



**4910-13**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**Orders Limiting Operations at John F. Kennedy International Airport and New York LaGuardia Airport; High Density Traffic Airports Rule at Ronald Reagan Washington National Airport**

**AGENCY:** Department of Transportation, Federal Aviation Administration (FAA).

**ACTION:** Notice of opportunity to show cause and request for information regarding extension of a limited waiver of the minimum slot usage requirement.

**SUMMARY:** The FAA has tentatively determined to extend through October 24, 2020, the coronavirus (COVID-19)-related limited waiver of the minimum slot usage requirement at John F. Kennedy International Airport (JFK), New York LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA) that the FAA has already made available through May 31, 2020. Similarly, the FAA has tentatively determined to extend through October 24, 2020, its coronavirus-related policy for prioritizing flights canceled at designated International Air Transport Association (IATA) Level 2 airports in the United States, for purposes of establishing a carrier's operational baseline in the next corresponding season. These IATA Level 2 airports include Chicago O'Hare International Airport (ORD), Newark Liberty International Airport (EWR), Los Angeles International Airport (LAX), and San Francisco International Airport (SFO). These extensions through October 24, 2020, would be on the same terms as the relief that the FAA already has announced through May 31, 2020. This notice affords interested persons an opportunity to show cause why the FAA should or should not finalize this tentative decision to extend relief through October 24, 2020, and to submit any

information relevant to making this decision. The FAA anticipates subsequently providing notice of its final decision.

**DATES:** Submit comments on or before March 30, 2020.

**ADDRESSES:** Submit written views and supporting data by e-mail to the Slot Administration Office at 7-awa-slotadmin@faa.gov.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Dragotto, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591; telephone: (202) 267-3808; e-mail: bonnie.dragotto@faa.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

In a notice that the FAA issued on March 11, 2020, and published in the Federal Register on March 16, 2020 (85 FR 15018), the FAA announced certain relief through May 31, 2020, in light of impacts on air travel demand related to the outbreak of novel 2019 coronavirus (also known as “SARS-CoV-2,” causing the disease COVID-19) (“Coronavirus”). As announced in that notice, through May 31, 2020, the FAA will waive the minimum usage requirement as to any slot associated with a scheduled nonstop flight between JFK, LGA, or DCA, respectively, and other points that is canceled as a direct result of Coronavirus-related impacts.<sup>1</sup> In addition, that notice announced that the FAA will prioritize flights canceled due to Coronavirus at designated IATA Level 2 airports in the United States—including ORD, EWR, LAX, and SFO—through May 31,

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<sup>1</sup> Although DCA and LGA are not designated as IATA Level 3 slot-controlled airports given that these airports primarily serve domestic destinations, FAA limits operations at these airports via rules at DCA and an Order at LGA that are equivalent to IATA Level 3.

2020, for purposes of establishing a carrier's operational baseline in the next corresponding season.<sup>2</sup> In granting this relief, the FAA asserted its expectation that foreign slot coordinators would accommodate U.S. carriers with reciprocal relief. The FAA further stated that it would continue to monitor the situation and might augment the waiver as circumstances warrant.

Since the FAA issued that notice on March 11, 2020, the Coronavirus has continued to cause greater disruption. On March 11, the World Health Organization (WHO) characterized COVID-19 as a pandemic, as the rates of infection continued to rise in many locations around the world and across the United States. On March 13, the President of the United States proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency. On March 16, the President and the White House Coronavirus Task Force announced a program called "15 Days to Slow the Spread," a nationwide effort to slow the spread of COVID-19 in the United States through the implementation of social distancing at all levels of society, including a recommendation to avoid discretionary travel. On March 19, the Department of State issued a Global Level 4 Health Advisory – Do Not Travel, advising U.S. citizens to avoid all international travel due to the global impact of COVID-19. As of March 20, Coronavirus had been detected in over 150 countries and every state in the United States. Whereas on March 11 the WHO reported 118,319 confirmed COVID-19 cases globally (including 696 in the United States), on March 21 the WHO reported 266,073 confirmed COVID-19 cases globally (including 15,219 in the United States).

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<sup>2</sup> The FAA notes that a minimum usage requirement does not apply at designated IATA Level 2 airports in the United States. Moreover, established procedures under the IATA WSG allow for the prioritization of such cancellations in subsequent corresponding seasons consistent with the FAA's policy statement.

Since issuing the March 11, 2020, notice, the FAA continues to receive cancellation notices at slot-controlled airports in the United States, which include JFK, LGA, and DCA, as well as U.S. airports designated as IATA Level 2, for flights to and from areas with significant Coronavirus outbreaks. U.S. and foreign carriers have continued to urge the FAA to extend relief through the Summer 2020 scheduling season, which ends on October 24, 2020.

IATA, which asserts that it represents some 290 airlines comprising 82% of global air traffic, stated in a March 3, 2020, press release that offering relief through the Summer 2020 season “will mean that airlines can respond to market conditions with appropriate capacity levels, avoiding any need to run empty services in order to maintain slots.” According to IATA, without certainty through the Summer 2020 season, “airlines are unable to plan ahead sufficiently to ensure efficient rostering of crew or deployment of aircraft.”

