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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, LaGuardia Airport, and Newark Liberty International Airport, October 27, 2024, through March 29, 2025 (Winter 2024/2025) and March 30, 2025, through October 25, 2025 (Summer 2025)

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

ACTION: Extension to Limited Waiver of the Slot Usage Requirement.

SUMMARY: This action extends the Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, LaGuardia Airport, and Newark Liberty International Airport, published on September 20, 2023, from October 27, 2024, through March 29, 2025 (Winter 2024/2025) and March 30, 2025, through October 25, 2025 (Summer 2025). The limited waiver remains effective until October 25, 2025, and does not apply to any slots granted by the Department of Transportation pursuant to Section 505 of the FAA Reauthorization Act of 2024 (P.L. 118-63).

Dates: This action is effective on October 27, 2024.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, System Operations Services, AJR-0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: 7-awa-slotadmin@faa.gov.

FOR FURTHER INFORMATION CONTACT: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR-G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-2822; email al.meilus@faa.gov.

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SUPPLEMENTARY INFORMATION:

Background

The New York Terminal Radar Approach Control facility (N90) currently provides Air Traffic Control (ATC) services to overhead flights in the Northeast corridor and to the New York City area airports, including John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), and Newark Liberty International Airport (EWR). The airspace complexity resulting from the close proximity of the major commercial airports serving the New York City region is a significant contributing factor to delays at JFK, LGA, and EWR. Against this challenging backdrop, N90 continues to face staffing shortfalls that are impacting ATC's ability to efficiently manage the volume of air traffic in this congested airspace despite best efforts to resolve staffing shortfalls.

The FAA has made significant changes to increase N90 staffing through a combination of incentive and training programs, as well as by relocating control of the EWR area from N90 to the Philadelphia Terminal Radar Approach Control (PHL) beginning in late July of this year to relieve N90 staffing pressures. The FAA has determined N90 will need to reach at least 70% of its targeted number of onboard Certified Professional Controllers (CPCs) before ATC can efficiently manage the full capacity of the New York airspace that was in place prior to May 15, 2023. The operational impact of changes to address N90 staffing shortages will not be realized immediately but do chart a path to mitigating the impact in the next 18-24 months.

The targeted staffing number at N90 is 226 CPCs; the current CPC onboard number at N90 is 135 (59.7% staffed). CPCs at N90 presently are divided between five different areas: EWR, Long Island MacArthur Airport (ISP), JFK, LGA and the Liberty area. The N90 EWR area currently has 33 CPCs; 24 of the 33 EWR area CPCs will be transferred to PHL in July, the

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remaining 9 EWR CPCs will be reassigned to the other remaining areas in N90. Transferring control of the EWR area to PHL and adding 9 CPCs to the remaining N90 areas will result in an estimated staffing level of 68% of the targeted number of onboard CPCs at the areas remaining in N90 by the end of 2025. Control of EWR area will remain at PHL; however, of the 24 CPCs transferred to PHL, 18 are planned to return to N90 at the end of July 2026 and will be redistributed to the remaining N90 areas. The FAA estimates that the collective redistribution of 27 former EWR CPCs to the other areas of N90, along with the removal of EWR area servicing responsibilities, should result in N90 exceeding the 70% mark by the conclusion of 2026. At PHL, actions are currently underway to start CPC trainees to service the EWR area and replace the 18 EWR area CPCs that will return to N90 at the end of July 2026. Unlike N90, there is a robust pipeline of experienced controllers interested in transferring to PHL. This pipeline of personnel will allow the FAA to build up CPC staffing for the EWR area at PHL more quickly than has been experienced at N90. Regardless, the FAA will continue to invest in staffing at N90 to meet anticipated future needs.

With ever-growing demand for air travel in the New York City region, additional measures are necessary to ensure the FAA is able to provide expeditious services to aircraft operators and their passengers that traverse this airspace. Early discussions with carriers indicate an interest in increasing operations after October 27, 2024, through most of the Winter 2024/2025 scheduling season and for all of the Summer 2025 scheduling season. This being the case, the FAA expects increased delays and cancellations in the New York region to exceed those experienced over Summer 2022 and Winter 2022/2023¹ if a waiver similar to the one that

¹ Refer to "Analysis" section for delay analysis.

