



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

Issued by the Department of Transportation on April 30, 2020

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2020-0037

On March 27, 2020, the President signed the Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) into law. Sections 4005 and 4114(b) of the CARES Act authorize the Secretary of the U.S. Department of Transportation (Secretary) to require, “to the extent reasonable and practicable,” an air carrier receiving financial assistance under the act to maintain scheduled air transportation service as the Secretary deems necessary to ensure services to any point served by that air carrier before March 1, 2020 (Service Obligation). By Order 2020-4-2, the U.S. Department of Transportation established the parameters for implementation of the authority granted to the Secretary under the CARES Act, including an exemption process as described at pages 9-10 and in Appendix D of that order. This serves as notice to the public of an action taken by a Department official with regard to exemption(s) from Order 2020-4-2. No additional confirming order will be issued in this matter.

Applicant: **American Airlines, Inc.**¹

Date Filed: **April 15, 2020, as supplemented on April 17, 2020**

XX Service Level Exemption (a) – American Airlines, Inc. (American) requests that the Department approve a suspension of service to the following covered point under the provisions of Order 2020-4-2:

- (1) Duluth, MN (DLH)

XX Service Level Exemption (b) – American requests that the Department approve a suspension of service to the following covered points under the provisions of Order 2020-4-2, until June 6, 2020:

- (2) Vail, CO (EGE)
- (3) Aspen, CO (ASE)
- (4) Montrose, CO (MTJ)
- (5) Jackson, WY (JAC)

XX Service Level Exemption (c) – American requests that the Department approve a suspension of service to the following covered points under the provisions of Order 2020-4-2, until August 18, 2020:

- (6) Kahului, HI (OGG)
- (7) Kona, HI (KOA)
- (8) Lihue, HI (LIH)

XX Seasonal Exemption – American requests that the Department approve temporary suspension of service to the following covered points from its Service Obligation under the provisions of Order 2020-4-2, until the regularly scheduled start-up dates, as listed below. In addition, American requests the suspension of service after the regularly scheduled end-dates of September 8, 2020 at Nantucket and Martha’s Vineyard.

- (9) Anchorage, AK (ANC): June 4, 2020
- (10) Kalispell, MT (FCA): June 4, 2020
- (11) Nantucket, MA (ACK): June 19, 2020

¹ A copy of American’s exemption application and the basis for its exemption can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0068>, and its supplement at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0076>.

(12) Martha's Vineyard, MA (MVY): June 19, 2020

Responsive pleadings: Matt Skinner, CEO of the Colorado Flights Alliance, filed a letter in the docket supporting American's cessation of service at Montrose, Colorado. Thomas Rafter, Director of the Nantucket Memorial Airport, submitted a letter supporting American's request to postpone the start of its Nantucket, Massachusetts, service until its planned start-up on June 19 and to cease service after September 8, 2020. The Martha's Vineyard Airport commission filed a comment in the docket in support of American's request to postpone the start of its Martha's Vineyard, Massachusetts, service until its planned start-up on June 19 and to cease service after September 8, 2020. Bill Tomcich, with Fly Aspen Snowmass, filed a letter in the docket supporting American's temporary suspension of service at Aspen Colorado. David Gardner, a private individual, filed a letter in the docket opposing American's request to suspend service to Kona, Hawaii.

DISPOSITION

XX Granted in part, and denied in part (see below)

Action date: **April 30, 2020**

Requests for exemption granted and effective dates of authority granted:²

For covered point 1: **April 30, 2020 through September 30, 2020**

For covered points 6-8: **April 30, 2020 through August 17, 2020**

For covered points 9-10: **April 30, 2020 through June 3, 2020**

For covered points 11-12: **April 30, 2020 through June 18, 2020 and September 9, 2020 through September 30, 2020**

Requests for exemption denied at:

Covered points: 2-5

This authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate(s) of public convenience and necessity

XX Standard exemption conditions (attached)

Basis for approval: Regarding covered point 1 (Duluth), American claims that it had prior plans to terminate service to Duluth, Minnesota on April 27, 2020, and notified the community of those plans on February 12, 2020. As this decision was taken prior to the COVID-19 public health emergency and the issuance of Order 2020-4-2, we will grant American's request to remove Duluth, Minnesota from its service obligation.

We find that granting American's request for exemption as it concerns covered points 6 through 8 (Kahului, Kona, and Lihue, Hawaii) is warranted under the provisions of Order 2020-4-2, insofar as it would allow the carrier to suspend service temporarily to these points. American's service to these points requires long travel distances of several thousand miles, and the imposition of Hawaii's mandatory 14-day quarantine order for all travelers to or within Hawaii severely impacts and discourages such passenger travel. Moreover, various State and local government officials in Hawaii have submitted filings in Docket DOT-OST-2020-0037 noting the existence of the 14-day quarantine period and the goal of minimizing the number of visitors to Hawaii until the current public health emergency has ended.³ Further, American continues to provide scheduled service to Honolulu, Hawaii. We agree that it would not be reasonable or practicable for American to serve Kahului, Kona, or Lihue, Hawaii at the current

² The effectiveness of this authority will terminate on the date(s) specified above. Should the air carrier wish to extend the date(s) of effectiveness, it must file another request for an exemption in accordance with the exemption process as described in Appendix D of Order 2020-4-2.

³ See, e.g., Letter of David Y. Ige, Governor of Hawaii, Docket DOT-OST-2020-0037-0054.

time under the terms of Order 2020-4-2. However, because the carrier requested to suspend service to these Hawaiian points only until August 18, 2020, we are limiting the term of the exemption accordingly, and will expect American to re-start service to these Hawaiian covered points on August 19, 2020.

With respect to covered points 9 through 12 (Anchorage, Kalispell, Nantucket and Martha's Vineyard), we find that a grant of American's request for seasonal exemptions is warranted under the provisions of Order 2020-4-2. American is requesting that the Department allow it to begin seasonal summer services at various dates in June 2020 as shown above, and discontinue its Nantucket and Martha's Vineyard services after September 8, 2020. We have granted similar exemption requests in this docket and find that American's request is justified. It is not reasonable or practicable for American to commence summer seasonal services immediately nor is it reasonable or practicable for the air carrier to extend seasonal summer services at Nantucket and Martha's Vineyard past their normal end dates as contemplated by Order 2020-4-2. The effective dates of the authority granted for each seasonal covered point are identified above.

We deny the balance of American's request (covered points 2 through 5). The Department is authorized to require air carriers receiving financial assistance under sections 4005 and 4114(b) of the CARES Act to maintain scheduled air transportation service as the Secretary deems necessary. By Order 2020-4-2, the Department believes it struck an appropriate balance between the needs of communities to retain at least minimal connections to the national air transportation system during the public health emergency, as required by the CARES Act, and the economic needs of the airline industry. American has not persuaded the Department that we must strike a different balance with respect to the remaining covered points in American's request. Order 2020-4-2 provides substantial flexibilities to covered carriers.

We may amend, modify, or revoke this exemption at any time without hearing at our discretion.

Persons entitled to petition the Department for reconsideration of the action set forth in this Notice under the Department's regulations, 14 CFR § 302.14, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for reconsideration will not alter such effectiveness.

Action taken by: David Short
Deputy Assistant Secretary
Aviation and International Affairs

An electronic version of this document is available at: <http://www.regulations.gov>

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with consumer protection and civil rights requirements, including, but not limited, to requirements contained in 14 CFR Parts 250, 254, 257, 259, 374, 382 and 399;
- (3) Comply with the requirements for reporting data to the Department, including, but not limited, to requirements contained in 14 CFR Parts 234, 241, and 244;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.