



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

Issued by the Department of Transportation on April 17, 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: **Delta Air Lines, Inc.**¹

Date Filed: **April 10, 2020**

XX Seasonal Exemption: Delta Air Lines, Inc. (Delta) requests that the Department approve temporary suspension of service to the following covered points in its summer 2019 baseline schedule from its Service Obligation under the provisions of Order 2020-4-2, until the regularly scheduled start-up dates listed below. In addition, Delta requests suspension of service after the regularly scheduled end dates of August 31 for the services to Juneau, Ketchikan, and Sitka; and after September 7 for Nantucket and Martha’s Vineyard.

- (1) West Yellowstone, MT (WYS) – May 7
- (2) Cody, WY (COD) – May 22
- (3) Ketchikan, AK (KTN) – June 8
- (4) Juneau, AK (JNU) – June 8
- (5) Sitka, AK (SIT) – June 8
- (6) Martha's Vineyard, MA (MVY) – June 26
- (7) Nantucket, MA (ACK) – June 26

XX Service Level Exemption (a) – Delta 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.

- (8) Charlotte Amalie, VI
- (9) Christiansted, VI

XX Service Level Exemption (b) – Delta requests that the Department approve temporary suspension of service to the following covered point from its Service Obligation under the provisions of Order 2020-4-2.

- (10) Cedar City, UT

XX Waiver from the 10-business day advance filing requirement for the covered carrier’ proposed service alteration date.

Responsive pleadings: None

¹ A copy of Delta’s application and the basis for its exemption request can be found at:
<https://www.regulations.gov/document?D=DOT-OST-2020-0037-0057>.

DISPOSITION

XX Granted, in part, dismissed and deferred in part (see below)

Action date: **April 17, 2020**

Effective dates of authority granted:²

- (2) Cody, WY (COD): **April 17, 2020 through May 22, 2020**
- (3) Ketchikan, AK (KTN): **April 17, 2020 through June 8, 2020 and September 1, 2020 through September 30, 2020**
- (4) Juneau, AK (JNU): **April 17, 2020 through June 8, 2020 and September 1, 2020 through September 30, 2020**
- (5) Sitka, AK (SIT): **April 17, 2020 through June 8, 2020 and September 1, 2020 through September 30, 2020**
- (6) Martha's Vineyard, MA (MVY): **April 17, 2020 through June 26, 2020 and September 8, 2020 through September 30, 2020**
- (7) Nantucket, MA (ACK) – **April 17, 2020 through June 26, 2020 and September 8, 2020 through September 30, 2020**
- (10) Cedar City, UT- **April 17, 2020 through July 18, 2020**

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: We find that a grant of Delta's request for seasonal exemptions is warranted under the provisions of Order 2020-4-2, with the exception of Point 1 (WYS) as discussed below. Delta confirmed its selection of the summer 2019 baseline schedule and is requesting that the Department allow it to begin its seasonal summer service in May or June 2020 as shown above, and discontinue those services on the dates also shown above. Delta argues that launching service to these seasonal summer points requires significant lead time to hire agents and contractors; adjust signage; set up facilities and computer terminals; and find affordable summer housing for the local staff. Delta also contends that it cannot extend the seasonal services to covered points 3 to 7 through the end of September as contemplated by Order 2020-4-2 since it is dependent upon a seasonal workforce that disappears after the month of August, when schools, universities, and classes resume. We agree. It is not reasonable or practicable for Delta to commence its seasonal summer 2019 baseline schedule immediately and it is not reasonable or practicable for the air carrier to extend its seasonal summer 2019 baseline schedule through the end of September as contemplated by Order 2020-4-2, for the reasons cited above. The effectiveness dates of the authority granted for each seasonal covered point are identified above.

With respect to Point 1, West Yellowstone, we dismiss Delta's request for exemption. West Yellowstone is served by SkyWest Airlines under the Delta code 7 to 14 times per week under an Essential Air Service (EAS) contract.³

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 Order 2019-3-4 (March 12, 2019), Docket DOT-OST-2003-14626.

As determined by Order 2020-4-2, EAS contracts take primacy over CARES Act service obligations. Based upon this principle, the Department only expects Delta to serve WYS on the schedule it has agreed to in the EAS contract; therefore, it can begin service on May 7, 2020 as noted in its pleading.

With respect to Delta's request to suspend service to Charlotte Amalie and Christiansted, VI, we are deferring action.

With respect to Cedar City, UT, we dismiss Delta's request. While a major runway construction resulting in an airport closure would qualify for an exemption under the terms of Order 2020-4-2, Delta's services in this market, operated by SkyWest Airlines, are governed by an EAS contract, and EAS obligations take primacy over CARES Act obligations as determined by Order 2020-4-2.

Lastly, we grant Delta's 10-day waiver request for those covered points where we awarded relief from the Service Obligation.

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 on the World Wide Web 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.