

for the next applicable scheduling season under paragraph 9.

11. If the FAA determines that an involuntary reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the carrier from which it was taken, provided that the carrier continues to operate scheduled service at EWR.

12. The FAA will enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). A carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, will be liable for a civil penalty of up to \$25,000 for every day that it violates the limits set forth in this Order. A carrier that is a small business as defined in the Small Business Act will be liable for a civil penalty of up to \$10,000 for every day that it violates the limits set forth in this Order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of this Order.

13. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC, on March 28, 2011.

**Rebecca B. MacPherson,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 2011-7845 Filed 4-1-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2007-29320]

#### Operating Limitations at John F. Kennedy International Airport

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Extension to Order.

**SUMMARY:** This action amends the Order Limiting Operations at John F. Kennedy International Airport (JFK) that published on January 18, 2008, and was amended on February 14, 2008, and October 7, 2009. The Order remains effective until the final Congestion Management Rule for LaGuardia

Airport, John F. Kennedy International Airport, and Newark Liberty International Airport becomes effective but not later than October 26, 2013.

**DATES:** This amendment is effective on April 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this Order contact: Gerry Shakley, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267-9424; *facsimile:* (202) 267-7277; *e-mail:* [gerry.shakley@faa.gov](mailto:gerry.shakley@faa.gov).

For legal questions concerning this Order contact: Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; *telephone:* (202) 267-7240; *facsimile:* (202) 267-7971; *e-mail:* [rob.hawks@faa.gov](mailto:rob.hawks@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Availability of Rulemaking Documents

You may obtain an electronic copy using the Internet by:

- (1) Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- (2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You also may obtain a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

##### Background

Until recently, most operations at JFK took place during relatively pronounced arrival and departure banks corresponding to the operating windows of transatlantic flights. The FAA had limited the number of arrivals and departures at JFK during the peak afternoon demand period through the implementation of the High Density Rule (HDR).<sup>1</sup> By statute enacted in April 2000, the HDR's applicability to JFK operations terminated as of January 1,

<sup>1</sup> 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high density traffic airports in 14 CFR part 93, subpart K. The HDR required carriers to hold a reservation, which came to be known as a "slot," for each takeoff or landing under instrument flight rules at the high density traffic airports.

2007.<sup>2</sup> Using AIR-21 exemptions and the HDR phase-out, U.S. air carriers serving JFK significantly increased their domestic scheduled operations throughout the day. This increase in operations resulted in significant congestion and delays that negatively impacted the National Airspace System (NAS). In January 2008, the FAA placed temporary limits on scheduled operations at JFK to mitigate persistent congestion and delays at the airport.<sup>3</sup> With a temporary schedule limit order in place, the FAA proposed a long-term rule that would limit the number of scheduled and unscheduled operations at JFK.<sup>4</sup> On October 10, 2008, the FAA published the Congestion Management Rule for John F. Kennedy International Airport and Newark Liberty International Airport, which would have become effective on December 9, 2008.<sup>5</sup> That rule was stayed by the U.S. Court of Appeals for the District of Columbia Circuit and subsequently rescinded by the FAA.<sup>6</sup> This Order was further extended on October 7, 2009.<sup>7</sup>

Under the Order, as amended, the FAA (1) maintains the current hourly limits on 81 scheduled operations at JFK during the peak period; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs) with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) establishes procedures to allocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order. Without the operational limitations imposed by this Order, the FAA expects severe congestion-related delays would occur at JFK and at other airports throughout the NAS.

The FAA is engaged in a rulemaking effort to implement a long-term congestion management rule at LaGuardia Airport (LGA), JFK, and Newark Liberty International Airport (EWR). The FAA anticipates publishing a notice of proposed rulemaking for the Congestion Management Rule for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (RIN 2120-AJ89) during the summer of 2011. To prevent this Order from expiring prior

<sup>2</sup> Aviation Investment and Reform Act for the 21st Century (AIR-21), Public Law 106-181 (Apr. 5, 2000), 49 U.S.C. 41715(a)(2).

<sup>3</sup> 73 FR 3512 (Jan. 18, 2008), as amended by 73 FR 8737 (Feb. 14, 2008).

<sup>4</sup> 73 FR 29626 (May 21, 2008); Docket FAA-2008-0517.

<sup>5</sup> 73 FR 60574, amended by 73 FR 66516 (Nov. 10, 2008).

<sup>6</sup> 74 FR 52134 (Oct. 9, 2009).