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has been in effect for the Summer 2023, Winter 2023/2024, and Summer 2024 season is not in place for the Winter 2024/2025 and Summer 2025 scheduling season to allow carriers to reduce schedules without penalties for non-use of slots or previously approved operating times.

Reducing schedules will improve the alignment between scheduled operations and actual operations, will help prevent unnecessary delays, will help optimize the efficient use of the airports' resources, and will help deliver passengers to their destinations more reliably and on time.

Summary of Petitions Received

On April 3, 2024, Airlines for America (A4A) submitted a petition of behalf of its member carriers² requesting an extension of the current relief provided by FAA due to post-pandemic effects on ATC staffing at N90 through the end of the Summer 2025 season. A4A asserts that the current slot waiver successfully created a better travel experience for consumers and that the underlying conditions creating the need for a waiver still exist as staffing shortages persist. In addition, A4A requests that FAA restore carriers' ability to request retroactive relief if the impacts of controller staffing shortages are even more severe than anticipated and that the FAA not reallocate returned slots for ad-hoc use during the waiver period. Finally, A4A requests that FAA make a timely decision regarding relief as time is needed to give carriers stability and the ability to plan.

² A4A members are Alaska Air Group, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member. Alaska Airlines did not join in the submission of A4A's letter.

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On April 5, 2024, the International Air Transport Association (IATA) submitted a petition on behalf of its member carriers³ in support of A4A's request for an extension of the current slot relief through the end of the Summer 2025 season and other relief to protect the traveling public from operational disruptions. IATA asserts that the current relief allowed for careful planning by airlines and resulted in a notably better travel experience for consumers. IATA requests that FAA grant this relief by May 1, 2024, so that carriers can make the complex aircraft and human capital decisions necessary to serve the flying public.

On April 19, 2024, the Airports Council International of North America (ACI-NA) submitted a petition on behalf of its member airports⁴ opposing A4A's request for an extension of the current slot relief. ACI-NA asserts that there is no proven correlation between the slot relief and ATC capacity shortage and that slot usage waivers in general only serve to protect market access for incumbents. It seeks information surrounding and supporting the decision to grant slot relief for impacted New York airports and requests the FAA to provide an opportunity to the public to comment on A4A's request for relief.

Standard

At JFK and LGA, slot-holding carriers must use each assigned slot at least 80 percent of the time.⁵ The FAA will withdraw slots not meeting the minimum usage requirements. The FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable

³ IATA is the trade association of the world's airlines, comprising some 320 member airlines in more than 120 countries and representing approximately 83 percent of the world's total air traffic.

⁴ ACI-NA is an organization representing local, regional, and state governing bodies that own and operate more than 300 airports operating in the United States; and nearly 400 aviation-related businesses. The ACI-NA Slot Task Force comprises all Level 2 and Level 3 airports in the United States.

⁵ Operating Limitations at John F. Kennedy International Airport, 89 FR 41486 (May 13, 2024); Operating Limitations at New York LaGuardia Airport, 89 FR 41484 (May 13, 2024).

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condition that is beyond the control of the slot-holding air carrier, and which affects carrier operations for a period of five consecutive days or more.⁶

At Ronald Reagan Washington National Airport (DCA), the FAA also will recall any slot not used at least 80 percent of the time over a two-month period.⁷ The FAA may waive this minimum usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding carrier, and which exists for a period of nine or more days.⁸

In determining historical rights to allocated slots, including whether to grant a waiver of the usage requirement, the FAA seeks to ensure the efficient use of valuable aviation infrastructure and maximize the benefits to both airport users and the traveling public. The minimum usage requirement is expected to accommodate routine cancellations under all but the most unusual circumstances. Carriers proceed at their own risk if they make scheduling decisions in anticipation of the FAA granting a slot usage waiver.

Analysis

The number of certified controllers at N90 is still not sufficient to allow the FAA to handle normal traffic levels. The FAA has worked with NATCA on a long-term solution to solve the chronic low levels of fully certified air traffic controllers at that facility through a combination of incentive and training programs, as well as relocating control of the EWR area to

⁶ At JFK, the FAA will determine historical rights to operating authorizations and withdrawal of those rights due to insufficient usage on a seasonal basis and in accordance with the schedule approved by the FAA prior to the commencement of the applicable season. *See* JFK Order, 89 FR at 41488. At LGA, the FAA will withdraw any operating authorization not used at least 80 percent of the time over a two-month period. *See* LGA Order, 89 FR at 41485.

