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Issued in Hawthorne, California on March 31, 2011.

**Larry Tonish,**

*Program Manager, Air Tour Management Program.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2011-0248]

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

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

**ACTION:** Notice of FAA Decision on Request for Waiver of the Slot Usage Requirement.

**SUMMARY:** This action denies a request by the Air Transport Association of America (ATA) for a waiver of the requirements to use slots at Washington's Reagan National Airport (DCA) and Operating Authorizations (slots) at John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), and Newark Liberty International Airport (EWR).

**DATES:** Effective upon publication.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

By letter posted in Docket Number FAA-2011-0248 on March 15, 2011, ATA requested the FAA grant a limited waiver of the minimum slot usage requirements for DCA, JFK, EWR, and LGA for January 7 through 18, 2011, and January 26 through February 4, 2011, due to intense snowfalls in the northeastern and mid-Atlantic United States that seriously disrupted air carrier operations at those airports. In support of its request, ATA referenced a waiver granted by the FAA in February 2010 due to multiple

snowstorms that severely disrupted aviation and other modes of transportation.<sup>1</sup>

ATA also stated the National Oceanic and Atmospheric Administration reported New York City and Newark, New Jersey, experienced the snowiest month of January on record. New York City recorded 36 inches of snow that month, surpassing the previous record of 27.4 inches; Newark recorded 37.4 inches, surpassing its previous January record of 31.6 inches. ATA highlights three major snowstorms in the regions occurring from January 9 through 13; from January 25 through 27, which also affected the D.C. metro area; and from February 1 through 3.

ATA asserts the effects of the weather events at DCA, JFK, EWR, and LGA were dramatic and lingering, disrupting operations during January and into early February. Twelve U.S. air carriers reported cancellations totaling 10,944 flights at the airports in the January 7 through 12, January 18, January 26 through 27, and February 1 through 4 periods. ATA also states that major snowstorms in the Midwest and New England further disrupted operations at DCA, JFK, EWR, and LGA because of network-wide weather disruptions and corresponding recovery programs.

By e-mail dated March 15, 2011, AirTran Airways stated its support for the ATA request for waiver.

##### FAA Analysis

Under the FAA's High Density Rule and Orders limiting scheduled 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 rules will be withdrawn or not receive historic precedence for the following scheduling season, depending on the airport.<sup>2</sup> The FAA may grant a waiver from the minimum usage requirements 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. However, the FAA does not routinely grant general waivers to the usage requirements except under the most unusual circumstances.

The FAA is sympathetic to the disruptions created by winter weather. 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. FAA air traffic records for the 2011 snowstorms do not demonstrate the same magnitude of either airport closures or cancellations over an extended period. Although there were multiple snowstorms, operations do not appear to have been impacted for any period lasting five or more consecutive days as required by the rules, and there were at least several days of recovery between the snowstorms. Accordingly, the FAA has determined ATA's request is too broad and may afford a benefit to some carriers that did not experience actual hardships.

Moreover, in recent years, the FAA has noticed a pattern that indicates some carriers may be meeting the usage requirements without planning a scheduled flight for each allocated slot. By underutilizing allocated slots, and using a portion of the 20 percent allowable non-use of slots to cover planned cancellations or underscheduling, carriers have a reduced ability to meet the usage requirements when weather events force additional cancellations. The FAA intends allocated slots be used for actual operations because slots are scarce resources at each of these airports. Although existing rules do not require each slot to directly correspond to a scheduled flight, the FAA is not required to use its waiver authority to endorse underutilization of allocated slots.

Although the FAA has determined that a general waiver of the usage requirements is inappropriate, it acknowledges that nationwide weather during this period may have created a unique hardship for some carriers. To assess that hardship and determine whether relief is warranted, the FAA requests that affected carriers submit an individual request for limited waiver. The FAA will consider the periods of January 7 through February 4, 2011, but will make a waiver determination on an individual-day basis. A waiver request should indicate the individual days of significant cancellations, a detail of the allocated slots on those days, a detail of the scheduled flights for those days, and a detail of the flights cancelled due to weather on those days. A carrier should also identify the specific slot or slots for which it is requesting a waiver and the utilization of the slot(s) for the reporting period. The FAA acknowledges weather in carriers' non-slot-controlled hub airports may have forced additional cancellations because there were several unusual storms throughout the nation

<sup>1</sup> 75 FR 9017 (Feb. 26, 2010).

<sup>2</sup> 14 CFR 93.227 (DCA); 74 FR 51648 (Oct. 7, 2009) (EWR); 74 FR 51650 (Oct. 7, 2009) (JFK); 74 FR 51653 (Oct. 7, 2009) (LGA).

during this period. In making a waiver determination, the FAA will consider a significant number of cancellations during those periods because of weather at a destination airport.

