that the qualifying airline may lawfully use the procedure in *Regularly Scheduled Air Service* at *JWA*. In addition, the Air Carrier must provide the airlines' current operating certificate and a copy of the standard instrument departure procedure(s) ("SID") that the aircraft will operate at the Airport.

HISTORICAL NOTE

December 1990 Amendments. **The December 1990 amendments specified the FAA officials required to provide the departure procedure review and approvals under subsection (f) of this section.**

June 2003 Amendments**. This section was revised to define all regulated passenger flights as *Class A flights* and to eliminate the *Class AA/Class A Aircraft* definition/distinction. This revision is consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement on June 25, 2002, and December 10, 2002.**

November 2008 Amendments. **On November 18, 2008 the *Orange County Board of Supervisors* approved modifications to the information requirements for qualifying an aircraft for operation at *JWA* in order to avoid unnecessary delay in the qualification**

process while still ensuring that the FAA has reviewed and approved the operational procedure(s) proposed by the qualifying airline.

10.3.2 FLIGHT TEST PROCEDURE

If the applicant has fully met the requirements of Section 10.3.1, the *Airport Director* may permit a flight qualification test of the aircraft at *JWA* on terms, and subject to conditions, which the *Airport Director* may impose in furtherance of the goals and policies of the *County* in its operation of *JWA*. At a minimum, however, aircraft qualification tests must include: (i) not less than five (5) separate departures on Runway 19R using all FAA mandated flight procedures then in effect at *JWA*; and (ii) the test flights must be operated at not less than representative operational weights for service with that aircraft by the applicant airline (or other person, if appropriate) at *JWA*. Determination of the results of the flight qualification test shall be made based upon the energy averaged *SENEL* values of the test flights at each *Noise Monitoring Station*.

10.3.3 SUBSEQUENT MODIFICATION OF DEPARTURE PROCEDURES

If, at any time after qualification of any aircraft under this section, any person proposes to implement a departure procedure for the previously qualified aircraft in operations at *JWA* other than the procedure previously described by that person under Section 10.3.1(e) and (f), (or the procedure previously described by that person under the requirements of this section), that person shall resubmit to the *Airport Director* the information required by Section 10.3.1(e) and (f) for the new departure procedure not later than ten (10) days prior to the day the new departure is first implemented.

10.4 NOTIFICATION OF RESULTS OF NOISE TEST AND CERTIFICATION

Within ten (10) working days after completion of the noise qualification test procedure under Section 10.3, the *Airport Director* shall notify the qualification test applicant in writing of the results of the noise qualification test, and shall advise the applicant of whether the proposed aircraft type has been qualified as a *Class A* or *Class E Aircraft*. If the noise qualification test performed under Section 10.3.2 was at less than the design *Maximum Permitted Gross Takeoff Weight* of the aircraft, or if he deems it necessary for any other purpose related to the implementation and enforcement of *County* policy in respect of the operation of *JWA*, the *Airport Director* may qualify or impose conditions upon his certification of the aircraft and its use in *Regularly Scheduled Air Service* at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. This revision is consistent with the *Orange County Board of Supervisors'* approval**

of amendments to the 1985 Settlement Agreement on June 25, 2002, and December 10, 2002.

10.5 POST-QUALIFICATION COMPLIANCE

Following qualification of an aircraft under this section, in all subsequent *Noise Compliance Periods*, the determination of whether or not the aircraft is operated in compliance with the *Class A* or *Class E* requirements shall be determined by reference to the actual operational configuration and actual monitored *SENEL* values of the aircraft (or aircraft type) as used at *JWA*.

HISTORICAL NOTE

***June 2003 Amendments*. This section was revised to define all regulated passenger flights as *Class A* flights and to eliminate the *Class AA/Class A Aircraft* definition/distinction. This revision is consistent with the *Orange County Board of Supervisors'* approval of amendments to the 1985 Settlement Agreement on June 25, 2002, and December 10, 2002.**

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SECTION 11

ADMINISTRATIVE PROVISIONS

11.1 AIRPORT DIRECTOR – INFORMATION REQUESTS

In addition to all other authority granted to the *Airport Director*, he shall have the authority to require from each *Qualified Commercial Air Carrier*, from each *Qualified Commuter Air Carrier*, and from any potential new entrant carrier, any information, reports, applications, or other related documents, in whatever form or format he may require, which he deems useful in the implementation or enforcement of the provisions of this PLAN, or any other policies, regulations, or procedures of the *County* in its management, regulation, and operation of *JWA*.

11.2 NOTICES

11.2.1 CARRIER DESIGNATION OF PERSONS TO RECEIVE NOTICE

Not later than September 30, 1990, each *Qualified Air Carrier* and each *Qualified Commuter Carrier* shall designate in writing (addressed to the *Airport Director*) not less than one (1), and not more than two (2) employees, officers, or other representatives who are authorized to receive notices regarding actions taken under the authority of this PLAN, or for any other purpose related to the implementation and enforcement of this PLAN. The notice shall also provide a mailing address and work telephone number, and a telecopier/facsimile telephone number, for each designated person. If a carrier designates two (2) persons to receive notices, one (1) of those persons must be the SNA station manager of the carrier, or a local employee of the carrier with equivalent responsibilities.

The *Airport Director* shall maintain a current and active "notice list" reflecting the names, addresses, telephone numbers, and telecopier/facsimile numbers of the persons selected by each *Qualified Air Carrier* and each *Qualified Commuter Carrier* to receive notices under this PLAN.

11.2.2 DELIVERY OF COUNTY NOTICES

Whenever the *Airport Director* gives written notice under this PLAN to any person who has designated two (2) individuals to receive notice, he shall, whenever practical, attempt to have the copy of the notice addressed to the local Station Manager delivered personally. All other notices shall be mailed by the *Airport Director* by first class mail, or by a next-day package delivery service, or delivered by telecopier/facsimile.

11.2.3 EFFECTIVE DATE OF NOTICES DELIVERED BY THE COUNTY

Whenever the *County* gives written notice under or concerning this PLAN by personal delivery, telecopier/facsimile, or next-day package delivery service, the notice shall be deemed to have

been received on the day it was transmitted by telecopier or facsimile, or, if given only by next-day package delivery service, on the day following the day on which the notice was delivered or given to a next-day package service for delivery. If the *County* gives notice only by depositing a copy of the notice in first class mail, the notice shall be deemed to have been received three (3) days after the date on which it was deposited in the United States mail.

HISTORICAL NOTE

***June 2003 Amendments*. The June 2003 amendments made grammatical changes to this section.**

11.2.4 EFFECTIVE DATE OF CARRIER NOTICES OR FILINGS

Whenever this PLAN requires any person to file or submit any document to the *County* or the *Airport Director*, that notice or document will be deemed to have been delivered on the first working day when it is actually received by the *Airport Director*. Any documents or forms which are ten (10) pages or less in length may be delivered by facsimile, before 1630 hours, on any working day to (949) 252-5178.

11.3 MODIFICATION OF FORMS OR REPORTING PROCEDURES

11.3.1 AUTHORITY

The *Airport Director* may modify or augment any form required to be filed under this PLAN, or may require the filing of additional forms not otherwise referenced in this PLAN, if he determines that the action would facilitate the implementation and enforcement of this PLAN, or any other *County* ordinances, rules, regulations, or policies regarding or regulating *Regularly Scheduled Air Service* at *JWA*.

11.3.2 REQUIRING DATA IN ELECTRONIC FORM

The *Airport Director* may, at any time, require that any of the information to be delivered to the *County* under the terms of this PLAN be delivered in an electronic/computer disk form compatible with hardware and software specified by him; except that if the probable cost per user of purchasing any hardware or software necessary to prepare the information electronically exceeds $50,000, the *Airport Director* shall present his recommended action to, and for final action by, the *Board of Supervisors*.

11.3.3 NOTICE TO CARRIERS

Whenever the *Airport Director* exercises his authority under Sections 11.3.1 or 11.3.2, he shall promptly give notice to all persons using *JWA* who are required or permitted to use those forms

of the changed requirements, and he shall specify the date upon which use of the new or modified form, or the delivery of information in electronic form, is required.

11.3.4 USE OF NEW OR MODIFIED FORMS REQUIRED

Any person receiving a notice from the *Airport Director* under Sections 11.3.2 or 11.3.3 shall use the new or modified forms, or comply with the requirement for delivery in electronic form, effective on the date specified in the *Airport Director's* notice.

11.4 LABOR STRIKES

Notwithstanding any provision in this PLAN which imposes a penalty upon, or requires a forfeiture of *ADDs*, *Passenger Capacity Allocations*, *RON* allocations, other operating privileges, or status as a *Qualified Air Carrier* or *Qualified Commuter Carrier*, a labor strike directed against the operations of an *Air Carrier* or *Commuter Carrier* by it employees, which is intended to disrupt the operations of the carrier, may constitute good cause for waiver by the *County* of any such provision of this PLAN for such period of time, and subject to such conditions, as the *County*, in its sole and exclusive discretion, may determine.

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JOHN WAYNE AIRPORT
ORANGE COUNTY
(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 - DECEMBER 31, 2030)

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JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX A

REGULATED ADDs
INITIAL 1989 ALLOCATION PROTOCOL
AND ALLOCATION SUMMARY

APPENDIX A

PHASE 2 ACCESS PLAN

REGULATED ADDs
INITIAL 1989 ALLOCATION PROTOCOL

November 20, 1989

APPENDIX A – Regulated ADDs – Initial 1989 Allocation Protocol

1.0 INTRODUCTION

American Airlines has suggested that it would be helpful to the air carriers participating in the PHASE 2 *Regulated ADD* allocation process on November 20, 1989, if the *County* would provide a "protocol" outlining the procedures which will be followed during the allocation process. *County* staff agrees with this suggestion, and this document is intended to provide an outline of the conditions and procedures of the allocation process.

2.0 CONDITIONS

The allocation of regulated *ADDs* will occur under the following conditions:

2.1 BOARD RATIFICATION

All allocations will be conditional and subject to final ratification by the *Board of Supervisors*. Staff anticipates that this ratification will occur at the time the *Board* approves the full text of the PHASE 2 ACCESS PLAN, which is currently being prepared and will be submitted to the *Board* shortly. American Airlines has asked for a staff commitment on the action the *County* will take "if less than nine tradeouts are made after the completion of two rounds of trading." Staff does not believe that it is necessary or appropriate to make such pre-commitments at this time. The staff has previously indicated that if the tradeout process fails to achieve its essential purposes, staff may recommend that the Board not ratify the allocation process, and that it adopt instead some other allocation process.

2.2 COMPLIANCE WITH OTHER PRE-ALLOCATION CONDITIONS

Only those carriers which have previously complied with all pre-conditions to the allocation process will be eligible to participate in the allocation. This includes the aircraft qualification requirement and the new entrant deposit requirement, both of which were discussed in the Second Staff Report.

All incumbent carriers have qualified *Class AA* equipment for operations at *JWA* - and are therefore eligible to participate in the tradeout process - except Alaska Airlines and TWA. Qualification of *Class E Aircraft* is not necessary to the allocation of *Regulated ADDs*.

2.3 PRESENCE OF AUTHORIZED AIRLINE REPRESENTATIVE

Each airline wishing to receive an allocation of PHASE 2 *Regulated ADDs* must be represented by a company official with authority to make a binding commitment on tradeout opportunities and the acceptance of *Regulated ADD* allocations. At the beginning of the allocation process, each airline will be asked to confirm its presence, and to confirm that it is being represented by an official with such binding authority.

2.4 TIME AND PLACE OF THE ALLOCATION

As previously announced, the allocation process will commence at 9:30 a.m. on Monday, November 20, 1989. The allocation will take place in the *Board of Supervisors*' Hearing Room, 10 Civic Center Plaza, Santa Ana, California.

