



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

Enforcement Division, AGC-300
800 Independence Ave., S.W.
Washington, D.C. 20591

**U.S. CERTIFIED MAIL, RETURN-RECEIPT REQUESTED
and FIRST-CLASS MAIL**

September 14, 2015

Fred Szabo
Acting Director of Airports
Cleveland Airports System
5300 Riverside Drive
P.O. Box 81009
Cleveland, Ohio 44181

RE: City of Cleveland, Department of Port Control, Case No. 2014GL800031

NOTICE OF PROPOSED CIVIL PENALTY

Based on the following facts and circumstances, it appears that City of Cleveland, Department of Port Control (City of Cleveland) violated the regulations of the Federal Aviation Administration:

1. At all times relevant to this Notice, the City of Cleveland was the holder of an Airport Operating Certificate, issued under 14 CFR part 139, applicable to the operation of Cleveland Hopkins International Airport (CLE).
2. On May 13, 2013, the Federal Aviation Administration issued a warning letter to the City of Cleveland for failure to close Runways 6R/24L and 6L/24R on February 22, 2013 after several aircraft reported NIL braking conditions on those runways.
3. On December 29, 2013 at 3:38 p.m. Eastern Standard Time (EST), the National Weather Service (NWS) issued a forecasts for the CLE area predicting that there was a chance of snow showers in the evening with snow accumulations around an inch possible, much cooler with lows around 18° Fahrenheit.
4. On December 29, 2013 at 5:51 p.m. EST and at 6:50 p.m. EST, the NWS forecasted for the CLE area light freezing rain and some snow showers through 6:00 a.m. EST December 30, 2013.
5. On December 29, 2013, the CLE Meteorological Terminal Aviation Routine Weather Report (METAR) reported at 8:48 p.m. EST that there was drizzle changing over to light snow.
6. On December 29, 2013, the CLE METAR reported at 10:08 p.m. EST that the drizzle changed to active freezing drizzle precipitation. METER observed that freezing

drizzle continued until 1:48 a.m. EST on December 30, 2013.

7. On December 29, 2013 at 11:10 p.m. EST, the NWS issued a "Winter Weather Advisory," which remained in effect until 8:00 a.m. EST on December 30, 2013.

8. The NWS forecasts for the CLE area issued on December 29, 2013 at 11:20 p.m. EST and 11:47 p.m. EST forecasted snow converting to freezing drizzle with freezing drizzle lingering for a couple of hours.

9. On December 29, 2013, the CLE METAR reported that the drizzle changed to light snow. METAR observed that the light snow lasted until 11:51 a.m. EST on December 30, 2013.

10. On December 30, 2013, at 12:01 a.m., CLE operations personnel (Car 7) updated conditions for taxiways from prior reports of "wet" to "thin ice."

11. On December 30, 2013, at 12:15 a.m. EST, the CLE METAR weather observations continued to report light freezing drizzle as previously reported.

12. On December 29, 2013 at 8:18 p.m. EST, the CLE operations supervisor discussed overnight forecast and staffing levels with the CLE Deputy Commissioner.

13. In accordance with the requirements of 14 CFR § 139.313, the City of Cleveland is required to operate under an FAA-approved Snow and Ice Control Plan (SICP).

14. Chapter 4, Paragraph 3.4 of the City of Cleveland's SICP specifies the following prioritization plan for snow and ice removal:

(a) Priority-1

- The active instrument runway(s)
- Associated turnoffs
- Entrance and exit taxiways
- Terminal ramps
- ARFF station access
- ARFF mutual aid access point
- ARFF mutual aid gate operability check

(b) Priority-2

- Secondary runway
- Crosswind runway
- Associated turnoffs and taxiways
- Cargo ramps

