



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Issued by the Department of Transportation
on the 14th day of December, 2016**

American Airlines, Inc.

**Violations of 14 CFR Part 259 and
49 U.S.C. §§ 41712 and 42301**

Docket OST 2016-0002

Served December 14, 2016

CONSENT ORDER

This consent order concerns violations by American Airlines, Inc. (American Airlines) of 14 CFR 259.4 (the Department's tarmac delay rule), 49 U.S.C. § 41712 (prohibition against unfair and deceptive practices), and 49 U.S.C. § 42301 (requirement to adhere to a carrier's tarmac delay contingency plan). American Airlines failed to adhere to the assurances in its contingency plan for lengthy tarmac delays for twenty domestic flights at Charlotte International Airport (CLT) on February 16, 2013,¹ six domestic flights at Dallas/Fort Worth International Airport (DFW) on February 27, 2015,² and one domestic flight at Shreveport Regional Airport (SHV) on October 22, 2015. Specifically, the carrier permitted the flights to remain on the tarmac for more than three hours without providing passengers an opportunity to deplane. This order directs American Airlines to cease and desist from future similar violations of Part 259 and sections 41712 and 42301 and assesses American Airlines \$1.6 million in civil penalties.³

¹ At the time of the incident US Airways, American Airlines predecessor in interest, was the major carrier operating at CLT. Several of the flights at issue were operated by other carriers doing business as US Airways Express under code-share agreements with US Airways. The affiliated carriers were: PSA Airlines (PSA), Piedmont Airlines (Piedmont), Air Wisconsin Airlines (Air Wisconsin), Mesa Air Group (Mesa), and Chautauqua Airlines (Chautauqua). Subsequent to the incident at issue at CLT on February 13, 2013, American Airlines merged with US Airways and, as successor in interest of US Airways, has accepted liability for all flights which experienced lengthy tarmac delays at CLT on that date.

² Two of the flights (AA3393 and AA3635) that experienced tarmac delays on February 27, 2015, were operated by Envoy Air Inc., a wholly owned subsidiary of American Airlines, Inc. American Airlines is the responsible carrier for purposes of this consent order.

³ In addition to the flights listed in this order, there were 19 additional domestic flights which experienced tarmac delays in excess of three hours: 14 flights at CLT on February 13, 2013, and 5 flights at DFW on February 27, 2015. The Department has determined that these flights were not violations of the tarmac delay rule because either (1) there

I. Applicable Law

Section 415 of the FAA Modernization and Reform Act of 2012 (the Act), codified at 49 U.S.C. § 42301, requires each U.S. carrier to develop a tarmac delay contingency plan for each U.S. airport it serves and to adhere to its respective plans, 49 U.S.C. § 42301(b),(e). In addition, under 14 CFR 259.4, certificated and commuter air carriers that operate scheduled passenger service or public charter service using any aircraft with a design capacity of 30 or more passenger seats are required to adopt, implement, and adhere to contingency plans for lengthy tarmac delays at each large hub, medium hub, small hub, and non-hub U.S. airport at which they operate or market scheduled or public charter air service. For domestic flights, which are at issue here, the rule requires covered U.S. carriers to provide assurances in their contingency plans that they will not permit an aircraft to remain on the tarmac for more than three hours without providing passengers an opportunity to deplane, with the following exceptions: (1) where the pilot-in-command determines that an aircraft cannot leave its position on the tarmac to deplane passengers due to a safety-related or security-related reason (e.g., weather, a directive from an appropriate government agency, etc.); or (2) where Air Traffic Control (ATC) advises the pilot-in-command that returning to the gate or another disembarkation point elsewhere in order to deplane passengers would significantly disrupt airport operations. For all covered flights delayed on the tarmac, carriers must provide adequate food and water no later than two hours after the aircraft leaves the gate (in the case of a departure) or touches down (in the case of an arrival), unless the pilot-in-command determines that safety or security requirements preclude such service. Carriers must also ensure that lavatory facilities are operable and medical attention is provided, if needed, while the aircraft remains on the tarmac. In addition, carriers must ensure that they have sufficient resources to carry out their contingency plans.

Under 14 CFR 259.4(a), each carrier must adhere to the tarmac delay contingency plan it adopts for each flight it operates or markets at each U.S. large, medium, small, and non-hub airport. Section 259.4(c) indicates which carrier's plan applies in the event of a code-share flight, i.e., a flight where one carrier markets and sells the air transportation but another carrier operates the flight. Section 259.4(c) states that the plan that applies to a code-share flight is the one of the carrier under whose code the service is marketed, unless the marketing carrier specifies in its contract of carriage that the operating carrier's plan governs. Responsibility to ensure adherence to the plan falls to both the marketing carrier, whose plan governs under section 259.4(c), unless specified otherwise, and the operating carrier, which must adhere to the applicable contingency plan on flights it operates and markets, under section 259.4(a).