3.0 ALLOCATION PROCESS

The allocation process will follow the following procedures and requirements:

3.1 INITIAL ALLOCATIONS

3.1.1 The eligible airlines will initially be offered the following *Regulated ADD* allocations:

INITIAL REGULATED ADD ALLOCATIONS

Airline	Class A ADDs	Class AA ADDs
Alaska Airlines	2	0
America West Airlines	1	4
American Airlines	12	6
Continental Airlines	5	0
Delta Airlines	3	0
Northwest Airlines	5	0
United Air Lines	2	0
USAir	3	6

3.1.2 Each airline will be asked to confirm that it will accept this initial allocation of *ADDs*. Any *ADDs* not accepted at this stage of the process will be deemed to be "*County*" *ADDs*.

3.2 CLASS A/AA TRADEOUT

After the initial allocation is confirmed by each carrier, the tradeout process will begin.

3.2.1 All incumbent carriers except TWA and Alaska will be eligible for the tradeout process.

3.2.2 Each carrier will be given the sequential opportunity to tradeout one *Class A ADD* for two *Class AA ADDs*. The sequence will continue until 18 *Class AA ADDs* have been allocated through the tradeout process, or until all eligible carriers have "passed" twice.

3.2.3 The carriers will be prioritized for sequential exercise of tradeout opportunities by a "top-down" order based upon their initial allocation of *Class A ADDs* <u>only</u>. Any "ties" in eligibility

have been broken by reference to each carrier's *Class AA ADDs* (after the initial allocation set forth above) and then, as necessary, by the date of their commencement of service at *JWA*. The "top-down" order will be as follows:

- American Airlines
- Continental Airlines
- Northwest Airlines
- USAir
- Delta Air Lines
- United Air Lines
- America West Airlines

3.2.4 Each carrier will be polled in sequence as to whether it wishes to exercise a trade-out opportunity. Each carrier will have a maximum of three (3) minutes to respond. If a carrier does not respond within the three (3) minute period, it shall be deemed to have "passed."

3.2.5 At the conclusion of the tradeout allocation, each air carrier will be provided with a sheet reflecting the status of the allocation process at this stage, and will be asked to confirm the accuracy of that allocation summary before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the air carrier.

3.3 "REDISTRIBUTION" OF CLASS A ADDS

Following completion of the tradeout process, the *County* will "redistribute" the *Class A ADDs* "received" by it during the tradeout process, and the two *Class A ADDs* not allocated as part of the initial allocation, pursuant to the following procedures:

3.3.1 The *Class A ADDs* will be allocated sequentially among the incumbent carriers, in one *ADD* increments, based upon a "bottom-up" sequence determined by reference to each air carrier's *Class A ADD* allocation at the end of the tradeout process. All "ties" in sequence eligibility will be resolved first by reference to each affected carrier's *Class AA ADD* allocation and then, if necessary, by reference to each carrier's date of commencement of *JWA* service. Since this order cannot be determined until after completion of the tradeout, the sequence order cannot be listed here. However, prior to the commencement of the allocation of "redistributed" *Class A ADDs*, staff will announce its understanding of the relevant "bottom-up" order. Any carrier contesting that understanding must express its protest immediately, and the protest will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the air carrier.

3.3.2 The "redistribution" of *Class A ADDs* will be deemed to have started with America West's receipt of a *Class A ADD* in the "initial" allocation (Paragraph 3.1.1, above). The first "redistributed" *Class A ADD* to be allocated under this Paragraph 3.3 will be allocated to the first air carrier in the selection order <u>after</u> America West.

3.3.3 The allocation process will continue until these *Class A ADDs* have been allocated, or until each eligible air carrier has declined to accept additional *Class A ADD* allocations.

3.3.4 Each air carrier will be polled sequentially and will have a maximum of three (3) minutes to accept or refuse the *Class A ADD*. A failure to respond within the three (3) minute period will be deemed to be a "pass" (or, a refusal to accept the offered allocation).

3.3.5 At the conclusion of the "redistributed" *Class A ADD* allocation, each air carrier will be provided with a sheet reflecting the status of the final allocations, and will be asked to confirm the accuracy of that allocation summary. Any disputes or protests will immediately be resolved by staff.

4.0 ADD AND SEAT ALLOCATION WITHDRAWAL LOTTERIES

Following completion of the *Regulated ADD* allocation process, the *County* will immediately conduct separate withdrawal lotteries, as outlined in the Second Staff Report, for certain (i) *Class A ADDs*, (ii) *Class AA ADDs* and (iii) "seat blocks." This lottery will occur under the following general rules and procedures:

4.1 DETERMINATION OF ADD WITHDRAWAL LOTTERY ELIGIBILITY

4.1.1 The *County* will advise the carriers of the number of *Class A* and *Class AA ADDs* of each carrier which it believes to be eligible for the withdrawal lottery.

4.1.2 Each air carrier will be asked to confirm the accuracy of that eligibility before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the air carrier.

4.2 ADD WITHDRAWAL LOTTERY

4.2.1 The *County* will then, by a random lottery process, assign withdrawal priorities separately to eligible *Class A ADDs*, and then to eligible *Class AA ADDs*.

4.2.2 Each air carrier will be provided with a summary of the withdrawal priority lottery results, and will again be asked to confirm the accuracy of that summary before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

4.3 SEAT CAPACITY WITHDRAWAL LOTTERY

4.3.1 The *County* will advise the carriers of the number of "passenger seats" allocated to each carrier based upon each carrier's final *Regulated ADD* allocations. The *County* will then announce how many of each carrier's "*Seat Blocks*" (in increments of 13,000 seats) it believes to be eligible for the withdrawal lottery.

4.3.2 Each *Air Carrier* will be asked to confirm the accuracy of that seat allocation and "*Seat Block*" withdrawal lottery eligibility before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

4.4 "SEAT BLOCK" WITHDRAWAL LOTTERY

4.4.1 The *County* will then, by a random lottery process, assign withdrawal priorities separately to each eligible "*Seat Block*."

4.4.2 Each *Air Carrier* will be provided with a summary of the "*Seat Block*" withdrawal lottery results, and will again be asked to confirm the accuracy of that summary before the process concludes. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

5.0 SUBSEQUENT AIRLINE "TRADES"

As approved by the *Board of Supervisors*, the *County* will permit an opportunity for a <u>one-time</u> "trade" of *Regulated ADDs* among the *Qualified Air Carriers*, subject to specific conditions and limitations. These "trades" must be completed and confirmed in writing to the *Airport Director* not later than 5:00 p.m. on November 28, 1989, and are subject to acceptance and ratification by the *Airport Director* and the *Board of Supervisors*. The written confirmation of any such trades will be subject to certain requirements and limitations which will be announced and discussed at the completion of the allocation process.

APPENDIX A – Regulated ADDs – Initial 1989 Allocation Protocol

1989
PHASE 2 ALLOCATIONS
REGULATED ADDs

	Selection Order		Initial Allocation		Tradeouts		"New" Class A ADDs	Final Allocation	
Airline	**Top Down**	**Bottom Up**	**A**	**AA**	**A**	**AA**		**A**	**AA**
Alaska		**4**	2			N/A	**1**	3	0
American West	7	**9**	1	4	**-1**	2	**1**	1	6
American	1	**8**	12	6	**-2**	4	**1**	11	10
Continental	2	**6**	5	**-1**	2	**1**		5	2
Delta	5	**2**	3		**-2**	4	**2**	3	4
Northwest	3	**7**	5		**-1**	2	**1**	5	2
TWA	**3**		2		N/A	**1**		3	0
United	6	**1**	2		**-2**	4	**2**	2	4
USAir	4	**5**	3	6		N/A	**1**	4	6
SUBTOTAL:			**35**	**16**	**-9**	**18**	**11**	**37**	**34**
[County]			2	18				0	0
Midway				2					2
TOTAL:				**39**	**34**			**39**	**34**

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX B

INCUMBENT AIR CARRIER
REALLOCATION PRIORITY LIST

INCUMBENT AIR CARRIER REALLOCATION PRIORITY LIST*

CLASS A ADDs

Reallocation Priority	*Air Carrier*
1	Alaska Air Group
2	Delta Air Lines
3	United Airlines
4	WestJet
5	US Airways
6	American Airlines
7	Frontier Airlines
8	Southwest Airlines

* The Incumbent Air Carrier Reallocation Priority List has been revised to take into account the 2015 *Plan Year* allocations.

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
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REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX C

PHASE 2 ALLOCATIONS
CLASS A/PERMANENT E ADD
WITHDRAWAL PRIORITIES

APPENDIX C

PHASE 2 ALLOCATIONS
CLASS A/PERMANENT E ADD
WITHDRAWAL PRIORITIES

CLASS A/PERMANENT E ADDs

Withdrawal Priority	Airline	Withdrawal Priority	Airline
1	American Airlines	29	United Airlines
2	Southwest Airlines	30	American Airlines
3	Alaska Airlines	31	Southwest Airlines/PE
4	Southwest Airlines/PE	32	United Airlines
5	American Airlines	33	United Airlines
6	American Airlines	34	Southwest Airlines/PE
7	Alaska Airlines	35	American Airlines
8	Southwest Airlines	36	United Airlines
9	American Airlines	37	Southwest Airlines/PE
10	American Airlines	38	Southwest Airlines
11	Southwest Airlines/PE	39	United Airlines
12	Southwest Airlines/PE	40	United Airlines
13	United Airlines	41	United Airlines
14	American Airlines	42	Southwest Airlines
15	Southwest Airlines/PE	43	Alaska Airlines
16	Alaska Airlines	44	Southwest Airlines
17	Southwest Airlines/PE	45	Southwest Airlines
18	Alaska Airlines	46	American Airlines
19	United Airlines	47	Southwest Airlines/PE
20	Southwest Airlines/PE	48	United Airlines
21	Southwest Airlines/PE	49	Delta Air Lines
22	Southwest Airlines/PE	50	Southwest Airlines/PE
23	Delta Air Lines	51	American Airlines
24	Southwest Airlines	52	American Airlines
25	Southwest Airlines	53	Southwest Airlines
26	Southwest Airlines	54	American Airlines
27	United Airlines	55	Southwest Airlines/PE
28	Southwest Airlines		

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX D

PHASE 2 ALLOCATIONS
SEAT BLOCK WITHDRAWAL PRIORITIES

APPENDIX D – Seat Block Withdrawal Priorities

Withdrawal Priority		Withdrawal Priority		Withdrawal Priority		Withdrawal Priority		Withdrawal Priority	
1	WN	42	WN	83	WN	124	WN	165	WN
2	WN	43	WN	84	WN	125	WN	166	WN
3	WN	44	AS	85	WN	126	WN	167	WN
4	UA	45	WN	86	WN	127	WN	168	WN
5	WN	46	AS	87	WN	128	WN	169	WN
6	WN	47	WN	88	WN	129	WN	170	DL
7	WN	48	AS	89	WN	130	WN	171	UA
8	WN	49	WN	90	AS	131	WN	172	DL
9	WN	50	WN	91	WN	132	WN	173	WN
10	WN	51	WN	92	WN	133	WN	174	UA
11	WN	52	WN	93	WN	134	WN	175	DL
12	WN	53	WN	94	WN	135	UA	176	WN
13	WN	54	WN	95	WN	136	WN	177	UA
14	DL	55	WN	96	WN	137	UA	178	AS
15	WN	56	WN	97	WN	138	WN	179	WN
16	WN	57	WN	98	WN	139	WN	180	WN
17	WN	58	WN	99	AS	140	UA	181	WN
18	WN	59	WN	100	WN	141	WN	182	UA
19	WN	60	WN	101	WN	142	WN	183	WN
20	WN	61	WN	102	WN	143	WN	184	WN
21	WN	62	UA	103	WN	144	WN	185	WN
22	WN	63	WN	104	WN	145	AS	186	WN
23	WN	64	WN	105	WN	146	WN	187	WN
24	WN	65	WN	106	WN	147	WN	188	WN
25	WN	66	WN	107	AS	148	WN	189	WN
26	DL	67	WN	108	WN	149	WN	190	DL
27	WN	68	UA	109	DL	150	WN	191	WN
28	WN	69	WN	110	WN	151	WN	192	WN
29	WN	70	UA	111	WN	152	AS	193	DL
30	WN	71	WN	112	WN	153	WN	194	WN
31	WN	72	WN	113	WN	154	WN	195	DL
32	WN	73	WN	114	WN	155	WN	196	WN
33	WN	74	WN	115	WN	156	WN	197	WN
34	WN	75	WN	116	WN	157	WN	198	WN
35	WN	76	WN	117	DL	158	WN	199	WN
36	WN	77	DL	118	UA	159	UA	200	WN
37	WN	78	WN	119	UA	160	WN	201	WN
38	WN	79	WN	120	WN	161	WN	202	WN
39	WN	80	WN	121	WN	162	WN		
40	WN	81	WN	122	UA	163	WN		
41	AS	82	WN	123	WN	164	DL		