(c) Priority-3

- Remaining aircraft movement areas

15. At all times relevant to this Notice, Runway 6L was a Priority-1 runway as it was the active instrument runway in use at the time.
16. At all times relevant to the Notice, Taxiways Juliet, Kilo, and Hotel were among the Priority-1 taxiways as they were entrance and exit taxiways to the active instrument runway that was in use at the time.
17. Chapter 3, Paragraph 3.1 of the City of Cleveland's SICP states: "The personnel will be assigned to two shifts, with overtime staffing to provide 24/7 coverage. When necessary, personnel will be held over to supplement the core shift staffing to maintain adequate staffing levels."
18. The City of Cleveland failed to hold over any maintenance staff from 11:00 p.m. EST on December 29, 2013 to 3:00 a.m. EST on December 30, 2013.
19. On December 29, 2013, the City of Cleveland failed to comply with Chapter 3, Paragraph 3.1 of its SICP in that it failed to hold over personnel to supplement the core shift staffing to maintain adequate staffing levels.
20. The City of Cleveland failed to comply with Chapter 3, Paragraph 3.1 of its SICP in that between 11:00 p.m. EST on December 29, 2013 and 3:00 a.m. EST on December 30, 2013 the City of Cleveland had no maintenance personnel to operate any equipment at CLE, which is below minimum staffing requirements provided for in its SICP.
21. Chapter 3, Paragraph 3.1 of the City of Cleveland's SICP states: "Airport Operations staffed 24/7 with three shifts per day. Staffing includes a minimum of a supervisor and two agents, with additional personnel added as conditions warrant."
22. The City of Cleveland failed to comply with Chapter 3, Paragraph 3.1 of its SICP in that it allowed an operations employee to depart early at 1:00 a.m. EST on December 30, 2013, without a replacement.
23. The City of Cleveland's decision described in paragraph 22 above left the airport with one operations supervisor and one operations agent, below the required minimum staffing levels of one supervisor and two agents provided for in its SICP.
24. At 9:45 p.m. EST on December 29, 2013, the City of Cleveland decided to partially pretreat Runways 6L/24R and 6R/24L and a limited number of associated taxiways to and from the terminal with sand and anti-icing chemicals beginning at 10:30 p.m. EST.
25. The treatment described in Paragraph 24 above began at 10:30 p.m. EST on December 29, 2013.
26. On December 30, 2013 by 1:57 a.m. EST, the City of Cleveland's CLE Operations staff knew that United Airlines (UA) Flight 6135 was disabled on Taxiway Juliet between Taxiway Romeo and Alpha due to NIL braking conditions.
27. At the time UA Flight 6135 was disabled on Taxiway Juliet as described in Paragraph 26 above, no airport maintenance staff were on duty at CLE as required under the City of Cleveland's SICP.
28. On December 30, 2013, at 1:57 a.m. EST, the City of Cleveland's Operations

staff reported NIL braking conditions on Taxiways Sierra, Bravo, Kilo, November, Tango, and Charlie.

29. Despite the unsafe braking conditions on Taxiways Sierra, Bravo, Kilo, November, Tango, and Charlie on December 30, 2013, at 1:57 a.m. EST, the City of Cleveland failed to take any action to mitigate the unsafe conditions or limit the use of these taxiways at CLE.

30. On December 30, 2013, at approximately 2:23 a.m. EST, Delta Airlines Flight 8847 landed on Runway 6L and became disabled on Taxiway Kilo due to NIL braking conditions on ice.

31. On December 30, 2013, the crew of Delta Flight 8847 made several attempts to maneuver the aircraft off of Taxiway Kilo and finally successfully maneuvered it onto Taxiway Hotel where the aircraft again became disabled due to NIL braking conditions on the surface of the Taxiway.

32. At the time Delta Flight 8847 landed on Runway 6L, no airport maintenance staff was on duty or present at the airport.

33. Delta Flight 8847 remained disabled until CLE Maintenance staff arrived for a pre-scheduled 3:00 a.m. EST shift and they hand-shoveled sand around the wheels of the aircraft enabling the aircraft to taxi to the ramp.