An air carrier's failure to comply with assurances required by section 42301 or 259.4 and as contained in its contingency plan for lengthy tarmac delays constitutes an unfair and deceptive practice within the meaning of 49 U.S.C. § 41712. Because the purpose of section 259.4 is to protect individual passengers, in the case of domestic flights, from being forced to remain on an aircraft for more than three hours without the opportunity to deplane, the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) takes the position that a separate

was a safety or security related reason why the aircraft could not leave its position on the tarmac to deplane passengers, or (2) extenuating circumstances prohibited the carrier from deplaning passengers within three hours and enforcement action was not in the public interest for those particular flights.

violation occurs for each passenger who is forced to remain on board an aircraft for longer than the set amount of time without the opportunity to deplane. Pursuant to 49 U.S.C. § 46301, violations of 14 CFR Part 259 or 49 U.S.C. §§ 41712 and 42301 subjected a carrier to civil penalties of up to \$27,500 per violation at the time the incidents covered by this order occurred.⁴

II. February 16, 2013, Charlotte Lengthy Tarmac Delays

At the time of the incident, US Airways, Inc. (US Airways), American Airlines' predecessor in interest, was an air carrier as defined by 49 U.S.C. § 40102(a)(2)⁵ that operated scheduled service into and out of CLT, a large hub airport, using at least one aircraft having a design seating capacity of more than 30 passenger seats. US Airways adopted a contingency plan for lengthy tarmac delays covering its then US Airways and US Airways Express scheduled operations at CLT, which stipulated that for the carrier's domestic flights, customers would have the opportunity to deplane before the tarmac delay exceeds three hours. The plan addressed the pilot in command's responsibility to devise a plan to return to the gate in the event that an aircraft reaches the two-hour tarmac delay point, the responsibility of the Operations Control Center (OCC) and station management to advise each other of information that may cause conditions that could lead to long onboard delays, priority parking options at the gates for delayed aircraft, and the procedure for deplaning passengers at remote parking areas. Although US Airways had a plan at the time to address lengthy tarmac delays in place, the carrier's management of airport operations on February 16, 2013, was such that it did not adequately adhere to that plan. At the peak of the event, there were approximately 80 aircraft holding on movement areas at CLT. The Enforcement Office conducted an investigation and determined that fifteen inbound US Airways and US Airways Express flights and five outbound US Airways and US Airways Express flights violated the Department's tarmac delay rule and warrant enforcement action. In total, 860 passengers were onboard flights that violated the tarmac delay rule.

A. US Airways CLT Operations at the Time of the Incident

At the time of the incident, CLT was US Airways' largest hub and the overwhelming majority of the flights at CLT were operated as US Airways or US Airways Express. CLT has a total of four runways and five concourses. All but one of the concourses at CLT were used exclusively by US Airways for its operations. US Airways handled all non-FAA related ground movement to and

⁴ Under an amendment to 14 CFR 383.2 (see 81 FR 52763, August 10, 2016) and pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74; 117 Stat. 584, November 2, 2015), the maximum monetary civil penalty amount that may be assessed for violations covered by 49 U.S.C. 46301(a)(1)(A) or (B) increased from \$27,500 to \$32,140 for a person other than a small business or an individual and from \$11,000 to \$12,856 for a small business or an individual. The adjusted maximum civil penalty amount is effective and applies to all civil penalties assessed on or after August 1, 2016, for violations occurring before or after the effective date.

⁵ 49 U.S.C. §40102(a)(2) defines an air carrier as "a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation." As noted earlier, US Airways merged with American Airlines subsequent to the incident at issue here and American Airlines has accepted legal responsibility for the violations described in this order. As such, the historical description of the events that occurred on February 16, 2013, in § II.A-E of this order refer to the carrier as "US Airways."

from the runways and all gate operations for both US Airways and US Airways Express flights and managed the ramp tower operations for all traffic on the terminal ramp.⁶ Regarding de-icing, FAA air traffic control (ATC) coordinated de-icing operations with the airport authority and US Airways, but the carrier was ultimately responsible for the de-icing process.⁷ On February 16, 2013, US Airways used the three parallel runways for departing and arriving flights and the diagonal runway for de-icing operations.

B. Weather Issues and FAA Communications with Carrier

On February 16, 2013, the National Weather Service and other forecasters predicted that the Charlotte, North Carolina, metropolitan area would experience a minor snow storm. As the day progressed, the storm became larger than expected, and by 2:15 p.m.⁸ weather forecasters predicted that heavy snows would move into the area in the late afternoon causing freezing conditions after sunset. By 4:30 p.m. a band of wet and heavy snow moved into the area, along with thunderstorms, lightning strikes, and low visibility. At 5:06 p.m., the National Weather Service issued a special weather statement that a heavy snow band would impact the Charlotte metro area through 6:00 p.m., producing 1-2 inches of snow per hour.

The Enforcement Office's investigation revealed that by the time of the 2:15 p.m. weather forecasts, only two runways were open at CLT.⁹ As a result of the snow storm in Charlotte, at 3:27 p.m., the FAA issued the first of a series of ground stops,¹⁰ which reduced normal arrival rate at CLT from 60 arrivals an hour to zero. This ground stop was lifted at 4:01 p.m. Despite the ground stops issued by the FAA to reduce the number of flights into the airport and deteriorating weather conditions, US Airways did not adequately reduce its operations into CLT. While attempting to maintain its schedule, despite the deteriorating weather conditions, US Airways failed to maintain de-icing operations at a level necessary to sustain the scheduled departures. As the number of arriving aircraft on the ground at CLT significantly exceeded the number of aircraft that departed the gate area, arriving aircraft began to back-up onto taxiways, further impeding ground movement at the airport.