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
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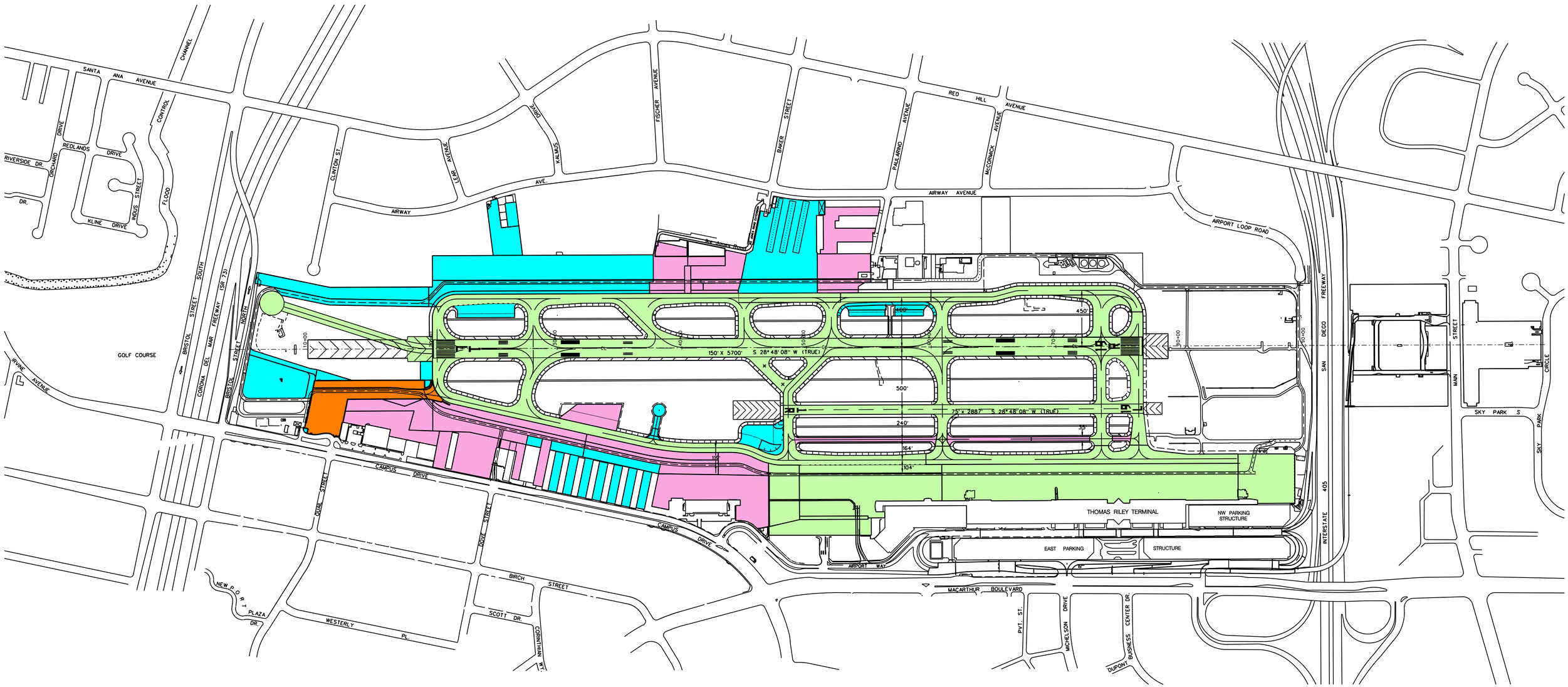
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX E

PAVEMENT DESIGN STRENGTH DIAGRAM



LEGEND

- 12,500 SINGLE
- 60,000 DUAL
- 100,000 DUAL
- 300,000 DUAL TANDEM / 200,000 DUAL / 70,000 SINGLE

* These pavement strengths are based on the pavement condition evaluation done in January 2002. The Pavement Strength Map may be obtained through the Airport Engineer's Office, JWA. The pavement strengths in areas under lease to fixed base operator were provided by the lessee and are not guarantied as to strength or condition. The individual lessees are responsible for maintaining the airfield pavement within their lease hold. Any lessee pavement which is not in conformance with these strengths should be reported to the Airport Engineer, JWA.

Revised 5/11/2011

JOHN WAYNE AIRPORT
ORANGE COUNTY, CALIFORNIA

PAVEMENT STRENGTH

ALAN MURPHY
AIRPORT DIRECTOR

L.G. SERAFINI, P.E.
DEPUTY AIRPORT DIRECTOR - FACILITIES / AIRPORT ENGINEER

DRAWN BY : SN | DATE: June 24, 2004 | SHEET 1 of 1

CadProjects/PMS/pms1-revised 5-2011.dgn

...\pms1-revised 5-2011.dgn 5/19/2011 10:01:33 AM

JOHN WAYNE AIRPORT

ORANGE COUNTY

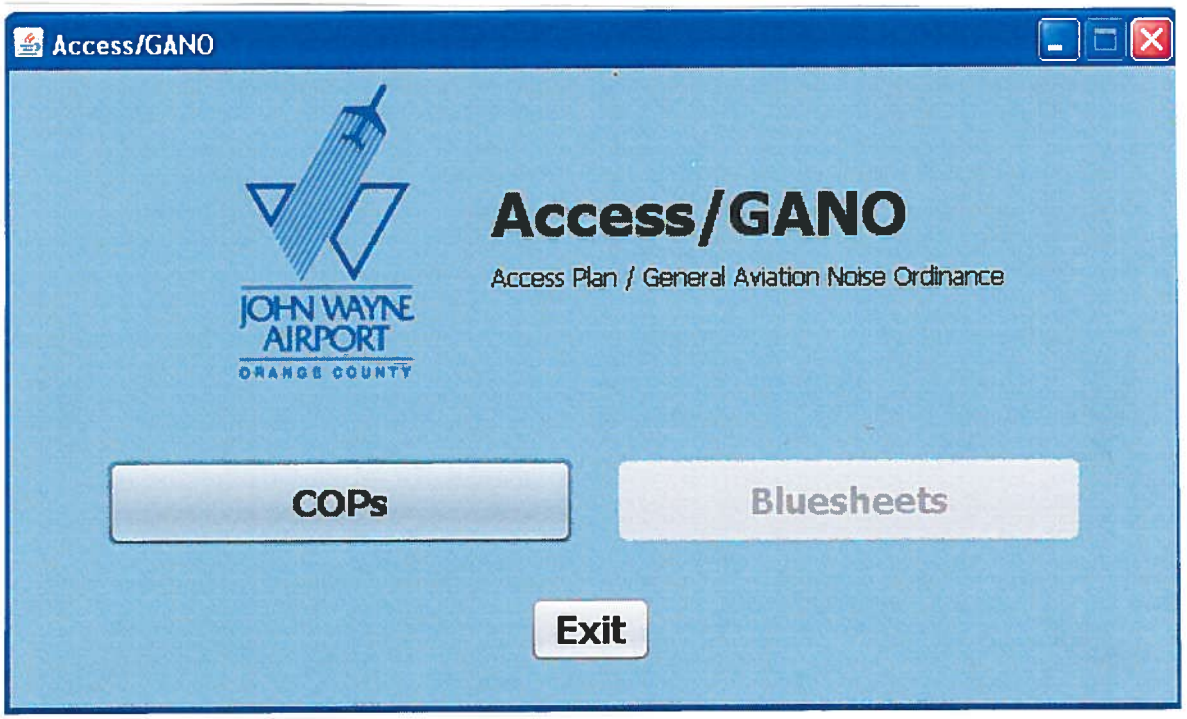
(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION

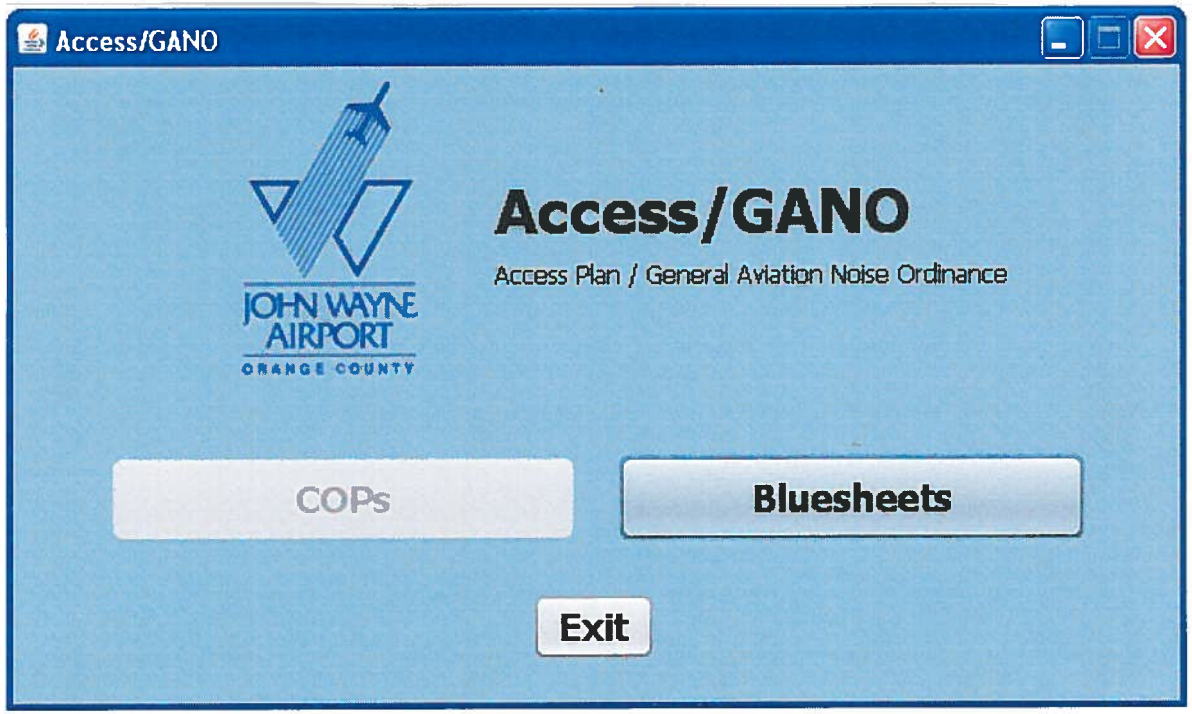
(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX F

FORM APPENDICES
F-1 THROUGH F-22



This form must be submitted to John Wayne Airport through a secured website. Please contact the Airport at (949) 252-5185.



This form must be submitted to John Wayne Airport through a secured website. Please contact the Airport at (949) 252-5185.