34. At 2:30 a.m. EST, the City of Cleveland closed the airport via NOTAM.

35. Between the hours of 1:57 a.m. EST and 2:30 a.m. EST, the City of Cleveland failed to limit air carrier operations at CLE when unsafe conditions existed on Runway 10/28 and numerous taxiways, including but not limited to Taxiways Juliet, Kilo and Hotel.

36. The City of Cleveland failed to provide sufficient and qualified personnel to comply with Chapter 3, Paragraph 3.1 of its SICP in that on December 30, 2013 no airport maintenance personnel were on duty at CLE and CLE fell below the minimum required staffing levels.

37. On December 30, 2013, The City of Cleveland failed to promptly remove or effectively control snow and ice on airport movement area surface and conduct appropriate actions to prevent the degradation of pavement conditions.

38. Chapter 5, Paragraph 5.1(b) of the City of Cleveland's SICP states: "Runway conditions are updated anytime a change to the runway condition occurs, including whenever the field condition inspection reveals a change in surface conditions.

39. The City of Cleveland failed to comply with Chapter 5, Paragraph 5.1(b) of its SICP in that it failed to promptly notify air carriers of movement area surfaces that were not cleared adequately of snow and ice for safe operations by not providing updated Field Condition Reports between 12:01 a.m. EST and 3:44 a.m. EST on December 30, 2013.

40. The City of Cleveland failed to respond in a timely manner to mitigate icing conditions when NWS temperature and precipitation forecasts for December 29, 2013 through December 30, 2013 were for icing conditions.

41. The City of Cleveland failed to carry out a snow and ice control plan in a manner authorized by the Administrator in that it failed to prioritize for snow and ice removal in a manner outlined in Chapter 3, Paragraph 3.4 of its SICP.

By reason of the foregoing, it appears that the City of Cleveland failed to comply with the following Federal Aviation Regulations:

- (a) 14 C.F.R. § 139.303(a), which requires that each certificate holder provide sufficient, qualified personnel so as to comply with the requirements of the Airport Certification Manual and Part 139 of the FAR.
- (b) 14 C.F.R. § 139.313(a) which requires that each certificate holder whose airport is located where snow and icing conditions occur must prepare, maintain, and carry out a snow and ice control plan in a manner authorized by the Administrator.
- (c) 14 C.F.R. § 139.313(b) (1), which requires prompt removal or control, as completely as practicable, of snow, ice and slush on each movement area.
- (d) 14 C.F.R. § 139.313(b)(5), which requires prompt notification, in accordance with 14 C.F.R. §139.339 to all air carriers using the airport when any portion of the movement area normally available for use is less than satisfactorily cleared for safe operation of aircraft.
- (e) 14 C.F.R. § 139.339(c)(3), which requires each certificate holder to provide information on airport conditions that may affect the safe operation to air carriers regarding snow, ice, slush, or water on the movement areas or loading ramps and parking areas.
- (f) 14 C.F.R. § 139.343, which requires that when the requirements of 14 C.F.R. Part 139 cannot be met the certificate holder must limit air carrier operations to those portions of the airport not rendered unsafe by those conditions.

Pursuant to 49 U.S.C. § 46301(a)(1), the City of Cleveland is subject to a civil penalty not to exceed \$27,500 for each violation of the Federal Aviation Regulations. After reviewing all of the information contained in our investigative file, we propose to assess a civil penalty in the amount of \$100,000.

Enclosed is information on the City of Cleveland's options in responding to this Notice. The options include participating in an informal conference with an FAA attorney and submitting information to the FAA for consideration. The City of Cleveland must submit, in writing, its choice of the alternatives explained on the enclosed information form within 30 days of receiving this Notice. If the City of Cleveland fails to submit its choice within 30 days of its receipt of this Notice, it will have no further right to participate in the informal procedures.

Please direct all communications to Autumn Killingham. See contact information below.

Peter J. Lynch
Assistant Chief Counsel
for Enforcement

By: _____

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Enclosures: Information Sheet and Reply Form
FAA Regulations 14 C.F.R. § 13.16 and 14 C.F.R. part 13, subpart G