



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: **Tradewind Aviation, LLC (Tradewind)**<sup>1</sup>

Date Filed: **April 21, 2020**

**XX** Service Level Exemption: Tradewind requests that the Department approve deletion of the following covered point from its Service Obligation under Order 2020-4-2:

- (1) Berlin, NJ

Tradewind states that it has never conducted scheduled service operations to this point (although it states that it did operate a total of five on-demand flights to the city during the period May 1, 2019 – April 21, 2020), and that it therefore should not have a Service Obligation at this point.

**XX** Seasonal Exemption: Tradewind requests that the Department approve a 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 Memorial Day Weekend:

- (2) Martha’s Vineyard, MA
- (3) Nantucket, MA
- (4) New York City, NY (Metropolitan Area)<sup>2</sup>

Tradewind states that its past practice has been to start seasonal service to these three points on the Memorial Day Weekend; that it desires to do so this year as well; and that it plans to continue the services, once commenced, through the period encompassed by its Service Obligation. Tradewind also states that, with respect to Nantucket, Massachusetts, that community has asked non-residents to avoid travel to that destination, and that the Nantucket Municipal Airport “would have trouble accommodating an earlier start date for Tradewind’s flights as currently required by the Department’s Order.”<sup>3</sup>

Responsive pleadings: None

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<sup>1</sup> A copy of Tradewind’s application and the basis for its exemption can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0093>.

<sup>2</sup> Tradewind specifies Teterboro, New Jersey (TEB) and White Plains, New York (HPN) as cities in New York City, New York (Metropolitan Area) that are relevant to its application.

<sup>3</sup> Tradewind’s application at 4. The carrier attached a letter to this effect from the Airport Manager of the Nantucket Municipal Airport.

## DISPOSITION

### **XX Granted in part, dismissed in part (see below)**

Action date: **April 30, 2020**

Requests for exemption granted and effective dates of authority granted:<sup>4</sup>

For covered points 1-4, except Teterboro, New Jersey: **April 30, 2020 through May 21, 2020**

Request for exemption dismissed at:

Teterboro, New Jersey

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

### **XX Holder's commuter air carrier authorization XX Standard exemption conditions (attached)**

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Basis for approval: With respect to Tradewind's request that covered point 1 (Berlin, New Jersey) be removed from its Service Obligation, we find that granting the carrier's request is warranted, as the carrier has never conducted scheduled operations to that covered point, operating only minimal on-demand services to that covered point over the past year. Under these circumstances, it would not be reasonable or practicable to require Tradewind to serve covered point 1 under the terms of Order 2020-4-2.

We find that granting Tradewind's request for exemption to delay the start of its seasonal services at covered points 2 through 4 (Martha's Vineyard and Nantucket, Massachusetts; and the New York City, New York Metropolitan Area), until the Memorial Day Weekend (*i.e.*, Friday, May 22, 2020), is warranted.<sup>5</sup> In previous decisions in this docket, we have recognized the impracticality of beginning seasonal service immediately. We find that, given these circumstances, it would not be reasonable or practicable to require the carrier to commence these services before May 22, 2020.

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>

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<sup>4</sup> The effectiveness of this authority will terminate on the date 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.

<sup>5</sup> Tradewind's service obligation shows the New York City, NY (Metropolitan Area) as a covered point in Order 2020-4-2. White Plains, New York is part of this Metropolitan Area and the carrier's services to White Plains from Martha's Vineyard and Nantucket are the reason for Tradewind's service obligation at this Metropolitan Area. Teterboro, New Jersey is not a part of the Metropolitan Area (*see* Order 2020-4-2 at 4, fn11). We are, therefore, dismissing Tradewind's request as it pertains to service to Teterboro.

**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.