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

CLASS E OPERATIONS REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To: _____
Signature:_____ Page 1 of __

Aircraft Type	# of Depart.	Frequency	Total # of Days	Scheduled Time	Arrival/ Depart.	# Seats on Aircraft	# Class E Seats Requested

TOTAL NUMBER OF SEATS REQUESTED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total Number of Seats Allocated: _____

ACCESS PLAN REFERENCE:
§3.4.3 - Request for Class E Operations Approval

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To:_____
Signature: _____ Page 1 of __

1	2	3	4	5	6	7	8	9	10
Class	Aircraft Type	Seat Config.	Reg. Daily Dep.	Special Daily Dep.	Freq.	Dep. Days	Total Number Days	Total Arr./Dep. OPS	Total Seats ❶

❶ CALCULATION: MULTIPLY COLUMNS 3 AND 9

TOTAL REGULAR ALLOCATION REQUESTED: _____
TOTAL ADDITIONAL ALLOCATION REQUESTED: _____
TOTAL ALLOCATION REQUESTED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total Seat Capacity Allocation:_____

ACCESS PLAN REFERENCE:
§3.3.2 - Requirement of Annual Seat Capacity

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

VOLUNTARY REDUCTION OF ADD ALLOCATION

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To: _____
Signature:_____ Page 1 of __

Number of voluntary reductions (previous): ___months ___days
Number of voluntary reductions (this request): ___months ___days
(No more than 24 months between January 1, 2016 and December 31, 2030)
Total reductions: ___months ___days

ADD Class	Type of Aircraft	# of Seats on Aircraft	# of ADDs Returned	# of Days Returned	# of Seats Returned	Temporary or Permanent Return

TOTAL ADDS RETURNED: (_____)
PREVIOUS ADD ALLOCATION: _____
REMAINING ADD ALLOCATION: _____

JWA USE ONLY: Date Completed: _____
Date Received: _____ Staff: _____
Total Cumulative Period of Time Approved: _____
Total ADDs Returned: _____
Total ADD Allocation: _____

ACCESS PLAN REFERENCE:
§3.1.3 - Voluntary Reduction of ADD Allocation

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

VOLUNTARY
REDUCTION OF SEAT CAPACITY ALLOCATION
(AIR CARRIER)

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

Compliance: Have you returned seat capacity within the previous two (2) Plan Years? ❒Yes ❒No

ADD Class	Type of Aircraft	Number of Seats on Aircraft	Number of Seats Returned

TOTAL SEATS RETURNED: _____
PREVIOUS SEAT ALLOCATION: _____
REMAINING SEAT ALLOCATION: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total Seats Returned: _____

Total Seat Allocation: _____

ACCESS PLAN REFERENCE:
§3.3.5 - Voluntary Reduction of Seat Capacity Allocation

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

PASSENGER CAPACITY ALLOCATION REQUEST FORM
(COMMUTER CARRIER)

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page __ of __

1	2	3	4	5	6	7	8
Aircraft Type	Arrival/ Departure	Freq.	# of Seats In Aircraft	Est. Total # of Annual Operations	Projected Load Factors	Total Seats❶	# of Passengers Requested❷

❶ CALCULATION: MULTIPLY COLUMNS 4 AND 5 = TOTAL SEATS
❷ CALCULATION: MULTIPLY COLUMNS 6 AND 7 = PASSENGER REQUEST

TOTAL SEATS: _____

TOTAL PASSENGER ALLOCATION REQUESTED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total Passenger Allocation Granted:_____

ACCESS PLAN REFERENCE:
§3.5.2 - Commuter Passenger Capacity Allocation Procedures

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

VOLUNTARY REDUCTION OF PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER)

Air Carrier: _____ Date Submitted: _____
Affiliate: _____ For Period (Date): From: _____ To:_____
Signature: _____ Page 1 of __

Cumulative period of time for previous voluntary reduction requests: ___months ___days
Cumulative period of time for this voluntary reduction request: ___months ___days
(No more than twenty-four (24) months between January 1, 2016, and December 31, 2030)
Total voluntary reductions: ___months ___days

CURRENT REGULAR PASSENGER CAPACITY ALLOCATION: _____

CURRENT SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION: _____

TOTAL PASSENGER CAPACITY ALLOCATION FOR CURRENT PLAN YEAR: _____

NUMBER OF PASSENGER CAPACITY ALLOCATIONS RETURNED:
(MAY NOT EXCEED 30% OF TOTAL AND SUPPLEMENTAL ALLOCATIONS.) _____

CURRENT REMAINING PASSENGER CAPACITY ALLOCATION: _____

JWA USE ONLY: Date Completed: _____

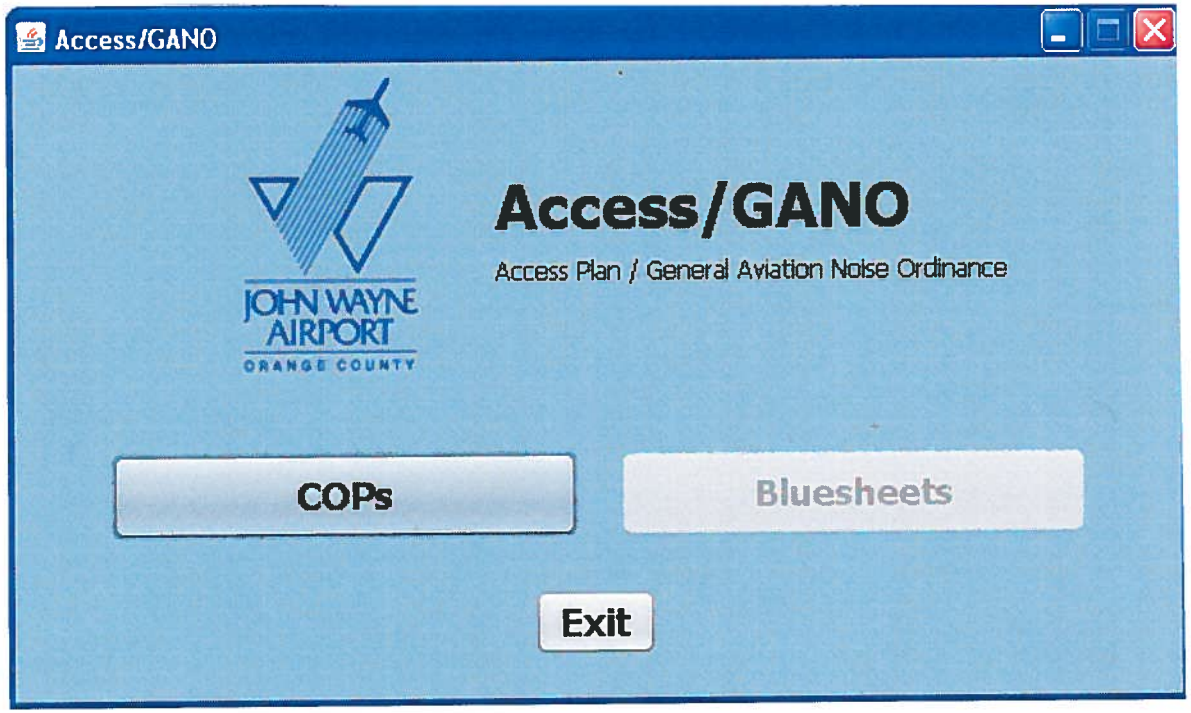
Date Received: _____ Staff: _____

Total Cumulative Period of Time Approved: _____

Total Passengers Returned: _____

Total Passenger Allocation: _____

ACCESS PLAN REFERENCE:
§3.5.4 - Voluntary Reduction of Passenger Capacity Allocation



This form must be submitted to John Wayne Airport through a secured website. Please contact the Airport at (949) 252-5185.

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

CORRECTIVE ACTION REPORT

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

STATEMENT OF VIOLATION OR POTENTIAL VIOLATION:

_____

_____

_____

_____

INFORMATION REQUESTED:

_____

_____

_____

_____

PROPOSED CORRECTIVE ACTIONS (use additional sheets if necessary)**:**

_____

_____

_____

_____

_____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

ACCESS PLAN REFERENCE:
§3.8.4 - Corrective Action Report

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

AUTHORIZED DEPARTURE REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

ADD Class	Type of Aircraft	Number of Seats per Aircraft	Number of Departures	Frequency	Number of ADDs Requested

TOTAL ADDS REQUESTED: _____
TOTAL PREVIOUS ADDS ALLOCATED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total ADDs Allocated: _____

Total ADD Allocation: _____

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

SUPPLEMENTAL AUTHORIZED DEPARTURE REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page __ of __

ADD Class	Type of Aircraft	Number of Seats per Aircraft	Number of Departures	Frequency	Number of Supplemental ADDs Requested

TOTAL SUPPLEMENTAL ADDS REQUESTED: _____
TOTAL PREVIOUS ADDS ALLOCATED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Supplemental ADDs Allocated: _____

Total ADD Allocation: _____

ACCESS PLAN REFERENCE:
§4.2.2 - Supplemental Departure Allocation Request

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

SUPPLEMENTAL SEAT CAPACITY ALLOCATION REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted: _____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page __ of __

1	2	3	4	5	6	7	8	9	10
Class	**Aircraft Type**	**Seat Config.**	**Reg. Daily Dep.**	**Special Daily Dep.**	**Freq.**	**Dep. Days**	**Total Number Days**	**Total Arr./Dep. OPS**	**Total Seats ❶**

❶ CALCULATION: MULTIPLY COLUMNS 3 AND 9

TOTAL SUPPLEMENTAL SEAT ALLOCATION REQUESTED: _____
TOTAL PREVIOUS SEAT ALLOCATION: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Supplemental Seats Allocated: _____

Total Seat Allocation: _____

ACCESS PLAN REFERENCE:
§4.3.2 - Supplemental Seat Capacity Allocation Requests

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER)

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

1	2	3	4	5	6	7	8
Aircraft Type	Arrival/ Departure	Freq.	# of Seats in Aircraft	Number of Operations	Projected Load Factors	Total Seats ❶	# of Passengers Requested ❷

❶ CALCULATION: MULTIPLY COLUMNS 4 AND 5 = TOTAL SEATS TOTAL SEATS: _____
❷ CALCULATION: MULTIPLY COLUMNS 6 AND 7 = PASSENGER REQUEST

SUPPLEMENTAL PASSENGER ALLOCATION REQUESTED: _____
TOTAL PREVIOUS PASSENGER CAPACITY ALLOCATION: _____

Date Received: _____ Staff: _____

Supplemental Passenger Capacity Allocated: ____

Total Passenger Capacity Allocation: _____

ACCESS PLAN REFERENCE:
§4.4.2 - Supplemental Passenger Capacity Allocation Requests

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

RON ALLOCATION REQUEST FORM
(AIR CARRIER)

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page __ of __

Aircraft Type	Aircraft Maximum GTOW	Dep. Class	Arr./Dep. Time	Position Requested		Days of the Week to be Used
				Apron	Loading Bridge	

TOTAL RON APRON ALLOCATIONS REQUESTED _____

TOTAL RON LOADING BRIDGE ALLOCATIONS REQUESTED _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total RON Loading Bridges Allocated: _____

Total RON Aprons Allocated: _____

Total RON Allocation: _____

ACCESS PLAN REFERENCE:
§5.2 - Air Carrier RON Requests

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

AMENDED RON INFORMATION FORM

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

RONs Add/or Return	Aircraft Type	Aircraft Max GTOW	Dep Class	Arr/Dep Time	Position Requested		Days of the Week to be Used
					Apron	Loading Bridge	

PREVIOUS RON ALLOCATION: _____
ADDITIONAL RON ALLOCATIONS REQUESTED: _____
RON ALLOCATIONS RETURNED: (_____)

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total RONs Allocated: _____

Total RONs Returned: _____

Total RON Allocation: _____

ACCESS PLAN REFERENCE:
§5.2.2 - Amended RON Request Form

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

RON POSITION ALLOCATION REQUEST FORM
(COMMUTER CARRIER)

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

Aircraft Type	Aircraft Maximum GTOW	Dep Class	Arr/Dep Time	Position Requested		Days of the Week to be Used
				Apron	FBO	

TOTAL RON ALLOCATIONS REQUESTED: _____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

Total RON Allocation: _____

ACCESS PLAN REFERENCE:
§5.7 - Commuter Carrier RON Allocation Requests

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

NOTICE OF AFFILIATE RELATIONSHIP

Air Carrier: Date Submitted:_____

Affiliate: Date of Formation of Affiliate Relationship: _____

Signature:_____ Page 1 of __

Compliance: Are you in full compliance with the following sections?