⁷ *See* 14 CFR 93.227(a).

⁸ *See* 14 CFR 93.227(j).

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PHL. The FAA will continue to partner with NATCA as it continues efforts to remediate ATC staffing shortages at N90.

Due to the volume of originating and destination flights in the New York City region, as well as the interdependency and complexity of the airspace surrounding JFK, LGA, and EWR, delays caused in part by N90 staffing shortfalls are expected to significantly impact carriers' ability to operate and meet minimum usage requirements in the Winter 2024/2025 and Summer 2025 scheduling seasons. Absent increased flexibility, the FAA anticipates a high likelihood of congestion, delay, and cancellations at JFK, LGA, and EWR.

Typically, the 20 percent non-utilization allowed under the minimum usage requirement accounts for cancellations due to ATC staffing delays; however, the extent of N90 staffing shortfalls and the expected numbers of scheduled operations for the Winter 2024/2025 and Summer 2025 scheduling seasons present a highly unusual and unpredictable condition beyond the control of carriers that will impact operations through the entire Winter 2024/2025 and Summer 2025 scheduling seasons.

Using the Annual Service Volume (ASV) model⁹, the FAA projected the delay the NYC airports would experience in the absence of a waiver for Summer 2024.¹⁰ Using Summer 2022 data¹¹ as baseline comparison, the FAA estimates Summer 2024 would experience increased

⁹ FAA-developed modeling suite of tools for conducting operational impact analysis for airports and to establish the annual service volume for airports. ASV simulations relate total annual operations to a target delay value and are used by FAA in reports to Congress that identify the airports projected to constrain the NAS. *See* https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/sim_tools.

¹⁰ The FAA projected a Summer 2024 scenario because the FAA has already received the air carrier schedules for the Summer 2024 scheduling season, and demand is not likely to decrease in 2025.

¹¹ Summer 2022 data is used as baseline for comparison because this was the last summer scheduling season unaffected by the ATC waivers.

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operations by 8.8% to 11%,¹² which would result in 2.3 to 2.8 million minutes of additional delay, or 53% to 65% additional delay, compared to the delay experienced in Summer 2022. At a minimum, the FAA expects these delay numbers to remain valid through Summer 2025.

Therefore, a waiver of minimum slot usage requirements at JFK and LGA, and a similar policy of prioritizing returned operations at EWR, through October 25, 2025, is necessary to allow carriers to reduce operations to enable scheduling and operational stability for the benefit of the flying public.

In addition, because New York City-DCA is a high-frequency market for multiple carriers, the FAA recognizes this market is a likely target for carriers to consolidate flights while retaining their network connectivity. If carriers choose to reduce their schedules in the New York City-DCA market, the FAA encourages, to the extent practical, carriers to utilize their DCA slots to operate to other destinations. However, if carriers choose not to utilize their DCA slots elsewhere, the FAA may consider providing relief to DCA slots that are impacted by the reduction in operations at the New York City airports, except that the limited waiver of the minimum slot usage requirements is not available for any slots granted by the DOT pursuant to Section 505 of the FAA Reauthorization Act of 2024 (P.L. 118-63)

Carriers have the ability to request retroactive relief; however, they should be aware that the N90 staffing shortfalls will not likely form a sufficient basis for further relief going forward in the Winter 2024/2025 and Summer 2025 scheduling seasons because carriers will have had sufficient opportunity to plan and take remedial action under this waiver policy. The FAA does

¹² Under the current waiver, carriers returned 9% of their initially submitted schedules. Compared to Summer 2023, scheduled operations in Summer 2024 increased by 2%. If the FAA assumes an 80% actual usage rate, that results in 8.8% (that is, $((0.09 + 0.02) \times 0.8 = 0.088)$) increase of actual operations. If the FAA assumes 100% actual usage rate, then that would be an 11% $(0.09 + 0.02)$ increase.

