

FAA Declines to Extend COVID-19 Relief at U.S. Slot-Controlled and IATA Level 2 U.S. Airports

On October 26, 2022, the Federal Aviation Administration (FAA) announced that it would not extend its COVID-19 related relief policy for U.S. slot-controlled and FAA-designated International Air Transport Association (IATA) Level 2 airports,¹ which was set to expire on October 29, 2022. Accordingly, carriers must resume compliance with minimum slot usage requirements at U.S. slot-controlled airports for the Winter 2022/2023 scheduling season beginning October 30, 2022, as well as comply with standard FAA processes for runway timing considerations at IATA Level 2 airports in the United States.

On March 16, 2020, due to the significant impact on air travel relating to the COVID-19 pandemic, the FAA granted carriers a limited waiver from the minimum slot usage requirements at Ronald Reagan Washington National Airport (DCA), John F. Kennedy International Airport (JFK), and LaGuardia Airport (LGA), and provided related relief to airlines operating at IATA Level 2 airports in the United States. The FAA ultimately issued five extensions to this waiver and added additional conditions, with the most recent extension issued on March 29, 2022.

Under FAA's slot usage rules, at JFK and LGA, each slot must be used at least 80% of the time, while at DCA, each slot must be used at least 80% of the time over a two-month period. The FAA will recall slots that fail to meet the minimum usage requirements. At IATA Level 2 airports, the FAA provides priority consideration for runway timings that are scheduled and operated as approved for purposes of establishing a carrier's operational baseline in the next corresponding season.

In the announcement, the FAA noted that some stakeholders petitioned to extend the current waiver policy for international operations through the Winter 2022/2023 scheduling season, given the continued impacts of COVID-19 on airline, air traffic control, and airport operations. In denying that request, the FAA stated that "waivers are reserved for highly unusual and unpredictable conditions beyond the control of carriers" and asserted that "the concerns identified in the petitions, such as general economic conditions, reduced demand, operating costs, inability to recruit or retain staff, or similar factors are not highly unusual and unpredictable conditions that justify broad proactive relief from minimum slot usage rules."

The FAA acknowledged, however, that it may waive minimum usage requirements in rare circumstances on an individual carrier basis in accordance with its standard procedures. At JFK and LGA, the FAA may waive the requirement "in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding carrier and which affects carrier operations for a period of five consecutive days or more." At DCA, the FAA may waive the minimum requirement in the event such a condition "exists for a period of nine or more days."

Additionally, the FAA recognized that there will be "a limited number of carrier requests for relief in Winter 2022/2023 based on foreign government-imposed travel restrictions or highly restrictive temporary limitations on flights." In such cases, the FAA committed to "work[ing] closely with [the Department of Transportation] on any such requests to determine appropriate action based on the circumstances and factors such as reciprocal treatment for U.S. carriers."



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¹ Chicago O'Hare International Airport (ORD); Newark Liberty International Airport (EWR); Los Angeles International Airport (LAX); and San Francisco International Airport (SFO).