

**BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

**Operating Limitations at Newark
Liberty International Airport**

Docket No. FAA-2008-0221

COMMENTS OF AIR CANADA

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On March 18, 2008, the FAA published a Notice¹ concerning temporary limitations on scheduled operations at Newark Liberty International Airport (EWR). The proposed limitations are intended to prevent an increase in scheduled flights during peak hours and include a cap on total operations at the airport during those times. Air Canada generally supports the FAA's efforts to control delays at EWR, but it is submitting these comments to address one particular area of special concern relating to the proposed minimum usage requirement.

Under the proposed terms of the Order, each carrier must forward a list of all Operating Authorizations held and report the dates within each applicable season on which the carrier intends to start and to cease scheduled operations. FAA will use this information to calculate each carrier's usage of its allocated Operating Authorizations.² 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schedule, any Operating Authorization not used at least 80% of the time over the period authorized by the FAA will be withdrawn for the next applicable season.

¹ *Operating Limitations at Newark Liberty International Airport*, 73 Fed. Reg. 14552 (Mar. 18, 2008).

² To help facilitate this calculation, each carrier also must provide the FAA with an interim and a final report on the completed operations for each day of the applicable scheduling season.

The Notice does not address how the FAA would handle cancellations due to Ground Delay Programs, which are common at EWR and the other New York-area airports. Air Canada recommends that the FAA amend the Proposed Order to treat flights that are cancelled on the day-of-flight due to Ground Delay Programs as a completed operation for purposes of calculating a carrier's usage of its allocated Operating Authorizations. An Operating Authorization should not be subject to the use-or-lose provision when a carrier cancels a flight to assist Air Traffic Control and reduce congestion. To facilitate this recommendation, carriers could note in their interim and season-end reports that an Operating Authorization as "scheduled by cancelled due to GDP."

Air Canada urges the FAA to amend its Order to consider the needs of carriers that have worked cooperatively with the FAA in managing and responding to delays at EWR. Accordingly, the FAA must ensure that carriers that trim their EWR schedules at the FAA's request are not penalized for such cooperation under the "use it or lose it" provisions of the new rules.

Respectfully submitted,



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