



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

Issued by the Department of Transportation on May 15, 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.

In the Department’s Notice of Adjustments to Service Obligations (May 12, 2020) (the Notice), a supplemental process for the Department to address exemption requests for covered points, the Department dismissed without prejudice all pending exemptions requests in Docket DOT-OST-2020-0037 not yet acted upon.¹ However, the Department has determined not to dismiss the instant exemption request, because it seeks a type of relief that is not covered by the Notice and “fall[s] under one of the Department’s established bases from prior notices of action taken” in the Order 2020-4-2 exemption process.² While footnote 12 in the Notice suggested that a covered carrier could resubmit such a request through the normal exemption process, the instant request was already pending and adjudication of it by the Department was nearly complete on May 12, 2020, the date of the Notice’s issuance. Accordingly, we are not requiring Grant Aviation to resubmit its request and we are disposing of the instant petition through a decision under the Order 2020-4-2 exemption process.

Applicant: **Grant Aviation, Inc. (Grant Aviation)**³

Date Filed: **April 30, 2020**

1. XX Consolidation of Covered Points:

- (1) Akun, AK
- (2) Akutan, AK

Grant Aviation requests that the Department combine the covered points Akun and Akutan, Alaska into a single covered point in Appendix B of Order 2020-4-2. The carrier states that it fulfills its Essential Air Service (EAS) contract to serve Akutan by providing EAS from Akutan Airport—located on Akun Island (7AK)—which is in part why both Akutan and Akun appear as covered points in Appendix B of Order 2020-4-2. Service from Akutan Airport to Akutan on nearby Akutan Island is provided by Maritime Helicopters, Inc.

¹ See Notice, n.12.

² *Id.*

³ A copy of Grant Aviation’s application and the basis for its exemption request can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0115>.

2. XX Deletion of Covered Point:

(3) Igiugig, AK

Grant Aviation requests that the Department delete Igiugig, Alaska, as a seasonal covered point in Appendix C of Order 2020-4-2, stating that Grant Aviation ceased service to Igiugig after the Department selected Bidzy Ta Hot' Aana, Inc. d/b/a Tanana Air Service (Tanana Air) to serve the community and Tanana Air replaced Grant Aviation on December 1, 2019, as the EAS carrier at this point.

Responsive pleadings: None

DISPOSITION

XX Granted (see below)

Action date: **May 15, 2020**

Request for consolidation of points granted and effective date of consolidation:

For covered points 1 and 2: **May 15, 2020**

Request for deletion of point granted and effective date of authority granted:

For covered point 3: **December 1, 2019**

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: With respect to covered points 1 and 2 (Akun and Akutan), we concur with Grant Aviation's view that, for purposes of Order 2020-4-2, Grant Aviation's covered points of Akun and Akutan should be consolidated. We have consolidated those covered points to Akutan, where Grant Aviation holds an EAS contract, because covered carriers' obligations under the EAS and AEAS programs take primacy over the provisions of Order 2020-4-2.⁴ As noted above, Grant Aviation fulfills its EAS contract for Akutan by providing service from Akutan Airport, which is located on Akun Island. Grant Aviation will continue to have a service obligation for Akutan, an EAS point.

With respect to covered point 3 (Igiugig), we concur with Grant Aviation's view that this community should not be listed in the carrier's Service Obligation, because Grant Aviation no longer provides service to Igiugig. Therefore, we grant Grant Aviation's request to delete covered point 3 from the carrier's list of covered points.

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

⁴ See Order 2020-4-2 at 9 and 13 (Ordering paragraph 6).

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 ensure 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.