8.2.1: ❒ Yes ❒ No 8.2.2: ❒ Yes ❒ No 8.2.3: ❒ Yes ❒ No 8.2.4: ❒ Yes ❒ No

NATURE OF AFFILIATE RELATIONSHIP (SEE SECTION 2.2(A) THROUGH (C), SPECIFY APPLICABLE SUBSECTION AND THE DETAILS):

(use additional sheets if necessary)

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

ACCESS PLAN REFERENCE:
§8.2.4 - Notice of Formation of Affiliate Relationship

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

MODIFICATION OF MINIMUM/MAXIMUM USE PERCENTAGE REQUEST FORM

Air Carrier: Date Submitted:_____
Affiliate: For Period (Date): From: _____ To:_____
Signature:_____ Page __ of __

REQUEST FOR:

Calendar Month ❒	Calendar Quarter ❒	3 Consecutive Calendar Quarters ❒	Plan Year ❒
ADDs ❒	Seats ❒	Passengers ❒	RONs ❒

Current Maximum Use %	Proposed Maximum Use %	Modified Maximum Use % **(JWA USE ONLY)**	Current Minimum Use %	Proposed Minimum Use %	Modified Minimum Use % **(JWA USE ONLY)**

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

ACCESS PLAN REFERENCE:
§8.3.8 - Request for Modification of Minimum/MAX Use Percentages

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

OPERATIONS ADJUSTMENT PLAN

Air Carrier: For Period (Date): From: _____ To:_____
Signature:_____ Page 1 of __

Is Form F-9 (§3.5.4 and §6.6) being filed concurrently with this form: ❒ Yes ❒ No

DESCRIPTION OF OPERATIONAL ADJUSTMENTS REQUIRED BY COUNTY:
(See Access Plan §6)

DESCRIPTION OF OPERATIONAL ADJUSTMENTS TO BE MADE BY AIR CARRIER:
(use additional sheets if necessary)

JWA USE ONLY: Date Completed: _____
Date Received: _____ Staff: _____

ACCESS PLAN REFERENCE:
§6.6 - Commercial Operator Adjustment Plan

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)

AIRCRAFT NOISE QUALIFICATION
TEST REQUEST FORM

Air Carrier: Date:_____
Signature:_____ Test Date:_____

Aircraft Type	Aircraft Model #	Dep Class	Number of Seats	Engine Type	Engine Model #	Max. Opr. Gross Wt.	Projected Typical Opr. Wt.

IS THE FOLLOWING INFORMATION ATTACHED:

1. INFORMATION/MATERIAL SUBSTANTIATING BELIEF THAT PROPOSED AIRCRAFT CAN OPERATE AS CLASS A OR CLASS E AIRCRAFT AT JWA: YES ❒ NO ❒
2. STATEMENT OF ASSUMPTIONS USED IN PROJECTING TYPICAL OPERATIONS WEIGHT RANGE: YES ❒ NO ❒
3. OPERATOR, MANUFACTURER, AND *CERTIFIED* AIRCRAFT MANUAL PAGES REFLECTING OR RELATING TO THE MAXIMUM OPERATIONAL GROSS WEIGHT OF AIRCRAFT IN SERVICE AT JWA: YES ❒ NO ❒
4. MANUFACTURER INFORMATION/MANUALS: YES ❒ NO ❒
5. SPECIFIC DEPARTURE PROCEDURE TO BE USED AT JWA: YES ❒ NO ❒
6. LIST OF OTHER OPERATORS USING SAME PROCEDURE AT JWA WITH SAME AIRCRAFT AND ENGINE TYPES: YES ❒ NO ❒
7. WRITTEN STATEMENT FROM THE AIR CARRIER: YES ❒ NO ❒

JWA USE ONLY: Date Completed: _____

Date Received: _____ Staff: _____

ACCESS PLAN REFERENCE:
§10.3.1- Information Requirements

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)
DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP

ASSOCIATED OPERATING GROUP MEMBERS			
1. Carrier Name:		3. Carrier Name:	
1. Commercial Carrier:	or Commuter Carrier:	3. Commercial Carrier:	or Commuter Carrier:
1. Signature:		3. Signature:	
2. Carrier Name:		4. Carrier Name:	
2. Commercial Carrier:	or Commuter Carrier:	4. Commercial Carrier:	or Commuter Carrier:
2. Signature:		4. Signature:	

COMPLIANCE			Date Submitted:
Are you in full compliance with the following sections?			For Period From:
3.5.5: Yes ☐ No ☐	3.9.3: Yes ☐ No ☐	8.14: Yes ☐ No ☐	
3.9.1: Yes ☐ No ☐	3.10.1: Yes ☐ No ☐		For Period To:
3.9.2: Yes ☐ No ☐	8.2: Yes ☐ No ☐		

JWA USE ONLY:

Date Completed: _____

Date Received: **Staff:**

ACCESS PLAN REFERENCE:

§ 3.9.1 – FORMATION OF ASSOCIATED OPERATING GROUPS

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)
DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP

INDIVIDUAL CARRIER ALLOCATION ("Default" Allocation with NO Associated Operating Group)						ASSOCIATED OPERATING GROUP CARRIER OPERATIONS PROPOSAL				
Capacity	**Carrier 1**	**Carrier 2**	**Carrier 3**	**Carrier 4**	**TOTAL**	**Carrier 1**	**Carrier 2**	**Carrier 3**	**Carrier 4**	**TOTAL**
Regular ADDs:										
- Class A Departures										
- Class A ADD Allocation										
- Class PE Departures										
- Class PE ADD Allocation										
Supplemental Departures:										
- Class A Departures										
- Class A ADD Allocation										
Authorized Seat Capacity:										
- Regular Seats										
- Supplemental Seats										
Total Seat Capacity										
Passenger Capacity:										
RON Positions:										
- Commercial Carrier										
- Commuter Carrier										

JWA USE ONLY:

Date Completed: _____

Date Received: **Staff:**

ACCESS PLAN REFERENCE:

§ 3.9.1 – FORMATION OF ASSOCIATED OPERATING GROUPS

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)
AMENDED DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP

ASSOCIATED OPERATING GROUP MEMBERS			
1. Carrier Name:		3. Carrier Name:	
1. Commercial Carrier:	or Commuter Carrier:	3. Commercial Carrier:	or Commuter Carrier:
1. Signature:		3. Signature:	
2. Carrier Name:		4. Carrier Name:	
2. Commercial Carrier:	or Commuter Carrier:	4. Commercial Carrier:	or Commuter Carrier:
2. Signature:		4. Signature:	

COMPLIANCE									Date Submitted:
									For Period From:
Are you in full compliance with the following sections?									
3.5.5:	Yes ☐	No ☐	3.9.3:	Yes ☐	No ☐	8.14:	Yes ☐	No ☐	For Period To:
3.9.1:	Yes ☐	No ☐	3.10.1:	Yes ☐	No ☐				
3.9.2:	Yes ☐	No ☐	8.2:	Yes ☐	No ☐				

JWA USE ONLY:

Date Completed: _____

Date Received: **Staff:**

ACCESS PLAN REFERENCE:

§ 3.9.1 – FORMATION OF ASSOCIATED OPERATING GROUPS

JOHN WAYNE AIRPORT
ORANGE COUNTY (SNA)
AMENDED DECLARATION OF FORMATION OF ASSOCIATED OPERATING GROUP

INDIVIDUAL CARRIER ALLOCATION ("Default" Allocation with NO Associated Operating Group)						ASSOCIATED OPERATING GROUP CARRIER OPERATIONS PROPOSAL				
Capacity	**Carrier 1**	**Carrier 2**	**Carrier 3**	**Carrier 4**	**TOTAL**	**Carrier 1**	**Carrier 2**	**Carrier 3**	**Carrier 4**	**TOTAL**
Regular ADDs:										
- Class A Departures										
- Class A ADD Allocation										
- Class PE Departures										
- Class PE ADD Allocation										
Supplemental Departures:										
- Class A Departures										
- Class A ADD Allocation										
Authorized Seat Capacity:										
- Regular Seats										
- Supplemental Seats										
Total Seat Capacity										
Passenger Capacity:										
RON Positions:										
- Commercial Carrier										
- Commuter Carrier										

JWA USE ONLY:

Date Completed: _____

Date Received: **Staff:**

ACCESS PLAN REFERENCE:

§ 3.9.1 – FORMATION OF ASSOCIATED OPERATING GROUPS

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX G

2003 PHASE 2 ALLOCATION PROTOCOL

1.0 INTRODUCTION

This document is intended to provide an outline of the conditions and procedures of the May 28, 2003, allocation process.

2.0 CONDITIONS

The allocation of *Regulated Class A ADDs* and permanent *Class E ADDs* will occur on May 28, 2003, under the following conditions:

2.1 BOARD RATIFICATION

All allocations will be conditional and subject to final ratification by the *Board of Supervisors* on June 17, 2003. This ratification will occur at the time the *Board* accepts amendments to the PHASE 2 ACCESS PLAN, which will be prepared consistent with *Board* direction on May 20, 2003, and will be submitted to the *Board* for acceptance at its June 17, 2003, meeting.

2.2 COMPLIANCE WITH OTHER PRE-ALLOCATION CONDITIONS

Only those carriers which have previously complied with all pre-conditions to the allocation process will be eligible to participate in the allocation. This includes the aircraft qualification requirement and the new entrant deposit requirement, both of which were discussed in the First Staff Report, dated March 11, 2003.

All incumbent carriers and the two (2) new entrant carriers have qualified *Class A* and/or *Class E* equipment for operations at *JWA* - and are therefore eligible to participate in the allocation process.

2.3 PRESENCE OF AUTHORIZED AIRLINE REPRESENTATIVE

Each airline wishing to receive an allocation of new PHASE 2 *Regulated ADDs* must be represented by a company official with authority to make a binding commitment on trade-out opportunities and the acceptance of *Regulated ADD* allocations. At the beginning of the allocation process, each airline will be asked to confirm its presence, and to confirm that it is being represented by an official with such binding authority.

2.4 TIME AND PLACE OF THE ALLOCATION

As previously announced, the allocation process will commence at 10:00 a.m. (local time) on Wednesday, May 28, 2003. The allocation will take place at the at the Airport Commission Hearing Room, John Wayne Airport Administration Building, 3160 Airway Avenue, Costa Mesa, California.

3.0 ALLOCATION PROCESS

The allocation process will follow the following procedures and requirements:

3.1 INITIAL ALLOCATIONS

3.1.1 The eligible airlines will initially be offered the following new *Regulated ADD* allocations. These allocations are in addition to the eligible airlines' existing allocations:

Airline	Class A ADDs
Incumbent Air Carriers	
Alaska Airlines	1
Aloha Airlines	2
America West Airlines	1
American Airlines	0
Continental Airlines	1
Delta Airlines	1
Northwest Airlines	1
Southwest Airlines	1
United Air Lines	1
US Airways	2
New Entrant Air Carriers	
Frontier Airlines, Inc.	3
ATA Airlines	2*

* ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

3.1.2 Each airline will be asked to confirm that it will accept this initial allocation of *ADDs*. Any *ADDs* not accepted at this stage of the process will be deemed to be "*County*" *ADDs*.

3.2 CLASS E TRADE-OUT

After the initial allocation is confirmed by each carrier, the trade-out process will begin.

3.2.1 All incumbent carriers and new entrant air carriers will be eligible for the trade-out process.

3.2.2 Each carrier will be given the sequential opportunity to trade-out one (1) *Class A ADD* for two (2) *Class E ADDs*. The sequence will continue until twelve (12) permanent *Class E ADDs* have been allocated through the trade-out process, or until all eligible carriers have "passed" twice.

