



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2012-1191]

Orders Limiting Operations at John F. Kennedy International Airport, LaGuardia Airport, and Newark Liberty International Airport; High Density Rule at Reagan Washington National Airport

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of Limited Waiver of the Slot Usage Requirement.

SUMMARY: This action announces a limited waiver of the requirement to use Operating Authorizations (slots) at John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), and Newark Liberty International Airport (EWR). This action also declines to grant a waiver of the requirement to use slots at Reagan Washington National Airport. This waiver is effective from October 28, 2012 through November 2, 2012.

DATES: Effective [insert date of publication].

FOR FURTHER INFORMATION CONTACT: Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone: (202) 267-7143; e-mail: rob.hawks@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 2012, Hurricane Sandy made landfall in southern New Jersey. Combined with another weather front, Hurricane Sandy transitioned to an extratropical storm that caused widespread power outages, severe flooding, and severe disruption of

transportation systems in the northeastern and mid-Atlantic United States. This disruption included airport closures and mass cancellation of scheduled flights.

The degree of disruption and cancellations varied by airport across the region, and flight disruptions occurred at slot-controlled and non-slot-controlled airports. JFK and EWR were effectively closed on October 29 and 30 and had limited operational capacity on October 31. LGA was effectively closed from October 29 through October 31 and had limited operational capacity on November 1. DCA was effectively closed on October 29 and 30 and had reduced operational capacity on October 31. Recovery of normal operations took several days after the storm.

FAA Analysis

Under the FAA's High Density Rule at DCA and Orders limiting operations at LGA, JFK, and EWR, slots must be used at least 80 percent of the time. These rules are expected to accommodate routine weather and other cancellations under all but the most unusual circumstances. Slots not meeting the minimum usage requirement will be withdrawn or not receive historic precedence for the following scheduling season, depending on the airport.¹ The FAA may grant a waiver from the minimum usage requirement in highly unusual and unpredictable conditions that are beyond the control of the carrier and affect carrier operations for a period of five or more consecutive days (for LGA, JFK, and EWR) or of nine or more consecutive days (for DCA). However, the FAA does not routinely grant general waivers to the usage requirement except under the most unusual circumstances.

¹ 14 CFR 93.227 (DCA); 74 FR 51648 (Oct. 7, 2009) (EWR); 74 FR 51650 (Oct. 7, 2009) (JFK); 77 FR 30585 (May 23, 2012) (LGA).

The FAA has granted waivers of the slot usage requirement in circumstances similar to those of Hurricane Sandy. The FAA generally considers the days of the weather event as well as a couple additional days to resume normal operations. For example, in February 2010, the FAA granted a general waiver because unusual snowstorms closed slot-controlled airports for multiple days and also caused mass cancellations resulting from reduced airport capacity.

For LGA, JFK, and EWR, the FAA has determined the unusual circumstances created by Hurricane Sandy meet the criteria for a limited waiver of the minimum slot usage requirement. Accordingly, the FAA will treat as used any slot or Operating Authorization held by a carrier from October 28 through November 2, 2012.

For DCA, the FAA has determined that overall operational disruption did not last for the required nine or more consecutive days. Operational data show normal operations largely had resumed by November 1, 2012.

Although the FAA has determined that a general waiver of the usage requirement is inappropriate for DCA, it acknowledges that some carriers operate flights between DCA and airports in the NYC area or northeastern U.S. affected by the storm. These circumstances may have created a unique hardship for those carriers justifying waiver relief. To assess that hardship and determine whether relief is warranted, the FAA requests that affected carriers submit an individual request for limited waiver. However, a carrier must demonstrate operational disruptions of scheduled flights that lasted nine or more consecutive days to be eligible for waiver relief.

FAA Decision

In consideration of the foregoing, the FAA GRANTS a limited waiver of the usage requirement for LGA, JFK, and EWR for the period from October 28 through November 2, 2012.

Issued in Washington, DC on November 7, 2012

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