#### FAA Decision

In consideration of the foregoing, ATA's request for a grant of waiver is DENIED. Carriers who were uniquely affected by winter weather during January and February 2011 may request a limited grant of waiver. However, any request must detail the hardship caused by the snowstorms and demonstrate that hardship was not caused or exacerbated by underutilization of allocated slots. The FAA will carefully consider these individual requests for waiver.

Issued in Washington, DC on March 28, 2011.

**J. David Grizzle,**  
*Chief Counsel.*

[FR Doc. 2011-8281 Filed 4-6-11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent to Rule on Request To Release Airport Property at the Northeast Philadelphia Airport (PNE), Philadelphia, PA

**AGENCY:** Federal Aviation Administration (FAA), 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 the Northeast Philadelphia Airport, Philadelphia, Pennsylvania under the provisions of Section 47125(a) of Title 49 United States Code (U.S.C.).

**DATES:** Comments must be received on or before May 9, 2011.

**ADDRESSES:** Comments on this application may be mailed or delivered to the following address: Joseph F. Messina, Divisional Deputy City Solicitor, City of Philadelphia Law Department, Transportation Division, One Parkway, 1515 Arch Street, Philadelphia, PA 19102-1595 and at the FAA Harrisburg Airports District Office: Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011.

**FOR FURTHER INFORMATION CONTACT:** Lori Ledeborn, Community Planner, Harrisburg Airports District Office location listed above.

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

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the Northeast Philadelphia Airport under the provisions of Section 47125(a) of Title 49 U.S.C. On March 28, 2011, the FAA determined that the request to release property at the Northeast Philadelphia Airport submitted by the City of Philadelphia (City) met the procedural requirements.

The following is a brief overview of the request:

The City requests the release of real property, totaling 3.5 acres, of aeronautical airport property, to Biagio DeSimone. The land was originally purchased with City funds in 1945. The purpose of the release is to sell the land that was airport property to Biagio DeSimone, the current tenant. The property is located at 11295 E. Roosevelt Boulevard. The Parcel is currently leased to a tenant operating as a dealership and is improved with a 6,225 square foot building being used by the tenant in the operation of its automobile dealership and a gravel parking lot for customers of the dealership. The Parcel is not contiguous to the area being operated as the Northeast Philadelphia Airport. The subject land does not serve an aeronautical purpose and is not needed for airport development, as shown on the Airport Layout Plan. All proceeds from the sale of property are to be used for the capital development of the airport. Fair Market Value (FMV) will be obtained from the land sale and reinvested back in the airport.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed release from obligations. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, April 1, 2011.

**Lori K. Pagnanelli,**

*Manager, Harrisburg Airports District Office.*

[FR Doc. 2011-8268 Filed 4-6-11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Safety Advisory 2011-01

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Safety Advisory; equipment fouling adjacent tracks.

**SUMMARY:** FRA is issuing Safety Advisory 2011-01 to remind each

railroad and railroad employees of the importance of compliance with Federal regulations and railroad operating rules regarding rolling equipment being left in a location that is clear of any adjacent tracks. This safety advisory contains various recommendations to railroads to ensure that this issue is addressed by appropriate policies and procedures, and receives employee compliance.

**FOR FURTHER INFORMATION CONTACT:** Ron Hynes, Director, Office of Safety Assurance and Compliance, Office of Railroad Safety, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 493-6404; or Joseph St. Peter, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 493-6047.

**SUPPLEMENTARY INFORMATION:** The overall safety of railroad operations in the area of equipment securement and protection has improved in recent years. However, two recent fatal incidents highlight the need to review and adhere to existing Federal regulations and railroad operating rules pertaining to rolling equipment being left in a location that is clear of any adjacent tracks.

On May 18, 2005, the Railroad Safety Advisory Committee (RSAC) authorized the RSAC Operating Rules Working Group to address eight human factors (HF) train accident report cause codes that were attributed to nearly half (47 percent) of all HF-caused train accidents nationwide. On February 13, 2008, FRA published a final rule addressing those HF causes, which was codified at Title 49 Code of Federal Regulations (CFR) Part 218, Subpart F (Subpart F). Two of those eight HF cause codes, H301 and H302, were designated for rolling equipment left out to foul. From 2005 to 2010, HF-caused train accidents, attributed to these two cause codes, were reduced by 66 percent. Unfortunately, despite that overall improvement, the rail industry experienced two recent railroad employee fatalities that appear to have been related to equipment being left in a location where it fouled an adjacent track.

#### Recent Incidents

The following is a discussion of the circumstances surrounding two recent fatal incidents, and is based only on FRA's preliminary investigations. The incidents are still under investigation by FRA. The causes and contributing factors, if any, have not yet been established. Therefore, nothing in this safety advisory is intended to attribute a cause to the incidents or place