



## **IRREGULAR OPERATIONS, DIVERSION MANAGEMENT, AND AIRPORT EMERGENCY CONTINGENCY PLANS**

### **Introduction**

The early winter snowstorm that struck the Northeast U.S. on October 29 and the extended tarmac delays it caused reignited interest within the Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT), and Congress regarding the steps that airports have taken to prepare for such delays. On the heels of this event, Congress included a new and unfunded mandate for “airport emergency contingency plans”, the provisions of which are described in greater detail below.

ACI-NA believes that extended tarmac delays like those that occurred on October 29 illustrate the continuing need for better and more coordinated use of existing plans that airlines are required to develop. This is simply because the airlines are in control during diversion and other irregular operations events. They alone make decisions about when to cancel and deplane aircraft. They alone make decisions regarding which airports to which they’ll divert. With their rights to self-handle aircraft, in most cases they alone are responsible for arranging for ground services for their aircraft.

This said, airports can and do have a significant supporting role to play in accommodating diverted and delayed flights at their facilities during irregular operations (IROPS) and diversion events. This white paper summarizes (1) the new federal requirements, (2) ACI-NA’s reaction to them, (3) next steps, (4) key talking points regarding the requirements, (5) points of contact for additional information.

### **New Federal Requirements—Airport Emergency Contingency Plans**

Section 42301 of the FAA Modernization and Reform Act of 2012 requires airport operators to prepare emergency contingency plans to that describe how the airport operators will handle extended tarmac delays when they occur. Specifically, these contingency plans must describe how “following excessive tarmac delays” airport operators will “to the maximum extent practicable”:

- Provide for the deplanement of passengers;
- Provide for the sharing of facilities and make gates available at the airport; and
- Provide a sterile area following excessive tarmac delays for passengers who have not yet cleared United States Customs & Border Protection (CBP).

These contingency plans—which DOT is requiring from all large, medium, small, and non-hub airports—must be submitted to the DOT by May 14 for their review and acceptance.

The DOT is working to establish an electronic submission system, which will be similar to the Department's current disability complaint reporting system where covered airlines and airports will submit their required plans. The DOT has requested that airport operators delay submittal of their plans until this electronic submission system is available. The DOT plans to issue another Notice regarding submission requirements by April 13.

The DOT has noted will focus its review of the contingency plans on the statutory requirements articulated in Section 42301. However, airports that submit more extensive plans will be held accountable by the DOT for the provisions of their plans that go beyond statutory requirements. Accordingly, ACI-NA advises airports to develop their DOT contingency plans narrowly—limiting them to the aforementioned statutory requirements—to limit enforcement exposure.

However, we also advise airports—especially those that experience high numbers of irregular operations and diversions—to develop a more comprehensive “internal” contingency plans that deal with a broader range of activities, collaboration, and coordination than the statutory requirements.

### **ACI-NA Reaction**

We are disappointed that Congress has imposed new unfunded mandates for airport emergency contingency plans on airports. We are also extremely concerned that the new requirements are based on fundamental misunderstandings of the activities airport operators do and do not control at their airports.

For example, the requirement that airport operators “provide” for the deplanement of passengers appears to presume that airport operators own and operate ground service equipment like air stairs and aircraft tugs, which most airports do not. Similarly, the requirement that airport operators “provide” for the sharing of facilities such as gates and hold rooms presumes that airport operators have common use terminal facilities under their control rather than exclusively or preferentially leased facilities under airline control. Finally, the requirement that airport operators “provide” sterile areas presumes that (1) the airport has facilities suitable for use as a sterile area and (2) CBP will approve the used of these facilities as such.