⁶ According to the CLT Airport De-icing Plan at the time of the incident, US Airways ramp tower coordinated with the airport authority, FAA, and other carriers to determine departure flow rate, assign departure times to all air carriers, evaluate and revise departure slots, and clear taxiing aircraft to departure spots.

⁷ At the time of the incident, US Airways hired a third-party contractor to conduct the actual de-icing.

⁸ Charlotte International Airport is in the Eastern Time Zone. All times for the February 23, 2013, event refer to Eastern Standard Time (EST).

⁹ One runway was closed for snow removal and the diagonal runway was set up for de-icing aircraft.

¹⁰ Ground stops are implemented to control air traffic volume to airports in which flights that are destined to the affected airport are held at their departure point for a period of time. They may be issued by a carrier or the FAA. They are tier-based and composed of a geographic area encircling the affected airport. A first-tier ground stop covers airports within a specified radius from the affected airport and a second-tier stop covers airports within an expanded radius from the affected airports.

At 4:34 p.m., as snowy conditions continued and a runway was closed for snow removal, the FAA instituted another ground stop to slow the arrival rate. That ground stop was not cancelled until 5:27 p.m. and thereafter, the FAA continued to maintain a slower than normal arrival rate per hour. Notwithstanding the deteriorating conditions, US Airways cancelled relatively few flights into and out of the airport. Meanwhile, between 6:30 p.m. and 11:10 p.m., a series of telephone calls took place between FAA and US Airways' personnel at CLT to discuss the worsening situation. For example, around 6:30 p.m., FAA personnel contacted what was then the US Airways' ramp tower to discuss the potential congestion issues. Around 7:04 p.m., another discussion was held in which an FAA Front Line Manager (FLM) called the US Airways Command Center to discuss arriving flights that were backing up on taxiways. The FAA FLM noted that even though departing flights were going to de-icing stations, arrivals were not able to taxi into the ramp. At that time, US Airways advised that it was coordinating aircraft movement and agreed to institute a first-tier ground stop for its aircraft destined for CLT. At 7:19 p.m., US Airways briefly expanded that ground stop to all aircraft destined for CLT. Around this time, the FAA again expressed concern about aircraft not entering the ramp in a timely fashion because of the backup of aircraft on the taxiways leading to the ramp. Meanwhile, according to reports about weather conditions on that day, the snow stopped around 7:36 p.m., but the temperatures dropped below freezing and slush began turning to ice.

At approximately 8:20 p.m., the FAA advised US Airways that the problems US Airways was experiencing with its de-icing operations were impacting the FAA's ability to move aircraft and that approximately 60 aircraft were on the ground trying to either reach a gate or depart. At 8:48 p.m., the FAA issued first-tier ground stop and at 9:10 p.m. FAA personnel advised the US Airways Command Center that the airport was approaching grid lock and could not take any more flights and a second-tier ground stop would be instituted. The US Airways ramp tower then advised the FAA that they were changing the de-icing process, which would reduce the amount of time required to de-ice departing aircraft. As a result, the FAA released second tier operations from the ground stop. The first-tier ground stop remained in effect but was eventually modified after the de-icing process was changed to become more efficient.

C. Departing Flights

On February 16, 2013, due to the impact of the weather on the airport, US Airways held some departing aircraft at the gates and those aircraft were still at the gates when the next bank of arrivals reached the terminal ramp entry points. As the new bank of flights arrived, a number of US Airways Express aircraft that had been sent to the de-icing pads just prior to the heavy snow timed out because of fuel requirements, crew limitations, or needing to be de-iced more than once. Those express flights were required to return to the ramps or the de-icing pads. When US Airways personnel began pushing additional aircraft off the gates to de-icing pads, the de-icing stations were unable to handle the volume of traffic at a rate that would keep the traffic from backing up into the ramp. As US Airways directed more aircraft to the de-icing pads than the facilities could handle, aircraft backed up on and around the terminal ramp, which in turn prevented arriving aircraft from entering the ramp area to deplane. The Enforcement Office's investigation determined that five departing flights experienced lengthy tarmac delays in violation of the tarmac delay rule. All of these flights had reached or exceeded the three-hour delay mark by the time they departed the de-icing pad for take-off or to return to a gate.

D. Arriving Flights

As inbound flights landed at CLT, access to the ramp and gates was already impeded by the slow de-icing queues, departing aircraft held at the gate, and terminating aircraft in the ramp area that had been removed from gates to accommodate arrivals. In addition, multiple arriving flights were forced to idle on the tarmac which compounded the congestion and further contributed to delays in flights reaching the gate. Several of the arriving flights that experienced lengthy tarmac delays had flight times under two hours and were released for departure to CLT after the snow storm began and while CLT was already severely congested. US Airways was aware of the situation at CLT at the time the flights destined for CLT departed, yet released those flights from their originating airport anyway. Moreover, despite being aware of the congested conditions at CLT, US Airways permitted these flights to land at CLT instead of diverting them to other airports to allow CLT to work on reducing the congestion on the airfield.

