Federal Aviation Administration, DOT § 93.221

(c) If a slot is offered to a carrier in other than the hour requested, the carrier shall have 14 days after the date of the offer to accept the newly offered slot. Acceptance must be in writing and sent to the office specified in §93.221(a)(1) and must repeat the certified statements required by paragraph (e) of this section.

(d) The Office of the Secretary of Transportation reserves the right not to apply the provisions of this section, concerning the allocation of slots, to any foreign air carrier or commuter operator of a country that provides slots to U.S. air carriers and commuter operators on a basis more restrictive than provided by this subpart. Decisions not to apply the provisions of this section will be made by the Office of the Secretary of Transportation.

(e) Each request for slots under this section shall state the airport, days of the week and time of the day of the desired slots and the period of time the slots are to be used. Each request shall identify whether the slot is requested under paragraph (a)(5), (6), or (8) and identify any changes from the previous year if requested under both paragraphs. The request must be accompanied by a certified statement signed by an officer of the operator indicating that the operator has or has contracted for aircraft capable of being utilized in using the slots requested and that the operator has bona fide plans to use the requested slots for operations described in paragraph (a).

§ 93.218 Slots for transborder service to and from Canada.

(a) Except as otherwise provided in this subpart, international slots identified by U.S. carriers for international operations in December 1985 and the equivalent number of international slots held as of February 24, 1998, will be domestic slots. The Chief Counsel of the FAA shall be the final decision-maker for these determinations.

(b) Canadian carriers shall have a guaranteed base level of slots of 42 slots at LaGuardia, 36 slots at O'Hare for the Summer season, and 32 slots at O'Hare in the Winter season.

(c) Any modification to the slot base by the Government of Canada or the Canadian carriers that results in a decrease of the guaranteed base in paragraph (b) of this section shall permanently modify the base number of slots.

§ 93.219 Allocation of slots for essential air service operations and applicable limitations.

Whenever the Office of the Secretary of Transportation determines that slots are needed for operations to or from a High Density Traffic Airport under the Department of Transportation’s Essential Air Service (EAS) Program, those slots shall be provided to the designated air carrier or commuter operator subject to the following limitations:

(a) Slots obtained under this section may not be bought, sold, leased or otherwise transferred, except that such slots may be traded for other slots on a one-for-one basis at the same airport.

(b) Any slot obtained under this section must be returned to the FAA if it will not be used for EAS purposes for more than a 2-week period. A slot returned under this paragraph may be reallocated to the operator which returned it upon request to the FAA office specified in §93.221(a)(1) if that slot has not been reallocated to an operator to provide substitute essential air service.

(c) Slots shall be allocated for EAS purposes in a time period within 90 minutes of the time period requested.

(d) The Department will not honor requests for slots for EAS purposes to a point if the requesting carrier has previously traded away or sold slots it had used or obtained for use in providing essential air service to that point.

(e) Slots obtained under Civil Aeronautics Board Order No. 84–11–40 shall be considered to have been obtained under this section.

§ 93.221 Transfer of slots.

(a) Except as otherwise provided in this subpart, effective April 1, 1986, slots may be bought, sold or leased for
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any consideration and any time period and they may be traded in any combi-
nation for slots at the same airport or any other high density traffic air-
port. Transfers, including leases, shall comply with the following conditions:

(1) Requests for confirmation must be submitted in writing to Slot Adminis-
tration Office, AGC–230, Office of the Chief Counsel, Federal Aviation Ad-
ministration, 800 Independence Ave., SW., Washington, DC 20591, in a format
to be prescribed by the Administrator. Requests will provide the names of the
transferor and recipient; business address and telephone number of the per-
sons representing the transferor and recipient; whether the slot is to be used
for an arrival or departure; the date the slot was acquired by the transferor;
the section of this subpart under which the slot was allocated to the trans-
feror; whether the slot has been used by the transferor for international or
essential air service operations; and whether the slot will be used by the re-
cipient for international or essential air service operations. After with-
drawal priorities have been established under § 93.223 of this part, the requests
must include the slot designations of the transferred slots as described in
§ 93.223(b)(5).

(2) The slot transferred must come from the transferor’s then-current
FAA-approved base.

(3) Written evidence of each trans-
feror’s consent to the transfer must be
provided to the FAA.

(4) The recipient of a transferred slot
may not use the slot until written con-
firmation has been received from the FAA.

(5)(i) Until a slot obtained by a new
entrant or limited incumbent carrier in
a lottery held under § 93.225 after June
1, 1991, has been used by the carrier
that obtained it for a continuous 24-
month period after the lottery in ac-
cordance with § 93.227(a), that slot may
be transferred only by trade for one or
more slots at the same airport or to
other new entrant or limited incum-
bent carriers under § 93.221(a)(5)(iii).
This transfer restriction shall apply to
the same extent to any slot or slots ac-
quired by trading the slot obtained in a
lottery. To remove the transfer restric-
tion, documentation of 24 months’ con-
tinuous use must be submitted to the
FAA Office of the Chief Counsel.

