



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

Issued by the Department of Transportation on July 16, 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. (American)**¹

Date Filed: **June 24, 2020**

XX Service Level Exemption

American requests that the Department extend through September 30, 2020, its exemption from its Service Obligation under the provisions of Order 2020-4-2, in order to suspend service to the following covered points.²

- (1) Kahului, HI (OGG)
- (2) Kona, HI (KOA)
- (3) Lihue, HI (LIH)

American contends that Governor Ige’s extension of the travel restrictions for out- of- state visitors in Hawaii through at least July 31, 2020,³ coupled with the media attention on Hawaii’s travel restrictions, has resulted in unsustainable low levels of demand for service to Hawaii. The carrier believes that demand for service at covered points 1-3 will not “improve noticeably for many months” given the uncertainty of when Hawaii will be reopen to out-of-state visitors and the lengthy booking curve associated with travel to Hawaii. Therefore, American states that an extension of its current exemption for Kahului, Kona, and Lihue—set to expire on August 18—would be consistent with those exemptions the Department has granted to other covered carriers.

Responsive pleadings: None

DISPOSITION

XX Granted (see below)

Action date: **July 16, 2020**

¹ A copy of American’s exemption application and the basis for its exemption request can be found at:

<https://www.regulations.gov/document?D=DOT-OST-2020-0037-0217>.

² See Notice of Action Taken dated April 30, 2020.

³ See https://governor.hawaii.gov/wp-content/uploads/2020/06/2006097A-ATG_Ninth-Supplementary-Proclamation-COVID-19-distribution-signed.pdf.

Requests for exemption granted and effective dates of authority granted:⁴

For covered points 1 to 3: **August 18, 2020 through September 30, 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: Previously, American sought to suspend service to covered points 1-3 (Kahului, Kona, and Lihue) through August 17, 2020. By Notice of Action Taken dated April 30, 2020, the Department granted American's request, noting: service to covered points 1-3 requires long travel distances for out-of-state visitors; the imposition of Hawaii's mandatory 14-day quarantine order for all travelers to and within Hawaii severely impacts and discourages passenger travel; the various State and local government officials' filings confirming the 14-day quarantine; the State's goal to minimize the number of visitors until the current coronavirus disease 2019 (COVID-19) public health emergency ends; and American's continued scheduled service to Honolulu, Hawaii.

For the reasons set forth justifying the Department's prior Notice of Action Taken, we again find that granting American's request to extend its exemption at these covered points is warranted and consistent with the disposition of similar requests by other carriers.⁵ While Governor Ige has announced plans to reopen the state to visitors starting on August 1, 2020, the 14-day mandatory quarantine restriction remains in effect. Only visitors that have a valid negative COVID-19 test within 72 hours prior to boarding their flight to Hawaii are exempted from the mandatory 14-day quarantine; all other visitors are subject to the mandatory 14-day quarantine and if the quarantine is refused, visitors must arrange to leave the island immediately without leaving the airport.⁶

We note that any grant of exemption by the Department does not prevent any carrier from serving any point that it wishes to serve as the economy recovers and market conditions improve.

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>

⁴ 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.

⁵ See Notices of Action Taken dated April 17, 2020 (Alaska Airlines) and April 25, 2020 (United Airlines).

⁶ See <https://hidot.hawaii.gov/airports/covid-19/>.

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.