<sup>7</sup> 74 FR 51650.

to a final rule becoming effective, the FAA has concluded it is necessary to extend the expiration date of this Order until the final Congestion Management Rule for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport becomes effective but not later than October 26, 2013. This expiration date coincides with the expiration dates for the Orders limiting scheduled operations at EWR and LGA, as also amended by notices in today's **Federal Register**.

Therefore, the FAA finds that notice and comment procedures under 5 U.S.C. section 553(b) are impracticable and contrary to the public interest. The FAA further finds that good cause exists to make this Order effective in less than 30 days.

### The Amended Order

The Order, as amended, is recited below in its entirety.

1. This Order assigns operating authority to conduct an arrival or a departure at JFK during the affected hours to the U.S. air carrier or foreign air carrier identified in the appendix to this Order. The FAA will not assign operating authority under this Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority and FAA operating authority under 14 CFR part 121, 129, or 135. This Order applies to the following:

a. All U.S. air carriers and foreign air carriers conducting scheduled operations at JFK as of the date of this Order, any U.S. air carrier or foreign air carrier that operates under the same designator code as such a carrier, and any air carrier or foreign-flag carrier that has or enters into a codeshare agreement with such a carrier.

b. All U.S. air carriers or foreign air carriers initiating scheduled or regularly conducted commercial service to JFK while this Order is in effect.

c. The Chief Counsel of the FAA, in consultation with the Vice President, System Operations Services, is the final decisionmaker for determinations under this Order.

2. This Order governs scheduled arrivals and departures at JFK from 6 a.m. through 10:59 p.m., Eastern Time, Sunday through Saturday.

3. This Order takes effect on March 30, 2008, and will expire when the final Congestion Management Rule for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport becomes effective but not later than October 26, 2013.

4. Under the authority provided to the Secretary of Transportation and the FAA Administrator by 49 U.S.C. 40101, 40103 and 40113, we hereby order that:

a. No U.S. air carrier or foreign air carrier initiating or conducting scheduled or regularly conducted commercial service at JFK may conduct such operations without an Operating Authorization assigned by the FAA.

b. Except as provided in the appendix to this Order, scheduled U.S. air carrier and foreign air carrier arrivals and departures will not exceed 81 per hour from 6 a.m. through 10:59 p.m., Eastern Time.

c. The Administrator may change the limits if he determines that capacity exists to accommodate additional operations without a significant increase in delays.

5. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

6. A carrier holding an Operating Authorization may request the Administrator's approval to move any arrival or departure scheduled from 6 a.m. through 10:59 p.m. to another half hour within that period. Except as provided in paragraph seven, the carrier must receive the written approval of the Administrator, or his delegate, prior to conducting any scheduled arrival or departure that is not listed in the appendix to this Order. All requests to move an allocated Operating Authorization must be submitted to the FAA Slot Administration Office, facsimile (202) 267-7277 or e-mail 7-AWA-Slotadmin@faa.gov, and must come from a designated representative of the carrier. If the FAA cannot approve a carrier's request to move a scheduled arrival or departure, the carrier may then apply for a trade in accordance with paragraph seven.

7. For the duration of this Order, a carrier may enter into a lease or trade of an Operating Authorization to another carrier for any consideration. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267-7277 or e-mail 7-AWASlotadmin@faa.gov, and must come from a designated representative of each carrier. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. The FAA will approve transfers between carriers under the same marketing control up to five business days after the actual operation, but only to accommodate operational disruptions that occur on the same day of the scheduled operation. The FAA's approval of a trade or lease does not

constitute a commitment by the FAA to grant the associated historical rights to any operator in the event that slot controls continue at JFK after this order expires.

8. A carrier may not buy, sell, trade, or transfer an Operating Authorization, except as described in paragraph seven.

9. Historical rights to Operating Authorizations and withdrawal of those rights due to insufficient usage will be determined on a seasonal basis and in accordance with the schedule approved by the FAA prior to the commencement of the applicable season.

a. For each day of the week that the FAA has approved an operating schedule, any Operating Authorization not used at least 80% of the time over the time-frame authorized by the FAA under this paragraph will be withdrawn by the FAA for the next applicable season except:

i. The FAA will treat as used any Operating Authorization held by a carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

ii. The Administrator of the FAA may waive the 80% usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which affects carrier operations for a period of five consecutive days or more.

b. Each carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations and:

i. The dates within each applicable season it intends to commence and complete operations.