On March 16, 2020, the FAA received a letter addressed to responsible slot authorities from leaders of twenty-three airlines around the world, including United Airlines from the United States, requesting “a global waiver from standard slot usage rules through summer 2020 to obtain flexibility for capacity reductions in light of diminishing passenger demand, and to help stabilize a very tenuous operational and commercial environment.” The letter asserts “[h]aving such a waiver in hand will help us plan our operations over the summer months in a manner to maximize global connectivity and efficiency.” United Airlines announced on March 17, 2020, that it would implement a 60% schedule reduction for April 2020, including a 42% reduction across the United States and Canada and an 85% decrease in international flights. United

Airlines followed with an announcement on March 20, 2020, that it is reducing its international schedule by 95% for April 2020.

In a March 19, 2020, letter to the FAA, American Airlines “strongly requests” the FAA to “issue a full usage waiver for the remainder of the summer 2020 IATA season.” American Airlines asserts that it “has taken unprecedented action to cut our schedules by more than 75% internationally and 30% domestically in April alone with significantly more cuts in May and beyond into the spring and summer months.”

Other U.S. airlines also report significant capacity cuts in the coming months. Delta Air Lines announced on March 10, 2020, that to align capacity with expected demand, it is reducing system capacity by 15 points versus its plan, with international capacity reduced by 20-25%, and domestic capacity reduced by 10-15%. JetBlue Airways announced on March 18, 2020, that it will reduce its capacity by at least 40% in April and May, and it also expects substantial cuts in June and July. Southwest Airlines announced on March 20, 2020, that it has implemented a plan to reduce capacity by at least 20 percent for the period from April 14 through June 5, 2020, driven by a drop in travel demand due to the COVID-19 outbreak. On March 18, 2020, Airlines for America, which describes itself as an advocate for leading U.S. airlines, asserted that “cancellations far outpace new bookings for U.S. carriers, planes are only 20-30% full and new bookings are implying 70-80 percent declines in traffic even as airlines make dramatic cuts in capacity – and this is getting worse each day with no end in sight.”

### **Opportunity to Show Cause**

In consideration of the foregoing information, the requests that the FAA has received, and the evolving situation, the FAA has tentatively determined to extend

through October 24, 2020, the relief that the FAA has already granted through May 31, 2020, to continue on the same terms as the FAA announced in granting that relief. If the FAA extends relief to October 24, 2020, the FAA expects that foreign slot coordinators will provide reciprocal relief to U.S. carriers. To the extent that U.S. carriers fly to a foreign carrier's home jurisdiction and that home jurisdiction does not offer reciprocal relief to U.S. carriers, the FAA may determine not to grant a waiver to that foreign carrier. A foreign carrier seeking a waiver may wish to ensure that the responsible authority of the foreign carrier's home jurisdiction submits a statement by email to [ScheduleFiling@dot.gov](mailto:ScheduleFiling@dot.gov) confirming reciprocal treatment of the slot holdings of U.S. carriers.

The Coronavirus continues to present a highly unusual and unpredictable condition that is beyond the control of carriers. Passenger demand continues to decrease dramatically as a result of the Coronavirus. The ultimate duration and severity of Coronavirus impacts on passenger demand in the United States and internationally remain unclear. Even after the pandemic is contained, impacts on passenger demand are likely to continue for some time.

The FAA tentatively has concluded that an extension of relief through October 24, 2020, is appropriate to provide carriers with maximum flexibility during this unprecedented situation and to support the long-term viability of carrier operations at slot-controlled and IATA Level 2 airports in the United States.<sup>3</sup> Continuing relief for this

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<sup>3</sup> The FAA is responsible to develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. *See* 49 U.S.C. § 40103(b)(1). The FAA manages slot usage requirements under the authority of 14 C.F.R. § 93.227 at DCA and under the authority of Orders at LGA and JFK. *See* Operating Limitations at John F. Kennedy International Airport, 83 FR 46865 (Sep. 17, 2018); Operating Limitations at New York LaGuardia Airport, 83 FR 47065 at 47066 (Sep. 18, 2018).

additional period is reasonable to mitigate the impacts on demand for air travel resulting from the spread of the Coronavirus worldwide.

The FAA seeks views and information regarding this tentative decision. Interested persons are invited to show cause why the FAA should or should not finalize this decision, and to submit any information relevant to making this decision. Written views and supporting data may be submitted no later than March 30, 2020, by e-mail to the Slot Administration Office at 7-awa-slotadmin@faa.gov. Information submitted to the FAA may be subject to disclosure under the Freedom of Information Act. The FAA recognizes that commenters may seek to submit business information that is both customarily and actually treated as confidential. Persons that submit such confidential business information should clearly mark the information as “PROPIN”. The FAA will take the necessary steps to protect properly designated information to the extent allowable by law.

After receiving and reviewing comments, the FAA anticipates subsequently providing notice of its final decision.

Issued in Washington, DC on March 22, 2020.

Lorelei Peter  
Assistant Chief Counsel for Regulations  
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