

OPERATIONS OF AIRCRAFT WITHOUT ADS-B OUT AT CAPACITY-CONSTRAINED U.S. AIRPORTS

Purpose: To describe FAA Air Traffic policy for aircraft operations without Automatic Dependent Surveillance-Broadcast Out (ADS-B Out) at capacity-constrained U.S. airports.

Background: Pursuant to 14 CFR § 91.225 and § 91.227, when operating in the airspace defined in § 91.225, an aircraft must:

(1) Meet the performance requirements in TSO-C166b, Extended Squitter Automatic Dependent Surveillance-Broadcast (ADS-B) and Traffic Information Service-Broadcast (TIS-B) Equipment Operating on the Radio Frequency of 1090 Megahertz (MHz); or

(2) Meet the performance requirements in TSO-C154c, Universal Access Transceiver (UAT) Automatic Dependent Surveillance-Broadcast (ADS-B) Equipment Operating on the Frequency of 978 MHz; and,

(3) Meet the requirements of § 91.227.

14 CFR § 91.225 contains a provision by which aircraft operators can request an ATC authorized deviation from those requirements. On April 1, 2019, the FAA published a Federal Register Notice (FRN), *Statement of Policy for Authorizations to Operators of Aircraft That are Not Equipped With Automatic Dependent Surveillance-Broadcast (ADS-B) Out Equipment*.

(<https://www.regulations.gov/document?D=FAA-2019-0239-0001>). In that FRN, the FAA noted, in part:

“The ADS-B Out final rule contemplated that those operators with a need to operate regularly in airspace where ADS-B Out is required would equip, and that an exception for per-operation authorizations was designed to accommodate unforeseen or rare circumstances.”

“The preamble to the final rule made it apparent that no operator is guaranteed an ATC authorization to deviate from ADS-B Out equipage requirements. Because ATC may not be able to grant every authorization request, it would be detrimental for an operator to make its scheduled operations into ADS-B Out airspace dependent solely on obtaining an ATC authorization to deviate from the equipage requirements of § 91.225. Relying solely on an ATC authorization—which may not be granted—to operate a non-equipped aircraft in ADS-B Out airspace would put the operator’s scheduled operations in jeopardy.”

“(W)hile a scheduled operator may request a deviation from the ADS-B Out equipage requirements on a per-operation basis in accordance with § 91.225(g), it is unlikely that the FAA will issue repeated authorizations to deviate from ADS-B Out equipage requirements. Accordingly, operators who conduct routine and regular operations into ADS-B Out airspace should be taking the necessary steps to equip their aircraft with ADS-B Out equipment to ensure their scheduled operations are not disrupted.”

“Under the rule, the FAA determined that, to the maximum extent possible, operators of equipped aircraft should not be penalized or have their ATC services affected by operators who choose not to equip their aircraft with ADS-B Out equipment. Therefore, under the policy, ATC will make determinations as necessary to ensure equipped operators are not adversely impacted and that efficiency of operations is maintained.

Consistent with this principle, it will be difficult for unscheduled operators conducting operations at capacity-constrained airports to obtain authorizations.”

“(Capacity-constrained) airports are where demand is consistently at 85% capacity or greater, and operations are often constrained. For that reason, it is far more likely that the FAA will deny rather than issue authorization requests from unscheduled operators to operate nonequipped aircraft at these airports.”

a. Applicability. This Notice applies to civil operators of aircraft not equipped with ADS-B Out in accordance with 14 CFR § 91.225 and who are requesting an ATC authorized deviation from those regulatory requirements to operate into or out of a capacity-constrained airport.

b. Exclusion. This Notice does not apply to U.S. Federal, State and local government aircraft flight operations, inclusive of special flights contracted by U.S. Federal, State or local governments, when the aircraft is performing a sensitive government mission for national defense, homeland security, intelligence or law enforcement purposes. Those aircraft operators must contact their own agency for questions regarding FAA authorized mission accommodations.

c. Capacity-Constrained Airports. Based on FAA’s current analysis, this includes the following airports:

1. Boston Logan International Airport (BOS)
2. Charlotte Douglas International Airport (CLT)
3. Chicago O’Hare International Airport (ORD)
4. Dallas/Fort Worth International Airport (DFW)
5. Hartsfield–Jackson Atlanta International Airport (ATL)
6. John F. Kennedy International Airport (JFK)
7. LaGuardia Airport (LGA)
8. Los Angeles International Airport (LAX)
9. McCarran International Airport (LAS)
10. Philadelphia International Airport (PHL)
11. Ronald Reagan Washington National Airport (DCA)
12. San Diego International Airport (SAN)
13. San Francisco International Airport (SFO)
14. Seattle–Tacoma International Airport (SEA)
15. Newark International Airport (EWR)¹

A Notice to Airman (NOTAM) will be issued at these airports advising that operators should not expect authorizations from ATC per this notice during peak hours, typically 0600–2200 local time. This time-of-day policy applies only to those airports defined as capacity-constrained, as listed above. ATC authorization requests into or out of other airports located in the Class B airspace or Mode C Veil associated with the capacity-constrained airport, or to transit that airspace, will be evaluated individually.

This notice does not negate existing airport Noise Abatement Procedures. Any shifts in traffic must be commensurate with existing noise abatement procedures at these airports.

¹ Note: Newark International Airport (EWR) was inadvertently omitted in the April 1 Federal Register Notice Policy; however, it is a capacity-constrained airport.