The Enforcement Office determined that fifteen flights arriving at CLT experienced delays on the tarmac for more than 3 hours and are violations of the tarmac delay rule.

E. Conclusion

In conclusion, US Airways failed to adequately adjust its operations in response to the snowstorm and resulting airfield congestion at CLT. In particular, even though the FAA initiated a number of ground stops because of the weather and the need to slow down traffic to the airport, US Airways failed to properly assess the situation in time to take preventative measures. More specifically, it did not sufficiently delay or cancel departing flights so as to allow de-icing operations to keep pace with departures. Nor did US Airways delay, divert, or cancel a sufficient number of flights scheduled to arrive at CLT, even though it was aware of the conditions at CLT, to allow the airport to recover and reduce the probability of flights experiencing long tarmac delays.

Although the Enforcement Office recognizes that challenging weather conditions and operational circumstances existed on the day in question, the purpose of 14 CFR 259.4 is to require carriers to plan for various contingencies including weather-related events. Additionally, the Enforcement Office does not see the situation at CLT on February 16, 2013, as so unique it went beyond the planning capabilities of the carrier, particularly as the carrier operated the majority of flights into and out of CLT and the carrier's ramp tower controlled incoming and outgoing flights on the ground when the flights were in the non-movement areas of the airfield. The carrier failed to effectively manage arriving and departing aircraft and the movement of aircraft to and from the gates in order to deplane passengers in a timely manner. These actions caused a significant number of passengers on twenty aircraft at CLT to remain on the tarmac in excess of three hours without the opportunity to deplane.

III. February 27, 2015, Dallas/Fort Worth Lengthy Tarmac Delays

American Airlines is an air carrier as defined by 49 U.S.C. § 40102(a)(2). It operates scheduled service into and out of DFW, a large hub airport, using at least one aircraft having a design seating capacity of more than 30 passenger seats. American Airlines has adopted a contingency plan for lengthy tarmac delays covering scheduled operations at DFW, which stipulates that for the carrier's domestic flights, customers will have the opportunity to deplane before a tarmac delay exceeds three hours. The plan addressed the pilot in command's responsibility to work with the controlling dispatcher in the event that an aircraft reaches the two-hour tarmac delay point and to evaluate the delay situation (and devise a plan to return to a gate or remote location) to ensure that passengers have the opportunity to deplane. According to the contingency plan, during an unanticipated extended onboard delay, the Captain should contact the controlling dispatcher, the Passenger Advocate in the Operations Control Center (OCC), the Integrated Operations Center (IOC), and local station personnel to discuss viable options for returning to the gate or deplaning at a remote parking location. Although American Airlines had a tarmac delay contingency plan in place at the time of the flight delays, the carrier did not adhere to the relevant portions of the plan meant to prevent extended tarmac delays. As a result, passengers onboard American Flights 3393, 3635, 157, 1095, 372, and 125 experienced a tarmac delay in excess of three hours on February 27, 2015. The Enforcement Office conducted an investigation and determined that the delays violated the Department's tarmac delay rule and warrant enforcement action.

A. American Airlines' DFW Operations and Preparation

At the time of the incident, DFW was American Airlines' largest hub and the overwhelming majority of the flights into and out of the airport were operated by American Airlines. DFW has seven runways and five passenger terminals. Of the five terminals, three terminals are used exclusively by either American Airlines or American Eagle, while American Airlines and American Eagle together operate out of four of the five terminals. In anticipation of a weather event on February 27, 2015, at DFW, American Airlines coordinated a series of conference calls among the carrier's station management, operations center, and regional partners. On the morning of the weather event, American Airlines implemented its Enhanced Company Arrival Control program (ECAC), which de-peaked arrivals to spread them out throughout the day to avoid congestion at the airport. At approximately 12:00 p.m.,¹¹ in anticipation of worsening conditions and an increase in taxi times for aircraft leaving DFW, American Airlines cancelled 129 mainline operations and implemented a ground stop for mainline flights at 1:48 p.m., which remained in effect until 6:30 p.m. After implementing the ground stop, American Airlines cancelled an additional 273 mainline flights between 2:00 p.m. and 4:00 p.m.

Envoy Air Inc. (Envoy),¹² a wholly owned subsidiary of American Airlines, also had flights which it operated under American's code that experienced lengthy tarmac delays at DFW on February

¹¹ Dallas/Fort Worth International Airport is in the Central Time Zone. All times for the February 27, 2015, event refer to Central Standard Time (CST).

¹² Envoy is an air carrier as defined by 49 U.S.C. § 40102(a)(2) that operates scheduled service into and out of DFW, a large hub airport, using at least one aircraft having a design seating capacity of more than 30 passenger seats.