A. For each winter scheduling season, the report must be received by the FAA no later than August 15 during the preceding summer.

B. For each summer scheduling season, the report must be received by the FAA no later than January 15 during the preceding winter.

ii. The completed operations for each day of the applicable scheduling season:

A. No later than September 1 for the summer scheduling season.

B. No later than January 15 for the winter scheduling season.

iii. The completed operations for each day of the scheduling season within 30 days after the last day of the applicable scheduling season.

10. In the event that a carrier surrenders to the FAA any Operating Authorization assigned to it under this Order or if there are unallocated Operating Authorizations, the FAA will determine whether the Operating

Authorizations should be reallocated. The FAA may temporarily allocate an Operating Authorization at its discretion. Such temporary allocations will not be entitled to historical status for the next applicable scheduling season under paragraph 9.

11. If the FAA determines that an involuntary reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the carrier from which it was taken, provided that the carrier continues to operate scheduled service at JFK.

12. The FAA will enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). A carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, will be liable for a civil penalty of up to \$25,000 for every day that it violates the limits set forth in this Order. A carrier that is a small business as defined in the Small Business Act will be liable for a civil penalty of up to \$10,000 for every day that it violates the limits set forth in this Order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of this Order.

13. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC on March 28, 2011.

**Rebecca B. MacPherson,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 2011-7841 Filed 4-1-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Rule on Request To Release Airport Property at the Helena Regional Airport, Helena, MT

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

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at Helena Regional Airport (HLN) under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

**DATES:** Comments must be received on or before May 4, 2011.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. David S. Stelling, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Helena Airports District Office, 2725 Skyway Drive, Suite 2, Helena, Montana 59602.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ronald Mercer, Airport Director, Helena Regional Airport Authority (HRAA), at the following address: Mr. Ronald Mercer, Airport Director, Helena Regional Airport Authority, 2850 Skyway Drive, Helena, Montana 59602.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Gates, Airport Planner/Engineer, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Helena Airports District Office, 2725 Skyway Drive, Suite 2, Helena, Montana 59602.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at HLN under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On March 24, 2011 the FAA determined that the March 23, 2011 request submitted by HRAA to release property at HLN meets the procedural requirements of the FAA. The FAA may approve the request, in whole or in part, no later than May 4, 2011.

The following is a brief overview of the request:

HRAA is proposing the release of approximately 1,699 square feet of non-aeronautical airport property at HLN to the State of Montana Department of Transportation, to be used as right-of-way for the north traffic exit lane on Interstate Highway 15 at the Custer Avenue interchange in Helena, Montana. The interchange is expected to be constructed in 2011 and 2012 and will provide improved access to HLN and the community.

Any person may inspect, by appointment, the request in person at the FAA office listed above under the

heading: **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at Airport Administration Office, Helena Regional Airport, Helena, Montana.

Issued in Helena, Montana, on March 25, 2011.

**David S. Stelling,**

*Manager, Helena Airports District Office.*

[FR Doc. 2011-7834 Filed 4-1-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Submission Deadline for Schedule Information for O'Hare International Airport, John F. Kennedy International Airport, and Newark Liberty International Airport for the Winter 2011-2012 Scheduling Season

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

**ACTION:** Notice of submission deadline.

**SUMMARY:** Under this notice, the FAA announces the submission deadline of May 19, 2011, for Winter 2011-2012 flight schedules at Chicago's O'Hare International Airport (ORD), New York's John F. Kennedy International Airport (JFK), and Newark Liberty International Airport (EWR) in accordance with the International Air Transport Association (IATA) Worldwide Scheduling Guidelines. The deadline coincides with the schedule submission deadline for the IATA Schedules Conference for the Winter 2011-2012 scheduling season.

**DATES:** Schedules must be submitted no later than May 19, 2011.

**ADDRESSES:** Schedules may be submitted by mail to the Slot Administration Office, AGC-200, Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202-267-7277; or by e-mail to: [7-AWA-slotadmin@faa.gov](mailto:7-AWA-slotadmin@faa.gov).

**FOR FURTHER INFORMATION CONTACT:**

Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202-267-7143; fax number: 202-267-7971; e-mail: [rob.hawks@faa.gov](mailto:rob.hawks@faa.gov).

**SUPPLEMENTARY INFORMATION:** The FAA has designated ORD as an IATA Level 2, Schedules Facilitated Airport, and JFK and EWR as Level 3, Coordinated Airports. Scheduled operations at JFK and EWR are limited by the FAA