3.2.3 The carriers will be prioritized for sequential exercise of trade-out opportunities by a "top-down" order based upon their initial allocation of new *Class A ADDs*, in addition to their current *ADD* allocation as follows:

Airline	Class A ADDs
Incumbent Air Carriers	
Alaska Airlines	7
Aloha Airlines	4
America West Airlines	9
American Airlines	19
Continental Airlines	10
Delta Airlines	8
Northwest Airlines	6
Southwest Airlines	5
United Air Lines	8
US Airways	4
New Entrant Air Carriers	
Frontier Airlines, Inc.	3
ATA Airlines	2*

* ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

Any "ties" in eligibility have been broken by the date of their commencement of service at *JWA*. The "top-down" order will be as follows:

- American Airlines
- Continental Airlines
- America West Airlines
- Delta Airlines
- United Airlines
- Alaska Airlines
- Northwest Airlines
- Southwest Airlines
- US Airways
- Aloha Airlines
- Frontier Airlines
- New Entrant Carrier

3.2.4 Each carrier will be polled in sequence as to whether it wishes to exercise a trade-out opportunity. Each carrier will have a maximum of three (3) minutes to respond. If a carrier does not respond within the three (3) minute period, it shall be deemed to have "passed."

3.2.5 At the conclusion of the trade-out allocation, each *Air Carrier* will be provided with a sheet reflecting the status of the allocation process at this stage, and will be asked to confirm the accuracy of that allocation summary before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

3.3 "REDISTRIBUTION" OF CLASS A ADDS

Following completion of the trade-out process, the *County* will "redistribute" the *Class A ADDs* "received" by it during the trade-out process, pursuant to the following procedures:

3.3.1 The *Class A ADDs* will be allocated sequentially among the incumbent carriers, in one (1) *ADD* increments, based upon a "bottom-up" sequence determined by reference to each *Air Carrier's Class A ADD* allocation at the end of the trade-out process. All "ties" in sequence eligibility will be resolved first by reference to each carrier's date of commencement of *JWA* service.

3.3.2 The "redistribution" of *Class A ADDs* will be deemed to have started with Frontier Airlines' receipt of a *Class A ADD* in the "initial" allocation (Paragraph 3.1.1, above). The first "redistributed" *Class A ADD* to be allocated under this Paragraph 3.3 will be allocated to the first *Air Carrier* in the selection order after Frontier Airlines.

3.3.3 The allocation process will continue until all but two (2) of these *Class A ADDs* have been allocated, or until each eligible *Air Carrier* has declined to accept additional *Class A ADD* allocations. The remaining two (2) *Class A ADDs* will be allocated supplementally.

3.3.4 Each *Air Carrier* will be polled sequentially and will have a maximum of three (3) minutes to accept or refuse the *Class A ADD*. A failure to respond within the three (3) minute period will be deemed to be a "pass" (or, a refusal to accept the offered allocation).

3.3.5 At the conclusion of the "redistributed" *Class A ADD* allocation, each *Air Carrier* will be provided with a sheet reflecting the status of the final allocations, and will be asked to confirm the accuracy of that allocation summary. Any disputes or protests will immediately be resolved by staff.

4.0 ADD AND SEAT ALLOCATION WITHDRAWAL LOTTERIES

Following completion of the *Regulated ADD* allocation process, the *County* will immediately conduct a separate withdrawal lottery, as outlined in the Second Staff Report, for certain permanent *Class E ADDs*. This lottery will occur under the following general rules and procedures.

4.1 ADD WITHDRAWAL LOTTERY

4.1.1 The *County* will, by a random lottery process, assign withdrawal priorities separately to permanent *Class E ADDs*.

4.1.2 Each *Air Carrier* will be provided with a summary of the withdrawal priority lottery results, and will again be asked to confirm the accuracy of that summary before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

4.3 SEAT CAPACITY WITHDRAWAL LOTTERY

4.2.1 The *County* will advise the carriers of the number of "passenger seats" allocated to each carrier based upon each carrier's final *Regulated ADD* allocations. The *County* will then announce how many of each carrier's "*Seat Blocks*" (in increments of 13,000 seats) it believes to be eligible for the withdrawal lottery.

4.2.2 Each *Air Carrier* will be asked to confirm the accuracy of that seat allocation and "*Seat Block*" withdrawal lottery eligibility before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

4.3 "SEAT BLOCK" WITHDRAWAL LOTTERY

4.3.1 The *County* will then, by a random lottery process, assign withdrawal priorities separately to each eligible "*Seat Block*."

4.3.2 Each *Air Carrier* will be provided with a summary of the "*Seat Block*" withdrawal lottery results, and will again be asked to confirm the accuracy of that summary before the process concludes. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

5.0 SUBSEQUENT AIRLINE "TRADES"

The *County* will permit an opportunity for a one-time "trade" of new *Regulated Class A* and *Class E ADDs* among the *Qualified Air Carriers*, subject to specific conditions and limitations. These "trades" must be completed and confirmed in writing to the *Airport Director* not later than 5:00 p.m. (local time) on Tuesday, June 3, 2003, and are subject to acceptance and ratification by the *Airport Director* and the *Board of Supervisors*. The written confirmation of any such trades will be subject to certain requirements and limitations which will be announced and discussed at the completion of the allocation process.

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

APPENDIX H

MAY 28, 2003, ALLOCATION PROCESS AND SUMMARY

STEP ONE: CONFIRMATION OF EXISTING ALLOCATIONS - CONVERSION OF CLASS AA ADDS TO CLASS A ADDS

Table 1, below, provides the existing *Regulated ADD* allocations. Each airline will be asked to confirm these existing *Regulated ADD* allocations. All of the *Class AA ADDs* will automatically be converted to *Class A ADDs*.

TABLE 1

EXISTING REGULATED ADD ALLOCATIONS

Carrier	Present Allocation		
	Class		Total Class A ADDs after conversion
	A	AA	
Alaska	4	2	6
Aloha	2	0	2
America West	1	7	8
American*	11	8	19
Continental	5	4	9
Delta	3	4	7
Northwest	5	0	5
Southwest	2	2	4
United	2	5	7
US Airways	2	0	2
County*	2	2	4

* The four (4) *County Class A ADDs* include two (2) *Class A ADDs* that the *County* has been allocating as supplemental capacity for use by commercial passenger carriers during the past several *Plan Years*. This was the only unallocated capacity available to accommodate continued operations by the two (2) all-cargo carriers at the *Airport* if the *Airport* was unsuccessful in negotiating with the City and others to obtain the necessary capacity for cargo operations at the *Airport*. This capacity is no longer required as a "safety valve" in light of the Settlement Amendment provision for four (4) permanent *Class A ADDs* for cargo carriers. The other two (2) *Class A ADDs* that the *County* currently holds are the two (2) *Class AA ADDs* that American returned to the *County*, effective April 6, 2003.

STEP TWO: ALLOCATION OF FOUR (4) COUNTY CLASS A ADDS TO TWO NEW ENTRANT AIR CARRIERS - FRONTIER AIRLINES AND ATA AIRLINES

The first two eligible new entrant air carriers currently on the new entrant air carrier waiting list will be provided two (2) *Class A ADDs* each of the existing four (4) *County Class A ADDs*. Each of the new entrant airlines (Frontier and ATA Airlines) will be asked to confirm that it will accept this initial allocation of *ADDs*. Any *ADDs* not accepted at this stage of the process will be deemed to be "*County*" *ADDs*.*

STEP THREE: RESTRUCTURING OF THE ALLOCATION PRIORITY LIST

The carriers will then be prioritized for the sequential distribution of the twelve (12) new *Class A ADDs* based upon a bottom-up allocation priority list. Table 2, below, provides the new bottom up incumbent air carrier allocation priority list based upon the existing *Regulated ADD* allocations, and the allocations to two (2) new entrant air carriers.

All ties are broken based upon the date of commencement of service of each *Air Carrier* on the list. Therefore, US Airways has been placed before Aloha, and Delta has been placed before United on the list. In addition, Frontier has been placed before ATA because Frontier requested to be placed on the new entrant air carrier wait list on May 15, 2000, and ATA Airlines requested to be placed on the new entrant air carrier wait list on January 19, 2001.

Each airline will be asked to confirm its placement on this new *Air Carrier* reallocation priority list based upon its existing *Regulated ADD* allocations.

* ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

TABLE 2 NEW AIR CARRIER REALLOCATION PRIORITY LIST
1. US Airways*
2. Aloha*
3. Frontier Airlines*
4. ATA Airlines***
5. Southwest
6. Northwest
7. Alaska
8. Delta**
9. United**
10. America West
11. Continental
12. American Airlines

* Aloha, US Airways, Frontier Airlines, and ATA Airlines are each tied with two (2) *Class A ADDs*.

** Delta and United are tied with seven (7) *Class A*; however, Delta commenced service at *JWA* prior to United.

*** ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

STEP FOUR: ALLOCATION OF TWELVE (12) NEW CLASS A ADDS

The airlines will each be offered new *Class A ADDs* in one (1) *Class A ADD* increments based upon the order that each airline is placed on the allocation priority list, as reflected in Table 2, above. For purposes of the "first round" of allocations, Frontier Airlines and ATA Airlines will be excluded from the allocation process.[*] However, for purposes of the "second round" of allocations (i.e., after each incumbent air carrier has been offered one [1] of the new *Class A ADDs*), the new entrants will be included in the allocation process.

[*] ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

APPENDIX H – Allocation Process, May 28, 2003, And Summary

The airlines will initially be offered the following new *Regulated ADD* allocations as reflected in Table 3, below. These allocations are in addition to the eligible airlines' existing allocations. These allocations reflect information previously received from American Airlines that it is not interested in receiving any new capacity at this time.

TABLE 3

INITIAL ALLOCATION

Equal Allocation of

Carrier	Existing Class A Allocations	Initial New Class A Allocations	Total Class A Allocations
Incumbent Airlines			
Alaska	6	1	7
Aloha	2	2	4
America West	8	1	9
American	19	0	19
Continental	9	1	10
Delta	7	1	8
Northwest	5	1	6
Southwest	4	1	5
United	7	1	8
US Airways	2	2	4
County	0	0	
New Entrant Airlines			
Frontier Airlines	2	1	3
ATA Airlines	2	0	2*

* ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

Each airline will be asked to confirm that it will accept this initial allocation of *ADDs*. Any *ADDs* not accepted at this stage of the process will be deemed to be "*County*" *ADDs*. The *County* will continue to allocate the new *Class A ADDs* based upon the bottom up allocation priority list until all of the twelve (12) new *Class A ADDs* have been allocated.

STEP FIVE: CLASS E TRADE-OUT

After the initial allocation is confirmed by each carrier, the trade-out process will begin. All incumbent carriers and new entrant air carriers will be eligible for the trade-out process.

Each carrier will be given the sequential opportunity to trade-out one (1) *Class A ADD* for two (2) *Class E ADDs*. The sequence will continue until twelve (12) permanent *Class E ADDs* have been allocated through the trade-out process, or until all eligible carriers have "passed" twice.

The carriers will be prioritized for sequential exercise of trade-out opportunities by a "top-down" order based upon their initial allocation of new *Class A ADDs*, in addition to their current *ADD* allocation. Any "ties" in eligibility have been broken by the date of their commencement of service at *JWA*. The "top-down" order will be as follows:

- American Airlines
- Continental Airlines
- America West Airlines
- Delta Airlines
- United Airlines
- Alaska Airlines
- Northwest Airlines
- Southwest Airlines
- US Airways
- Aloha Airlines
- Frontier Airlines
- ATA Airlines*

Each carrier will be polled in sequence as to whether it wishes to exercise a trade-out opportunity. Each carrier will have a maximum of three (3) minutes to respond. If a carrier does not respond within the three (3) minute period, it shall be deemed to have "passed." The trade-out process will continue until all of the *Class E ADDs* have been allocated, or until each eligible *Air Carrier* has declined to accept additional trade-out opportunities.