27, 2015. Envoy prepared for the weather by holding conference calls with American Airlines' station management, American's operations center, and with American's other regional carrier partners. Envoy also held conference calls throughout the weather event and reduced its scheduled operations as the weather event progressed. At 10:09 a.m., Envoy implemented its Enhanced Company Arrival Control program (ECAC) for all regional flights arriving at DFW after 11:55 a.m. In addition to cancelling a number of flights, at 12:44 p.m. Envoy implemented a ground stop for all scheduled regional arrivals at DFW, which was scheduled to remain in place until 4:30 p.m.

B. Weather Issues and De-icing Operations at DFW

On February 26, 2015, at 3:30 p.m., the National Weather Service (NWS) predicted that in the Dallas/Fort Worth area on February 27, 2015, there was a 50 percent chance of snow with accumulation of up to one inch with a chance of light freezing rain in the evening. As of 3:50 a.m. on February 27th, the NWS predicted that there was a 50% chance of snow up to one inch during the day and a likelihood of snow with a chance of freezing rain in the evening. That day light snow began falling in the Dallas Forth/Worth area by 8:53 a.m., which turned into heavier snowfall by 10:53 a.m. At 11:53 a.m., the NWS recorded heavy snowfall in the Dallas Forth/Worth area and by 12:16 p.m. issued a Winter Weather Advisory effective until 6:00 p.m. on February 28, 2016. The NWS Winter Weather Advisory also indicated that snow accumulation could reach two inches during the day with freezing rain and a likelihood of more snow in the evening. The Dallas Fort/Worth area continued to receive snow steadily throughout the day, which eventually turned into freezing rain.

At DFW, American Airlines operates its own de-icing trucks and controls de-icing operations for American Airlines aircraft. American Airlines de-ices aircraft at DFW in three separate locations: 1) the Southwest Hold Pad, 2) the Southeast Hold Pad, and 3) Taxiway EK. Under normal operations each of these three de-icing locations are equipped with de-icing fluid storage tanks so that de-icing trucks do not have to travel a long distance to refill their tanks. On February 27, 2015, the de-icing fluid storage tank at Taxiway EK was contaminated and unusable, forcing de-icing trucks operating at this location to drive to the Southeast Hold Pad to refill their empty tanks.¹³ American Airlines began de-icing aircraft at 9:00 a.m. on February 27th using Type I de-icing fluid. As the weather conditions at the airport progressed, American Airlines began using both Type I and Type IV fluids to de-ice planes, which increased the de-icing time for each aircraft and eventually led to congested de-icing lines.

Envoy operates its own de-icing trucks during weather events at DFW for use for flights it operates including flights it operates under American's code. On February 27, 2015, Envoy de-iced aircraft at the Northeast Hold Pad, which does not have a de-icing fluid storage tank to refill empty de-icing trucks. Accordingly, when Envoy's de-icing trucks are empty while operating on the Northeast Hold Pad, they must drive to the storage tank located at Taxiway EK to refill the trucks before returning to the Northeast Hold Pad; however, the storage tank located at Taxiway EK

¹³ According to American Airlines, the contaminated and unusable de-icing fluid storage tank at Taxiway EK did not hinder de-icing operations.

became contaminated sometime before February 27th and was unusable on the day of the weather event. Due to the contamination of the storage tank, Envoy's de-icing trucks were forced to drive to the Southeast Hold Pad to refill their tanks, which was farther than the storage tank located on Taxiway EK.

C. American Airlines Flights that Incurred Lengthy Tarmac Delays at DFW

On February 27, 2015, six American Airlines flights (1095, 157, 372, 125, 3393, and 3635) experienced tarmac delays in excess of three hours at DFW due to the weather event and resultant de-icing procedures. American Airlines was the operating carrier for Flights 1095, 157, 372, and 125. All four of these outbound American flights had almost reached or exceeded the three hour tarmac delay mark by the time they departed the deicing pad for takeoff or began the process of returning to the gate. Envoy was the operating carrier of American Airlines flights 3393 and 3635. For the purposes of this consent order, American has accepted liability for these flights as the flights carried its code. Outbound American flights 3393 and 3635 started the deicing process after being on the tarmac for well over two hours with no means of completing the deicing process in less than three hours. Details about each of these six flights are provided below.

Flights 1095 and 157 experienced tarmac delays at roughly the same times on February 27, 2015. The doors closed to Flight 1095 and the aircraft pushed back from the gate at 1:34 p.m. The doors to Flight 157 closed and the aircraft pushed back from the gate at 1:32 p.m. Both flights pushed back from the gate approximately an hour and a half after heavy snowfall was recorded by the NWS. Using Taxiway F, Flight 1095 spent 2 hours and 20 minutes taxiing to the Southwest Hold Pad for de-icing, arriving at 3:54 p.m. Flight 157, also using Taxiway F, spent 1 hour and 54 minutes taxiing to the Southwest Hold Pad for de-icing, arriving at 3:26 p.m. While on the de-icing pad, Flights 1095 and 157 received both Type I and Type IV de-icing fluid due to the heavy snow that already began to fall at DFW. During the de-icing process, both the Captain and First Officer of Flight 1095 realized that they could not complete the flight within their extended Flight Duty Periods and elected to return to the gate following de-icing. During the same period, Flight 157's First Officer realized that he could not complete the flight within the extended Flight Duty Periods and Flight 157 elected to return to the gate following de-icing. Flight 1095 did not clear the de-icing pad until 4:32 p.m., 2 hours and 58 minutes into the tarmac delay, leaving it only two minutes to either taxi and takeoff or provide passengers with the opportunity to deplane before violating the tarmac delay rule. Ground Control cleared Flight 157 off of the de-icing pad at 3:49 p.m., 2 hours and 17 minutes into the tarmac delay, leaving it 43 minutes to either taxi and takeoff or provide passengers with the opportunity to deplane before violating the tarmac delay rule. Flight 1095 took twenty-five minutes to taxi back to the gate before providing passengers with the opportunity to deplane resulting in a 3 hour and 23 minute extended tarmac delay before the flight was cancelled. Flight 157 spent 60 minutes taxiing back to the gate before providing passengers with the opportunity to deplane resulting in a 3 hour and 17 minute extended tarmac delay before the flight was cancelled.

