



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 Airport System
5300 Riverside Drive
P.O. Box 81009
Cleveland, Ohio 44181

RE: City of Cleveland, Department of Port Control, Case No. 2014GL800041

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 C.F.R. part 139, applicable to the operation of Cleveland Hopkins International Airport (CLE).
2. On February 24, 2014, snow began to fall at 11:51 p.m. EST and continued to fall overnight until after 6:00 a.m. EST on February 25, 2014.
3. CLE's Field Condition Reporting System (FCRS) reported airfield pavement surface temperatures below freezing from February 24, 2014 at 5:45 p.m. EST until past 6:00 a.m. EST on February 25, 2014.
4. On February 25, 2014 at 4:25 a.m. EST, the airport surface sensing system issued an "Ice Watch" warning with each surface temperature report the system generated through 6:00 a.m. EST.
5. On February 24, 2014, from 11:51 p.m. EST until after 6:00 a.m. EST on February 25, 2014, the City of Cleveland did not initiate any snow removal activities on Runway 6R-24L.
6. 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).
7. Chapter 3, Paragraph 3.4 of the City of Cleveland's SICP states: "In addition to the snow removal circuit routes, CLE has established a priority for the clearing of airfield

pavement . . .”

8. Chapter 3, 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
9. At all times relevant to this Notice, Runway 24L was the Priority-1 runway as it was the active instrument runway in use at the time.
10. On February 25, 2014 at 5:41 a.m. EST, United Parcel Service (UPS) Flight 1442 landed on Runway 24L and reported braking conditions as “Poor” and NIL at the end of the runway.
11. On February 25, 2014, at 5:46 a.m. EST, Air Traffic Control advised inbound United Airlines (UA) Flight 1112 that Runway 24L was closed as a result of the NIL report and that “two eight is the only runway we have open right now but there haven’t been any plows on it we don’t have any runway uh conditions on that.”
12. As a result of the closure of Runway 24L after UPS Flight 1442 reported “Poor” and NIL braking conditions on Runway 24L, and the unplowed and unsafe conditions on other CLE runways, air traffic control diverted UA Flight 1112 at 5:55 a.m. EST to Detroit Metropolitan Wayne County Airport.
13. At 5:23 a.m. EST, 18 minutes prior to the to the time UPS Flight 1442 reported the NIL braking conditions on Runway 24L, the CLE FCRS reported the conditions on the airfield as a thin cover of snow on all runways, and a 1/8 inch cover of snow on the taxiways and aprons.
14. The City of Cleveland allowed conditions to degrade to NIL braking on Runway 24L,

which was a Priority-1 runway, while maintenance crews removed snow and ice on the parallel runway, Runway 24R, which was a Priority-2 runway.

15. On February 25, 2014, the City of Cleveland failed to carry out a snow and ice control plan as specified in its FAA-approved SICP, Chapter 3, Paragraph 3.4, in that it failed to prioritize for snow and ice removal on active instrument Runway 24L.
16. Chapter 5, Paragraph 5.4 of the City of Cleveland's SICP states:

Continuous runway monitoring procedures at CLE involve a combination of obtaining regular Pilot Reports (PIREP) braking action reports from CLE ATCT and conducting regular physical inspections of the pavement surface, inclusive of friction measuring. CLE Airport Operations will commence continuous runway monitoring procedures at the onset of winter precipitation. Inspections will continue during changing weather conditions and whenever braking action reports via PIREP or by vehicle inspections indicate a variance in the quality of the braking action.

17. Contrary to the requirements in Chapter 5, Paragraph 5.4 of the City of Cleveland's SICP, the City of Cleveland failed on February 25, 2014 to effectively monitor and manage the conditions on Runway 24L.
18. On February 25, 2014, the City of Cleveland failed to limit air carrier operations to those portions of the airport that were not rendered unsafe by uncorrected and unsafe conditions.

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. § 139.313(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.
- (b) 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.
- (c) 14 C.F.R. § 139.343, which requires that when the requirements of 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 \$40,000.

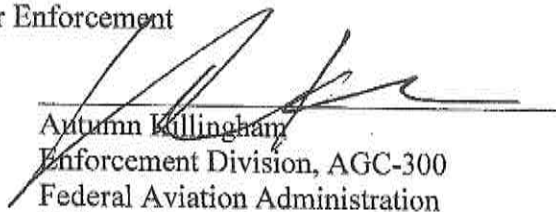
Enclosed is information on The City of Cleveland's options in responding to this Notice. The options include participating in an informal conference with an FAA attorney and submitting information to the FAA for consideration. The City of Cleveland must submit, in writing, its choice of the alternatives 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, 20591.

Peter J. Lynch
Assistant Chief Counsel
for Enforcement

By:



Autumn Killingham
Enforcement Division, AGC-300
Federal Aviation Administration
Office of the Chief Counsel
800 Independence Ave., S.W.
Washington, D.C. 20591
email: Autumn.Killingham@faa.gov
Telephone: (202) 267-7158 (main)
(202) 267-7718 (direct)
(202) 267-5106 (fax)

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