At the conclusion of the trade-out allocation, each *Air Carrier* will be provided with a sheet reflecting the status of the allocation process at this stage, and will be asked to confirm the accuracy of that allocation summary before the process continues. Any disputes or protests will immediately be

* ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

STEP SIX: "REDISTRIBUTION" OF CLASS A ADDS

Following completion of the trade-out process, the *County* will "redistribute" the *Class A ADDs* "received" by it during the trade-out process, pursuant to the following procedures:

(i) The *Class A ADDs* will be allocated sequentially among the incumbent carriers, in one (1) *ADD* increments, based upon a "bottom-up" sequence.

(ii) The "redistribution" of *Class A ADDs* will be deemed to have started with Frontier Airlines' receipt of a *Class A ADD* in the "initial" allocation. The first "redistributed" *Class A ADD* to be allocated under this Paragraph will be allocated to the first *Air Carrier* in the selection order after Frontier Airlines.

(iii) The allocation process will continue until all but two (2) of these *Class A ADDs* have been allocated, or until each eligible *Air Carrier* has declined to accept additional *Class A ADD* allocations. The remaining two (2) *Class A ADDs* will be allocated supplementally.

(iv) Each *Air Carrier* will be polled sequentially and will have a maximum of three (3) minutes to accept or refuse the *Class A ADD*. A failure to respond within the three (3) minute period will be deemed to be a "pass" (or, a refusal to accept the offered allocation).

(v) At the conclusion of the "redistributed" *Class A ADD* allocation, each *Air Carrier* will be provided with a sheet reflecting the status of the final allocations, and will be asked to confirm the accuracy of that allocation summary. Any disputes or protests will immediately be resolved by staff.

STEP SEVEN: ADD AND SEAT ALLOCATION WITHDRAWAL LOTTERIES

Following completion of the *Regulated ADD* allocation process, the *County* will immediately conduct a separate withdrawal lottery, as outlined in the Second Staff Report, for certain eligible *Class A ADDs* and permanent *Class E ADDs*. This lottery will occur under the following general rules and procedures.

1. ADD Withdrawal Lottery

(a) The *County* will, by a random lottery process, assign withdrawal priorities separately to eligible *Class A ADDs* and permanent *Class E ADDs*.

(b) Each *Air Carrier* will be provided with a summary of the withdrawal priority lottery results, and will again be asked to confirm the accuracy of that summary before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

2. Seat Capacity Withdrawal Lottery

(a) The *County* will advise the carriers of the number of "passenger seats" allocated to each carrier based upon each carrier's final *Regulated ADD* allocations. The *County* will then announce how many of each carrier's "*Seat Blocks*" (in increments of 13,000 seats) it believes to be eligible for the withdrawal lottery.

(b) Each *Air Carrier* will be asked to confirm the accuracy of that seat allocation and "*Seat Block*" withdrawal lottery eligibility before the process continues. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

3. "Seat Block" Withdrawal Lottery

(a) The *County* will then, by a random lottery process, assign withdrawal priorities separately to each eligible "*Seat Block*."

(b) Each *Air Carrier* will be provided with a summary of the "*Seat Block*" withdrawal lottery results, and will again be asked to confirm the accuracy of that summary before the process concludes. Any disputes or protests will immediately be resolved by staff. Any failure to immediately express such a protest will be deemed by the *County* to be a waiver of the protest by the *Air Carrier*.

STEP EIGHT: SUBSEQUENT AIRLINE "TRADES"

The *County* will permit an opportunity for a one-time "trade" of new *Regulated Class A* and *Class E ADDs* among the *Qualified Air Carriers*, subject to specific conditions and limitations. These "trades" must be completed and confirmed in writing to the *Airport Director* not later than 5:00 p.m. (local time) on Monday, June 2, 2003, and are subject to acceptance and ratification by the *Airport Director* and the *Board of Supervisors*. The written confirmation of any such trades will be subject to certain requirements and limitations which will be announced and discussed at the completion of the allocation process.

PHASE 2 ALLOCATIONS
REGULATED ADDs

	Selection Order		Existing Allocation	"New" Initial Allocation	Tradeouts	Redistribution	"New" Class E ADDs	Final Allocation	
Airline	**Top Down**	**Bottom Up**		**A**	**A**	**A**		**A**	**E**
Alaska	6	7	6	7	-1	1**	2	7	2
Aloha	9	4	2	4				4	
America West	3	10	8	9				9	
American	1	12	19	19				19	
ATA	12	1	0	2				2***	
Continental	2	11	9	10				10	
Delta	5	8	7	8		1*		8	
Frontier	11	2	0	3				3	
Northwest	7	6	5	6		1**		7	
Southwest	8	5	4	5	-1	1*	2	5	2
United	4	9	7	8				8	
US Airways	10	3	2	4				4	
[County]			4	0				0	
TOTAL:			**73**	**85**	**-2**	**4**	**4**	**87**	**4**

* One (1) *Class A ADD* allocated on a supplemental basis through December 31, 2005.

** One (1) *Cargo Class A ADD* allocated on a supplemental basis through March 31, 2004.

*** ATA originally accepted the allocation of two (2) *Class A ADDs*. However, by letter dated June 10, 2003, ATA informed the *Airport* that it planned to return the tentative allocation. ATA's allocation will be provided to the next *Air Carrier* on the new entrant waiting list.

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

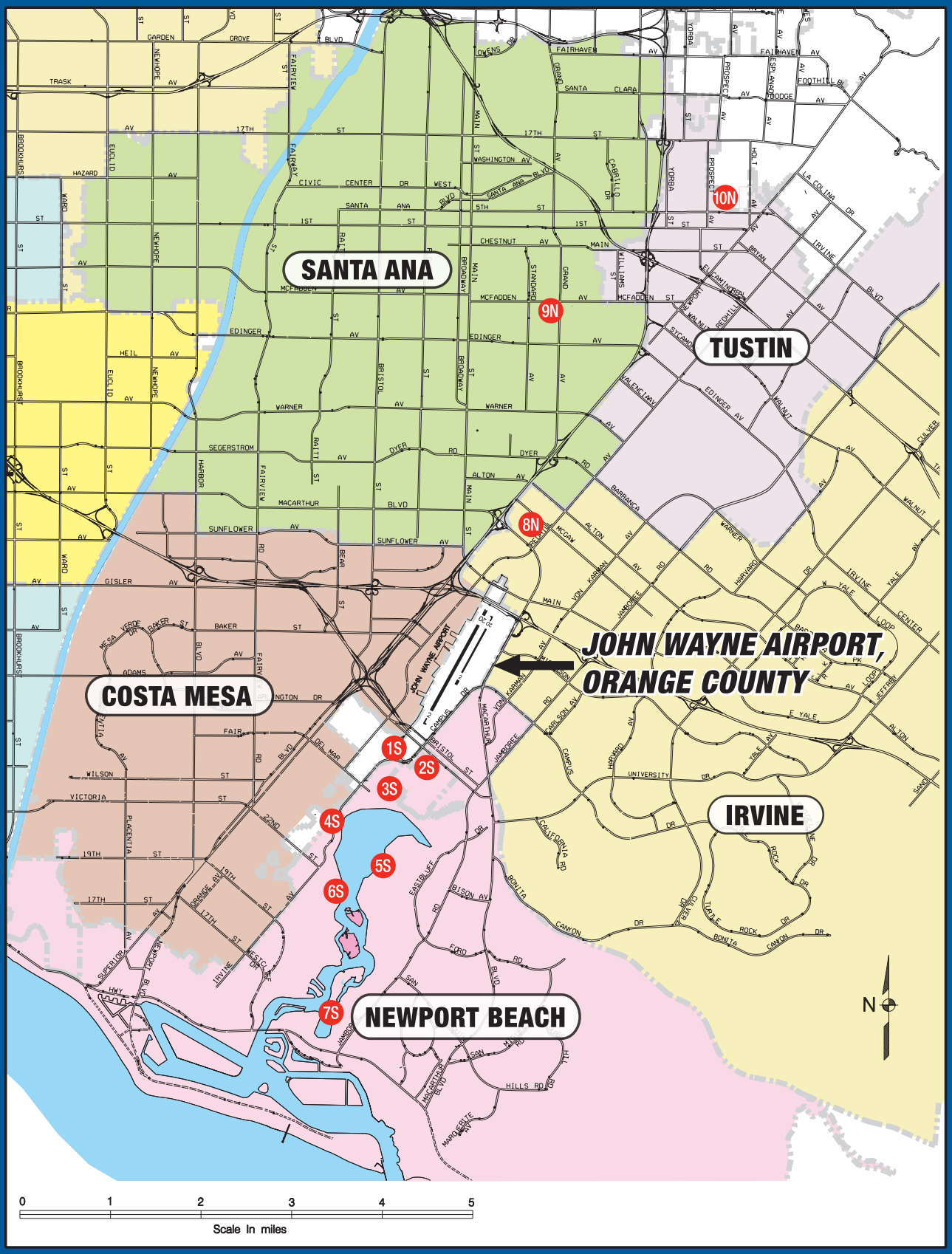
APPENDIX I

NOISE MONITORING STATIONS

JOHN WAYNE AIRPORT

Noise Monitoring Stations (NMS) Location Map

JOHN WAYNE AIRPORT
ORANGE COUNTY



JOHN WAYNE AIRPORT
PERMANENT NOISE MONITORING STATIONS

NMS SITE LOCATIONS AND NUMBERING	DISTANCE (FEET)		MICROPHONE HEIGHT			LATITUDE AND LONGITUDE
	FROM NORTH END EXT. CL RNWY 20R/2L	90 DEGREE TO EXTENDED C/L 20R/2L	AGL	ARLN	ARLS	
NMS Golf Course **1S** 3100 Irvine Ave. Newport Beach	8,799.7' S'LY	939.1' W'LY	23.1'	+27.1'	+12.5'	33º 39' 41.34315" N 117º 52' 52.76360" W
NMS 20162 Birch St **2S** Newport Beach	8,752.0' S'LY	1,184.1' E'LY	34.6'	+48.7'	+34.1'	33º 39' 31.92912" N 117º 52' 30.30179" W
NMS 2139 Anniversary Ln. **3S** Newport Beach	10,799.2' S'LY	168.7' E'LY	23.2'	+5.3'	-9.3'	33º 39' 18.73355" N 117º 52' 52.25295" W
NMS 2338 Tustin Avenue **4S** Newport Beach	14,155.7' S'LY	1,998.9' W'LY	23.2'	+57.1'	+42.5'	33º 38' 59.42269" N 117º 53' 33.49379" W
NMS 324 ½ Vista Madera **5S** Newport Beach	14,938.7' S'LY	1,945.0' E'LY	24.6'	+47.8'	+33.3'	33º 38' 34.31939" N 117º 52' 56.60114" W
NMS 1912 Santiago **6S** Newport Beach	17,559.7' S'LY	241.7' E'LY	24.1'	+86.8'	+72.2'	33º 38' 19.28931" N 117º 53' 28.91310" W
NMS 1311 Back Bay Dr. **7S** Newport Beach	23,960.9' S'LY	3,292.6' E'LY	28.8'	+39.8'	+25.3'	33º 37' 09.19975" N 117º 53' 32.44970" W
NMS 17372 Eastman St. **8N** Irvine	6,533.1' N'LY	58.1' E'LY	38.0'	+36.1'	+21.5'	33º 41' 50.76324" N 117º 51' 17.40197" W
NMS 1300 S. Grand Ave. **9N** Santa Ana	18,052.4' N'LY	5,113.0' W'LY	57.5'	+109.9'	+95.3'	33º 43' 55.40983" N 117º 51' 07.63734" W
NMS 17952 Beneta Way **10N** Tustin	28,781.8' N'LY	631.3' E'LY	25.0'	+126.5'	+111.9'	33º 45' 02.57051" N 117º 49' 08.02769" W

REMARKS:

1. Length of Runway 20R/2L 5700.04 Feet
2. Runway Elevation, North End, 20R, GPS1409 EL = +39.23 Feet MSL
3. Runway Elevation, South End, 2L, GPS1410 EL = +53.79 Feet MSL
4. AGL = Above Ground Level
5. ARLN = Above Runway Level, North End
6. ARLS = Above Runway Level, South End
7. Lat & Long of Ends of Runway 20R/2L

North End (20R) (GPS1409) 33º 40' 53.92311" 117º 51' 54.20806"

South End (2L) (GPS1410) 33º 40' 04.09333" 117º 52' 25.78055"

SURVEYORS NOTES:

1. Horizontal datum for this project is: CCS83, ZONE VI, 1991.35 EPOCH OCS, GPS ADJUSTMENT
2. Vertical Datum: NGVD29, 1995 OCS ADJUSTMENT
3. Distances shown are ground distances. To obtain grid distance multiply ground by CF=0.99997483
4. Coordinates are per "JWA RUNWAY'S & TAXIWAY'S CENTER LINES ALIGNMENT MAP" dated September 2002, File #JWA684, on file with John Wayne Airport Facilities, Translated to NAD83 Geographic Coordinates.