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not foresee providing additional post-hoc relief associated with ATC staffing given the extraordinary relief provided here. Given this relief, operational impacts associated with N90 staffing during the Winter 2024/2025 and Summer 2025 scheduling season will likely not have been beyond carriers' control and will not serve as a justification for a separate waiver.

Decision

The FAA determined that the post-pandemic effects on N90 staffing meet the applicable waiver standards and warrant a limited waiver of minimum slot usage requirements at JFK and LGA to allow carriers to return up to ten percent of their slots at each airport, as well as impacted operations between DCA and the New York City airports. In addition, the FAA has determined the post-pandemic effects on N90 staffing warrant a limited policy for prioritizing returned operations at EWR to allow carriers to return up to ten percent of their approved operating timings, for purposes of establishing a carrier's operational baseline in the next corresponding season. Despite staffing projections indicating N90 will not reach 70% of the targeted staffing level until the conclusion of 2026, the FAA is taking a measured approach and providing relief in this waiver notice only until the end of the Summer 2025 scheduling season. The FAA will re-evaluate the staffing levels at N90 and the impact to operations in the New York City area before deciding if a waiver beyond the Summer 2025 scheduling season is necessary. Carriers seeking to return their slots and approved operating timings must do so by August 15, 2024, for the Winter 2024/2025 scheduling season (October 27, 2024, through March 29, 2025); and by January 15, 2025, for the Summer 2025 scheduling season (March 30, 2025, through October 25, 2025) to be eligible for relief under this waiver. For DCA, this relief is available only for flights impacted by operations to or from the New York City area airports. If carriers utilizing the relief provided

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under this limited waiver at EWR subsequently operate unapproved flights at that airport, those carriers will forfeit their scheduling preference to an equal number of returned, approved operating timings chosen at the FAA's discretion for the subsequent equivalent traffic season. Furthermore, the FAA expects carriers to up-gauge aircraft serving the affected airports to the extent possible to maintain passenger throughput and minimize the impact on consumers. The FAA also expects carriers to maintain connections between the affected airports and regional airports to the extent possible in support of continuous scheduled interstate air transportation for small communities and isolated areas. The FAA will closely coordinate with the Department of Transportation, which will be monitoring for indications of unfair, deceptive, or anticompetitive practices or other unlawful economic activity associated with or resulting from the relief granted by this notice. In addition, the FAA expects carriers to return scheduled operations in the peak delay periods of the day. The following hours (in local time) are the most prone to delay at each airport: EWR: 1400–2159, JFK: 1300–2259, LGA: 1300–2159.

The FAA will not reallocate the temporarily returned slots or approved operating timings at JFK, LGA, or EWR, as the goal is to reduce the total volume of operations in the New York City region. Carriers are encouraged to utilize their DCA slots in other markets before returning them to the FAA. In the event DCA slots are returned under this waiver, other carriers will have an opportunity to operate the slots on an *ad hoc* basis without historic precedence.

The FAA will treat as used the specific slots returned in accordance with the conditions in this notice for the period from October 27, 2024, through March 29, 2025 (Winter 2024/2025) and March 30, 2025, through October 25, 2025 (Summer 2025).

The relief is subject to the following conditions:

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1. The specific slots and approved operating timings must be returned to the FAA by August 15, 2024, for the Winter 2024/2025 scheduling season; and by January 15, 2025, for the Summer 2025 scheduling season.

2. This waiver applies only to slots that have corresponding, scheduled operations during the period of the grant. A carrier temporarily returning a slot or approved operating time to the FAA for relief under this waiver must identify corresponding scheduled operations for Winter 2024/2025, or approved slots or operating timings for Summer 2025. The FAA may validate information against published schedule data prior to the issuance of this notice, and other operational data maintained by FAA. Slots or operating times returned without an associated scheduled and canceled operation will not receive relief.

3. Slots or approved operating timings newly allocated for initial use since the previous corresponding scheduling season are not eligible for relief.

4. Slots authorized at DCA by Department of Transportation or FAA exemptions are not eligible for relief.

5. Carriers must not engage in unfair, deceptive, or anticompetitive practices regarding their slot usage, leasing agreements, or operations associated with the relief provided by this notice.

Issued in Washington, DC, on June 4, 2024.

Marc A. Nichols,
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