(ii) Failures to use a slot acquired by
trading a slot obtained in a lottery for a
continuous 24-month period after the
lottery, shall void all trades involving
the lottery slot, which shall be re-
turned to the FAA. All use of the lot-
tery slot shall be counted toward ful-
filling the minimum use requirements
under § 93.227(a) applicable to the slot
or slots for which the lottery slot was
traded, including subsequent trades.

(iii) Slots obtained by new entrant or
limited incumbent carriers in a lottery
may be sold, leased, or otherwise trans-
ferred to another entrant or limited in-
cumbent carrier after a minimum of 60
days of use by the obtaining carrier.
The transfer restrictions of
§ 93.221(a)(5)(i) shall continue to apply
to the slot until documentation of 24
months’ continuous use has been sub-
mitted and the transfer restriction re-
moved.

(6) The Office of the Secretary of
Transportation must determine that
the transfer will not be injurious to the
essential air service program.

(b) A record of each slot transfer
shall be kept on file by the office speci-
fied in paragraph (a)(1) of this section
and will be made available to the pub-
lic upon request.

(c) Any person may buy or sell slots
and any air carrier or commuter may
use them. Notwithstanding § 93.123, air
carrier slots may be used with aircraft
of the kind described in § 93.123(c)(1)
or (c)(2) but commuter slots may only be
used with aircraft of the kind described
in § 93.123(c)(2).

(d) Air carriers and commuter opera-
tors considered to be a single operator
under the provisions of § 93.213(c) of
this subpart but operating under sepa-
rate names shall report transfers of
slots between them.

(e) Notwithstanding § 93.123(c)(2) of
this part, a commuter slot at O’Hare
International Airport may be used with
an aircraft described in § 93.123(c)(1)
of this part on the following conditions:

(1) Air carrier aircraft that may be
operated under this paragraph are lim-
ited to aircraft:

(i) Having an actual seating configu-
ration of 110 or fewer passengers; and
(ii) Having a maximum certificated takeoff weight of less than 126,000 pounds.

(2) No more than 50 percent of the total number of commuter slots held by a slot holder at O'Hare International Airport may be used with aircraft described in paragraph (e)(1) of this section.

(3) An air carrier or commuter operator planning to operate an aircraft described in paragraph (e)(1) of this section in a commuter slot shall notify ATC at least 75 days in advance of the planned start date of such operation. The notice shall include the slot number, proposed time of operation, aircraft type, aircraft series, actual aircraft seating configuration, and planned start date. ATC will approve or disapprove the proposed operation no later than 45 days prior to the planned start date. If an operator does not initiate operation of a commuter slot under this section within 30 days of the planned start date first submitted to the FAA, the ATC approval for that operation will expire. That operator may file a new or revised notice for the same half-hour slot time.

(4) An operation may not be conducted under paragraph (e)(1) of this section unless a gate is available for that operation without planned waiting time.

(5) For the purposes of this paragraph (e), notice to ATC shall be submitted in writing to: Director, Air Traffic System Management, ATM–1, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

§ 93.223 Slot withdrawal.

(a) Slots do not represent a property right but represent an operating privilege subject to absolute FAA control. Slots may be withdrawn at any time to fulfill the Department’s operational needs, such as providing slots for international or essential air service operations or eliminating slots. Before withdrawing any slots under this section to provide them for international operations, essential air services or other operational needs, those slots returned under §93.224 of this part and those recalled by the agency under §93.227 will be allocated.

(b) Separate slot pools shall be established for air carriers and commuter operators at each airport. The FAA shall assign, by random lottery, withdrawal priority numbers for the recall priority of slots at each airport. Each additional permanent slot, if any, will be assigned the next higher number for air carrier or commuter slots, as appropriate, at each airport. Each slot shall be assigned a designation consisting of the applicable withdrawal priority number; the airport code; a code indicating whether the slot is an air carrier or commuter operator slot; and the time period of the slot. The designation shall also indicate, as appropriate, if the slot is daily or for certain days of the week only; is limited to arrivals or departures; is allocated for international operations or for EAS purposes; and, at Kennedy International Airport, is a summer or winter slot.

(c) Whenever slots must be withdrawn, they will be withdrawn in accordance with the priority list established under paragraph (b) of this section, except:

(1) Slots obtained in a lottery held pursuant to §93.225 of this part shall be subject to withdrawal pursuant to paragraph (i) of that section, and

(2) Slots necessary for international and essential air service operations shall be exempt from withdrawal for use for other international or essential air service operations.

(3) Except as provided in §93.227(a), the FAA shall not withdraw slots held at an airport by an air carrier or commuter operator holding and operating 12 or fewer slots at that airport (excluding slots used for operations described in §93.212(a)(1)), if withdrawal would reduce the number of slots held below the number of slots operated.

(4) No slot comprising the guaranteed base of slots, as defined in section 93.318(b), shall be withdrawn for use for international operations or for new entrants.

(d) The following withdrawal priority rule shall be used to permit application