Federal Aviation Administration, DOT

§ 93.227 Slot use and loss.

(a) Except as provided in paragraphs (b), (c), (d), (g), and (l) of this section, any slot not utilized 80 percent of the time over a 2-month period shall be recalled by the FAA.

(b) Paragraph (a) of this section does not apply to slots obtained under § 93.225 of this part during:

(1) The first 90 days after they are allocated to a new entrant carrier; or

(2) The first 60 days after they are allocated to a limited incumbent or other incumbent carrier.

(c) Paragraph (a) of this section does not apply to slots of an operator forced by a strike to cease operations using those slots.

(d) In the case of a carrier that files for protection under the Federal bankruptcy laws and has not received a Notice of Withdrawal from the FAA for the subject slot or slots, paragraph (a) of this section does not apply:

(1) During a period after the initial petition in bankruptcy, to any slot held or operated by that carrier, for:

(i) 60 days after the carrier files the initial petition in bankruptcy; and

(ii) 30 days after the carrier, in anticipation of transferring slots, submits information to a Federal government agency in connection with a statutory antitrust, economic impact, or similar review of the transfer, provided that the information is submitted more than 30 days after filing the initial petition in bankruptcy, and provided further that any slot to be transferred has
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not become subject to withdrawal under any other provision of this § 93.227; and

(2) During a period after a carrier ceases operations at an airport, to any slot held or operated by that carrier at that airport, for:

(i) 30 days after the carrier ceases operations at that airport, provided that the slot has not become subject to withdrawal under any other provision of this § 93.227; and

(ii) 30 days after the parties to a proposed transfer of any such slot comply with requests for additional information by a Federal government agency in connection with an antitrust, economic impact, or similar investigation of the transfer, provided that—

(A) The original notice of the transfer is filed with the Federal agency within 30 days after the carrier ceases operation at the airport;

(B) The request for additional information is made within 10 days of the filing of the notice by the carrier;

(C) The carrier submits the additional information to the Federal agency within 15 days of the request by such agency; and

(D) Any slot to be transferred has not become subject to withdrawal under any other provision of this § 93.227.

(e) Persons having slots withdrawn pursuant to paragraph (a) of this section must cease all use of those slots upon receipt of notice from the FAA.

(f) Persons holding slots but not using them pursuant to the provisions of paragraphs (b), (c) and (d) may lease those slots for use by others. A slot obtained in a lottery may not be leased after the expiration of the applicable time period specified in paragraph (b) of this section unless it has been operated for a 2-month period at least 65 percent of the time by the operator which obtained it in the lottery.

(g) This section does not apply to slots used for the operations described in § 93.217(a)(1) except that a U.S. air carrier or commuter operator required to file a report under paragraph (i) of this section shall include all slots operated at the airport, including slots described in § 93.217(a)(1).

(h) Within 30 days after an operator files for protection under the Federal bankruptcy laws, the FAA shall recall any slots of that operator, if—(1) the slots were formerly used for essential air service and (2) the Office of the Secretary of Transportation determines those slots are required to provide substitute essential air service to or from the same points.

(i) Every air carrier and commuter operator or other person holding a slot at a high density airport shall, within 14 days after the last day of the 2-month period beginning January 1, 1986, and every 2 months thereafter, forward, in writing, to the address identified in § 93.221(a)(1), a list of all slots held by the air carrier, commuter operator or other person along with a listing of which air carrier or commuter operator actually operated the slot for each day of the 2-month period. The report shall identify the flight number for which the slot was used and the equipment used, and shall identify the flight as an arrival or departure. The report shall identify any common ownership or control of, by, or with any other carrier as defined in § 93.213(c) of this subpart. The report shall be signed by a senior official of the air carrier or commuter operator. If the slot is held by an “other person,” the report must be signed by an official representative.

(j) The Chief Counsel of the FAA may waive the requirements of paragraph (a) of this section in the event of a highly unusual and unpredictable condition which is beyond the control of the slot-holder and which exists for a period of 9 or more days. Examples of conditions which could justify waiver under this paragraph are weather conditions which result in the restricted operation of an airport for an extended period of time or the grounding of an aircraft type.

(k) The Chief Counsel of the FAA may, upon request, grant a waiver from the requirements of paragraph (a) of this section for a slot used for the domestic segment of an intercontinental all-cargo flight. To qualify for a waiver, a carrier must operate the slot a substantial percentage of the time and must return the slot to the FAA in advance for the time periods it will not be used.

(l) The FAA will treat as used any slot held by a carrier at a High Density
§ 93.303 Definitions.

For the purposes of this subpart:

Allocation means authorization to conduct a commercial air tour in the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA). Lat. Commercial air tour means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour include, but are not limited to—

1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;