THIS REPORT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS BASED ON A FIELD SURVEY PERFORMED IN OCTOBER 2014.

Donald R. Reser

DONALD R. RESER, LS 5727
SENIOR LAND SURVEYOR, JWA

10-9-2014
DATE

LICENSED LAND SURVEYOR
DONALD R. RESER
EXP. 9/30/16
No. 5727
STATE OF CALIFORNIA

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

TABLE OF REQUIRED DATES

TABLE OF REQUIRED FILING DATES

The following tables summarize the filing due dates of various forms required by the PHASE 2 ACCESS PLAN *(see*, PHASE 2 ACCESS PLAN, §§8.6.1 and 8.6.2). Where the filing indicates the use of a specific "form" (*i.e.*, "F-{x}"), the reference is to the forms attached as APPENDICES F-1 through F-22 of the PHASE 2 ACCESS PLAN. References to "ACCESS PLAN Section[s]" are references to the section of the PHASE 2 ACCESS PLAN which specifically require the filing of the form. In some cases, there are other provisions of the PLAN which reference, or are material to, the required filing or form. (*See*, the REQUIRED FORMS CROSS-REFERENCE TABLE which follows this table for other references.) The summary contained in this table is for convenience only, and it does not supersede or replace the full text and relevant provisions of the PHASE 2 ACCESS PLAN, which should always be reviewed in connection with any required filing. If you have questions regarding the required filings, contact the *JWA* Noise Abatement Center.

The deadline for filing certain of the forms is specified in the PHASE 2 ACCESS PLAN as being a specific number of days in advance of defined time periods, including each *Plan Year*, *Calendar Quarter*, or *Supplemental Allocation Period*. Other forms may be filed at any time during a *Plan Year*, but, in many cases, must be filed a specified number of days before the applicant may engage in certain activity at the airport. Again, any questions should be resolved first by reference to the PHASE 2 ACCESS PLAN itself and then, if necessary, by calling the *JWA* Access and Noise Office at (949) 252-5185.

FORM #	AIR CARRIER/ COMMUTER (AC/C)	ACTIVITY	ACCESS PLAN SECTION	DEADLINE
F-1	AC & C	Carrier Operations Projection Form	3.8.1	30 Days prior to each calendar quarter
F-2	AC & C	Daily Operations Report	3.8.3	Next Working Day
F-3	AC	Class E Operations Request	3.4.3	30 Days prior to operation
F-4	AC	Annual Seat Capacity Allocation	3.3.2(a)	150 Days prior to the beginning of each *Plan Year*
F-5	AC	Voluntary Reduction of ADD Allocation	3.1.3	45 Days prior to effective date of reduction*
F-6	AC	Voluntary Reduction of Seat Capacity Allocation	3.3.5	45 Days prior to effective date of reduction*
F-7	C	Passenger Capacity Allocation (PCAR)	3.5.2(a)	150 Days prior to the beginning of each *Plan Year*
F-8	C	Voluntary Reduction of Passenger Capacity Allocation	3.5.4	45 Days prior to effective date of reduction*
F-9	AC & C	Amended Carrier Operations Projection Form	3.8.2	10 Days before operations change
F-10	AC & C	Corrective Action Report	3.8.4	As specified by *Airport Director*
F-11	AC	Authorized Departure Allocation Request		150 Days prior to the beginning of each *Plan Year*
F-11(S)	AC	Supplemental Authorized Departure Allocation Request	4.2.2	As Specified**

F-12(S)	AC	Supplemental Seat Capacity Allocation Request	4.3.2	As Specified**
F-13(S)	C	Supplemental Passenger Capacity Allocation Request	4.4.2	As Specified**
F-14	AC	RON Allocation Request	5.2.1	150 Days prior to the beginning of each *Plan Year*
F-15	AC	Amended RON Information Form	5.2.2	30 Days prior to operations change
F-16	C	RON Allocation Request (Commuter Carrier)	5.7, 5.12.2	150 Days before each *Plan Year;* supplemental requests: anytime
F-17	AC & C	Notice of Affiliate Relationship	8.2.4	Prior to 9/30/90; and 5 Days after initiation of transaction (*See section*)
F-18	AC & C	Modification of Min/Max Use Percentage Request	8.3.8	45 Days prior to the last day of the calendar month or calendar quarter for which the request is effective*
F-19	AC & C	Operations Adjustment Plan	6.6	15 Days after notice from *Airport Director*
F-20	AC & C	Aircraft Noise Qualification Test Request	10.3.1	Anytime
F-21	AC & C	Declaration of Formation of Associated Operating Group	3.9.1	45 Days prior to date on which any operations are conducted
F-22	AC & C	Amended Declaration of Formation of Associated Operating Group	3.9.1	30 Days prior to the first date on which any change in operations by the *AOG* are made or effected by any member of the *AOG*

NOTES:

* This form may not be used for the last calendar quarter of any *Plan Year* for purposes of determining compliance with Sections 8.3.5, 8.36, or 8.3.7. There are limitations on the number of times any person may use this form and procedure during the term of the PHASE 2 ACCESS PLAN.

**The deadline for filing this form is a date specified by the *Airport Director* in paragraph (a) of the referenced section.

OTHER REQUIRED FILINGS

There are certain other filings required by the PHASE 2 ACCESS PLAN in the event of certain occurrences, and for which there are no mandatory forms. Those include:

VOLUNTARY ABANDONMENT OF RON POSITION	Section 5.11
WRITTEN REPORT OF CURFEW OPERATION	Section 8.5.2
CHANGES IN NOISE ABATEMENT DEPARTURE PROCEDURES	Section 10.3.3
DESIGNATION OF PERSON(S) TO RECEIVE NOTICES	Section 11.2
REQUEST FOR REVIEW OF SANCTION OR PENALTY	Section 9

Consult the PLAN text directly for a description of the circumstances requiring any of these filings and when these filings must or may be made.

JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

REQUIRED FORMS CROSS-REFERENCE

REQUIRED FORMS CROSS-REFERENCE

This table lists in order the twenty (20) forms included in **APPENDIX F** of the PHASE 2 ACCESS PLAN. For each form, the table identifies the section of the ACCESS PLAN which requires use of the form, followed by the number of the PHASE 2 ACCESS PLAN where that section appears, in the format: **"Section Number [Number]."**

The table then lists other sections of the PHASE 2 ACCESS PLAN which reference, or which are related to, the required form and its use. This table is presented for convenience only, and is not intended to be an exhaustive index of all possible ACCESS PLAN references or related sections.

This table is not a substitute for full compliance with all requirements of the PLAN.

FORM #	FORM NAME	REQUIRED BY	REFERENCED BY
F-1	CARRIER OPERATIONS PROJECTION FORM	**3.8.1 [38]**	3.4.1(c) [30]; 3.8.2 [38]; 8.6.1 [84]
F-2	DAILY OPERATIONS REPORT	**3.8.3 [39]**	8.6.1 [84]
F-3	CLASS E OPERATIONS REQUEST FORM (AIR CARRIER)	**3.4.1 [31]**	3.4.2 [31]; 4.5.6 [47]; 8.6.2 [86]
F-4	ANNUAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER)	**3.3.2(a) [27]**	3.3.2(b)-(d) [27]; 8.6.1 [84]
F-5	VOLUNTARY REDUCTION OF ADD ALLOCATION FORM (AIR CARRIER)	**3.1.3 [25]**	8.6.2 [86]
F-6	VOLUNTARY REDUCTION OF SEAT CAPACITY ALLOCATION (AIR CARRIER)	**3.3.5 [29]**	8.6.2 [86]
F-7	PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER)("PCAR")	**3.5.2(a) [33]**	3.5.2(b)-(c) [33]; 3.5.3 [34]; 8.6.1 [84]
F-8	VOLUNTARY REDUCTION OF PASSENGER CAPACITY ALLOCATION FORM (COMMUTER CARRIER)	**3.5.4 [35]6.6 [62]**	8.6.2 [86]
F-9	AMENDED CARRIER OPERATIONS PROJECTIONS FORM	**3.8.2 [38]**	8.6.1 [84]
F-10	CORRECTIVE ACTION REPORT FORM	**3.8.4 [39]**	8.6.1 [84]
F-11	AUTHORIZED DEPARTURE REQUEST FORM (AIR CARRIER)	**4.2.2(b) [42] 4.2.4 [43]**	4.2.3 [42]; 8.6.1; 8.6.2 [86]
F-11(S)	SUPPLEMENTAL AUTHORIZED DEPARTURE REQUEST FORM (AIR CARRIER)	**4.2.2(b) [42] 4.2.4 [43]**	4.2.3 [42]; 8.6.2 [86]
F-12(S)	SUPPLEMENTAL SEAT CAPACITY ALLOCATION REQUEST FORM (AIR CARRIER)	**4.3.2(b) [43]**	4.3.3 [44]; 8.6.2 [86]
F-13(S)	SUPPLEMENTAL PASSENGER CAPACITY ALLOCATION REQUEST FORM (COMMUTER CARRIER)	**4.4.2(b) [45]**	4.4.3 [45]; 8.6.2 [86]

FORM #	FORM NAME	REQUIRED BY	REFERENCED BY
F-14	RON ALLOCATION REQUEST FORM (AIR CARRIER)	**5.2 [50]**	5.2.2 [50]; 5.3 [50]; 5.4 [51]; 5.5 [52]; 8.6.2 [86]
F-15	AMENDED RON INFORMATION FORM	**5.2.2 [50]**	8.6.1 [84]
F-16	RON POSITION ALLOCATION REQUEST FORM (COMMUTER CARRIER)	**5.7 [53] 5.12.2 [55]**	5.9 [54]; 8.6.2 [86]
F-17	NOTICE OF AFFILIATE RELATIONSHIP	**8.2.4 [77]**	4.6 [41]; 8.1.5 [74]; 8.2.3 [76]; 8.6.1 [84]; 8.10.6 [95]
F-18	MODIFICATION OF MINIMUM/MAXIMUM USE PERCENTAGE REQUEST FORM	**8.3.8 [80]**	8.3.5 [79]; 8.3.6 [79]; 8.3.7 [80]; 8.6.2 [86]
F-19	OPERATIONS ADJUSTMENT PLAN	**6.6 [62]**	8.6.1 [84]; 8.10.5 [94]
F-20	AIRCRAFT NOISE QUALIFICATION TEST REQUEST FORM	**10.3.1 [113]**	8.6.2 [86]
F-21	DECLARATION OF FORMATION OF ASSOCIATED OPERATING AGREEMENT	**3.9.1**	3.9.1
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JOHN WAYNE AIRPORT

ORANGE COUNTY

(SNA)

PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN
AND
REGULATION

(OCTOBER 1, 1990 – DECEMBER 31, 2030)

INDEX

INDEX

Note: This index is not intended to be a complete index to the terms and provisions of the PHASE 2 ACCESS PLAN. Rather, it is offered as a convenience to the reader. Use of this index is not a substitute for familiarity with, and reference to, the full text and requirements of the PHASE 2 ACCESS PLAN.

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