The doors to Flight 372 closed and the aircraft pushed back from the gate at 4:38 p.m., approximately four hours after heavy snowfall was recorded at DFW. Using Taxiway F, Flight 372 spent 1 hour and 36 minutes taxiing to the Southwest Hold Pad, arriving at 6:14 p.m. While on the de-icing pad, Flight 372 received both Type I and Type IV de-icing fluid due to heavy

snowfall. During the de-icing process, the Captain and First Officer realized that they could not complete the flight within their extended Flight Duty Periods and elected to return to the gate following de-icing. Flight 372 cleared the de-icing pad at 7:31 p.m., 2 hours and 53 minutes into the tarmac delay, leaving it seven minutes to either taxi and takeoff or provide passengers with the opportunity to deplane before violating the tarmac delay rule. Flight 372 spent 17 minutes taxiing back to the gate before providing passengers with the opportunity to deplane resulting in a 3 hour and 10 minute extended tarmac delay before the flight was cancelled.

The doors to Flight 125 closed and the aircraft pushed back from the gate at 4:30 p.m., approximately four hours after heavy snowfall was recorded at DFW. Using Taxiway F, Flight 125 spent 2 hours and 17 minutes taxiing to the Southwest Hold Pad, arriving at 6:47 p.m. While on the de-icing pad, Flight 125 received both Type I and Type IV de-icing fluid due to the heavy snowfall at DFW. During the de-icing process, the truck applying de-icing fluid to the aircraft ran out of fluid and had to be replaced by a second truck, which broke down while attempting to de-ice flight 125. Accordingly, a third de-icing truck was used to complete the de-icing process, which concluded 3 hours and 25 minutes into the tarmac delay at 7:55 p.m. Flight 125 cleared off of the de-icing pad at 8:12 p.m. and departed at 8:15 p.m. after experiencing a 3 hour and 45 minute tarmac delay.

Flight 3393 closed its doors to taxi to the de-icing line at 10:32 a.m., while Flight 3635 closed its doors and began to taxi to the de-icing line at 10:49am. The de-icing process for Flight 3393 did not start until 1:01 p.m., 2 hours and 29 minutes into the tarmac delay. Similarly, the de-icing process for Flight 3635 did not start until 1:07 p.m., 2 hours and 18 minutes into the tarmac delay. While de-icing both flights, Envoy/American decided to stop the de-icing process and return both flights to gate locations after determining that these flights were likely to violate the tarmac delay rule if the de-icing process continued. Ground Control cleared Flight 3393 from the de-icing pad at 1:20 p.m. leaving it 12 minutes to taxi to a location where passengers would have the opportunity to safely deplane the aircraft. Flight 3393 then spent 25 minutes taxiing back to an open gate before passengers were given the opportunity to deplane, which resulted in an extended tarmac delay of 3 hours and 13 minutes. Flight 3635 stopped the de-icing process before completion at 1:17 p.m. after Envoy/ American determined that the flight should return to the gate. At this time, Flight 3635 was 2 hours and 28 minutes into the tarmac delay and received a priority clearance to a gate location. Ground Control cleared Flight 3635 off of the de-icing pad at 1:45 p.m., leaving it 4 minutes to taxi to a location where passengers would have the opportunity to safely deplane the aircraft. Flight 3635 arrived at a gate location at 2:05 p.m. when passengers were provided with the opportunity to deplane the aircraft resulting in a 3 hour and 16 minute extended tarmac delay.

D. Conclusion

In conclusion, American Airlines did not adequately adjust its operations in response to the heavy snow and freezing rain that impacted operations at DFW on February 27, 2015. Despite American Airlines' preparations in the days leading up to the weather event, the carrier did not adequately prepare for the situation and failed to take appropriate measures to prevent multiple extended tarmac delays at a major airport. Specifically, American Airlines failed to adequately reschedule a sufficient amount of departing flights to allow de-icing operations to successfully prepare aircraft

to depart DFW before experiencing an extended tarmac delay. American did not effectively manage de-icing operations and failed to take flight duty requirements into account when facing congested de-icing lines. Instead, American Airlines sent flights to congested de-icing lines where these flights had a high chance of experiencing an extended tarmac delay or while flight crews operating these flights were in danger of not completing the flight within their extended Flight Duty Periods due to the congested de-icing lines. These actions caused a significant number of passengers on six aircraft to remain on the tarmac in excess of three hours without the opportunity to deplane.

IV. October 22, 2015, Shreveport Lengthy Tarmac Delay

American Airlines has adopted a contingency plan for lengthy tarmac delays covering scheduled operations at Shreveport Regional Airport (SHV), which stipulates that for the carrier's domestic flights, customers will have the opportunity to deplane before a tarmac delay exceeds three hours. The plan addressed the pilot in command's responsibility to work with the controlling dispatcher, in the event that an aircraft reaches the two hour tarmac delay point, to evaluate the delay situation, and devise a plan to return to a gate or remote location to ensure that passengers have the opportunity to deplane. According to the contingency plan, during an unanticipated extended onboard delay, the Captain should contact the controlling dispatcher, the Passenger Advocate in the Operations Control Center (OCC), the Integrated Operations Center (IOC), and local station personnel to discuss viable options for returning to the gate or deplaning at a remote parking location. Although American Airlines had a tarmac delay contingency plan in place at the time of the flight delays, the carrier did not adhere to the relevant portions of the plan meant to prevent extended tarmac delays. As a result, Flight 1382 experienced a tarmac delay in excess of three hours on October 22, 2015. The Enforcement Office conducted an investigation and determined that the delay violated the Department's tarmac delay rule and warrants enforcement action.

On October 22, 2015, DFW Airport was experiencing thunderstorms, which caused thirteen American Airlines flights to divert to SHV to avoid landing in inclement weather. During this series of diversions, American Airlines Flight 1382 experienced an extended tarmac delay and failed to successfully deplane passengers onboard Flight 1382 before the three hour mark. American Airlines' failure to deplane passengers before the three hour mark was, at least partially, due to the mismanagement of personnel and resources. In total, 131 passengers onboard Flight 1382 experienced a tarmac delay of 3 hours and 37 minutes before the deplaning process began.¹⁴

V. Response of American Airlines

In response, American Airlines states¹⁵ that it takes very seriously its responsibility to comply with all of the Department's requirements, including the tarmac delay rule. American also notes that it

¹⁴ American Airlines used a single airport bus to deplane passengers on Flight 1382. The last group of passengers did not deplane the aircraft until 2:00am CST, 4 hours and 41 minutes into the tarmac delay.

¹⁵ The statements made in Section V of this Consent Order reflect only the opinions of American Airlines with regard to the lengthy tarmac delay events described herein and do not reflect the views or conclusions of the Department.

fully cooperated with the Department’s investigation of the flights at issue. In mitigation, and without conceding the Department’s recitation of facts or findings, American states as follows.

Regarding the February 16, 2013 tarmac delays at CLT, American states that CLT was a very important east-coast hub for US Airways, and many passengers were passing through it en route to their final destinations on a holiday weekend. US Airways cancelled nearly 200 CLT-bound flights due to the poor weather conditions, and another nearly 200 flights that were delayed on the ground in CLT did *not* experience a delay exceeding three hours, largely the result of US Airways’ proactive management of a difficult situation. US Airways deeply regretted that certain flights experienced delays over three hours. However, American believes that diverting those aircraft to surrounding regional airports would have been ill-advised. American asserts that diversions may have created gridlock at those airports, and risked the flight crews “timing out” of their allowable duty day. This could have stranded passengers overnight in small airports with no way of quickly continuing to their final destinations. It is the opinion of American that US Airways’ decision to bring aircraft into CLT was the best result possible in this unexpected and difficult situation, as evidenced by the fact that all affected passengers were en route to their final destinations before noon the next day.

American also notes that US Airways proactively provided significant compensation worth over \$1.3 million in vouchers good for future travel and redeemable airline miles to passengers impacted by the delays at CLT without Department intervention. American further notes that it has to date spent \$1.27 million on capital investments at CLT for technology systems that allow it to better track aircraft movement on the ground.

American also notes that, throughout the day leading up to the storm, weather forecasts differed on the timing and intensity of the expected precipitation. At the time, US Airways relied on several different suppliers of weather data to support its operations at CLT, including the National Weather Service and third-party contractors. According to American for example, the National Weather Service’s 2:14 p.m. forecast predicted only “light snow” and “mist” while a contractor-supplied forecast at 2:15 p.m. called for heavy snow in the afternoon and freezing temperatures after sunset. In fact, the National Weather Service made no prediction of the “heavy thunderstorms and snow” that CLT experienced around 4:43 p.m. until after those weather conditions already existed (*i.e.*, it was a hindcast, not a forecast). According to American, the National Weather Service’s forecast partially impacted de-icing time, because the type of de-icing fluid selected to fill the de-icing trucks that day was based on the weather forecast, and valuable time was consumed changing to a different fluid type in the trucks. Moreover, US Airways offered a number of potentially proactive solutions to FAA to avoid and to mitigate the airfield gridlock, but FAA did not accept US Airways’ proposed solutions.

* * *

With regard to the DFW delays, the forecast at DFW on February 27, 2015, never achieved a high level of confidence. Less than one hour before snow began falling, the National Weather Service forecast up to 1.5 inches of dry snow (*i.e.*, light, powdery, and easily removed from aircraft). At 10:00 am – after falling snow could already be observed on the airfield – the forecast called for a 100 percent chance of snow until 3 p.m., which was heavy and wet snow that lasted longer than predicted.

American began preparing for this weather several days in advance, with a series of conference calls between station management, American's operations center, and Envoy. Conference calls continued to occur throughout the entire weather event. American's preparations leading up to the weather event included planning for the possible cancellation of American and Envoy flights.¹⁶ Ultimately, American and its regional partners operated less than half of their departures scheduled after 9:00 a.m., while arrivals began declining from scheduled levels at 9:00 a.m. and continued to decline throughout the day. All told, American and Envoy cancelled seven hundred forty-two flights in preparation for the inclement weather, and regret that they experienced a delay in excess of three hours with respect to some flights.

American's preparations also included ensuring it had sufficient deicing equipment, with the right type of deicing fluid. However, the National Weather Service's forecast impacted American's preparations. The heavier, wetter snow required aircraft to receive Type IV deicing fluid in addition to the Type I which would have been sufficient for the dry snow that was forecast. Similarly, the time it took for aircraft to return to a gate was lengthened, because any aircraft receiving Type IV, had to have it rinsed off before taxiing to a gate.¹⁷ Indeed, this directly affected four of the delayed flights at DFW.

During the snow event, there were several instances in which FAA Ground Control, despite American's requests for priority handling, took longer than American expected to clear flights off of the deicing pads.

Multiple unforeseen ground equipment failures also contributed to the tarmac delays. In one case, a deicing truck that broke down made it unsafe for one aircraft to move, and blocked one of the available deicing lanes. This reduced deicing capacity and increased deicing wait times for other flights. Finally, American notes that it proactively provided compensation to delayed passengers on the DFW event flights without Department intervention.

* * *

With regard to the delay at SHV, American states that of the thirteen flights that diverted from DFW to SHV, only one experienced a delay of more than three hours in deplaning passengers, and a number of factors resulted in that delay. A different flight, which landed at SHV after Flight 1382, had a passenger with a medical issue, which took priority attention by station personnel. A mechanical issue on the Flight 1382 aircraft prevented the use of the aircraft's stairs to facilitate earlier passenger deplaning. Finally, the fact that only a single airport owned bus was available for remoted deplaning of passengers delayed the time at which passengers could begin deplaning Flight 1382. Had any of these factors not been present, deplaning would have occurred earlier. Finally, American states that it provided compensation to passengers on Flight 1382.

¹⁶ When weather forecasts are uncertain, it is in the interest of both the carrier and travelers to wait as long as possible to cancel flights. Too often, carriers have cancelled their operations at airports in advance of predicted winter weather, only to have blue skies and good operating conditions. This leaves passengers upset that their flight was cancelled, and confused as to the reasons why.

¹⁷ Type IV deicing fluid has a jelly-like consistency. Thus, any Type IV fluid on the ramp would be a slip-and-fall hazard for American's ground workers.

American believes that in light of the particular facts and circumstances noted above, enforcement action by the Department is not warranted. American notes that it respectfully disagrees with the Enforcement Office's view that a separate violation occurs for each passenger onboard an aircraft subject to an excessive tarmac delay. American believes that the applicable statutes provide for violations to be assessed on a per flight or per day basis. However, in the interest of settling this matter, and without conceding or waiving its legal position on that question or the other issues raised in this order, American has agreed to this compromise settlement.

VI. Decision

The Enforcement Office views seriously American Airlines' violations of 14 CFR 259.4 and 49 U.S.C. §§ 41712 and 42301. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, American Airlines consents to the issuance of this order to cease and desist from future violations of 14 CFR 259.4 and 49 U.S.C. §§ 41712 and 42301 and to the assessment of \$1.6 million in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by American Airlines and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that American Airlines violated 14 CFR 259.4 and 49 U.S.C. § 42301 by failing to adhere to the assurance in its contingency plan for lengthy tarmac delays that the carrier will not permit a domestic flight to remain on the tarmac for more than three hours without providing passengers an opportunity to deplane;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2, American Airlines engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order American Airlines and its successors and assigns to cease and desist from further violations of 14 CFR 259.4 and 49 U.S.C. §§ 41712 and 42301;
5. We assess American Airlines \$1.6 million in compromise of civil penalties that might otherwise be assessed for the violations described above;
 - a. \$695,000 of the assessed penalty shall be due and payable within 30 days of the service date of this order;

- b. \$602,000 of the assessed penalty shall be credited to American Airlines for compensation provided to passengers on the affected flights described in this order; and
 - c. \$303,000 of the assessed penalty shall be credited to American Airlines towards the carrier's expended costs of acquiring, operating and maintaining a surface management and surveillance system at CLT and DFW to monitor the location of each aircraft on the airfield.
6. We order American Airlines to pay within 10 days of the issuance of this order the penalty assessed in Ordering Paragraph 5, above, through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject American Airlines to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

BLANE WORKIE
Assistant General Counsel for Aviation
Enforcement and Proceedings

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