



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

Issued by the Department of Transportation on August 28, 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: **United Airlines, Inc. (United)**¹

XX Service Level Exemption

Date Filed: **August 18, 2020**

United requests that the Department issue an exemption from Order 2020-4-2 permitting United to suspend service from August 19 through September 30, 2020, at St. Thomas, U.S. Virgin Islands (STT).

United states that Governor Bryan of the U.S. Virgin Islands issued an executive order on August 13, 2020, reverting the U.S. Virgin Islands to "stay-at-home" status, mandating the closure of non-essential businesses through August 31, 2020, and "prohibiting hotels, villas, Airbnbs, temporary vacation housing and charter vessels and similar businesses from accepting leisure travel reservations" beginning August 19 and extending for 30 days unless the order is lifted sooner.² United claims that St. Thomas is a leisure and tourism destination and that the executive order effectively prohibits tourism and eliminates demand for air service to St. Thomas.

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

Responsive pleadings: None

DISPOSITION

XX **Granted**

Action date: **August 28, 2020**

Request for exemption granted and effective date of authority granted:³

For St. Thomas, U.S. Virgin Islands: **August 28, 2020 through September 30, 2020**

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

¹ A copy of United's application and the basis for its exemption request can be found at: <https://www.regulations.gov/document?D=DOT-OST-2020-0037-0276>.

² See <https://www.vi.gov/executive-orders/>.

³ The effectiveness of this authority will terminate on the date specified above.

XX Holder's certificate(s) of public convenience and necessity
XX Standard exemption conditions (attached)

Basis for approval: We find that granting United's request for an exemption to suspend service at St. Thomas is warranted. The executive order issued by Governor Bryan of the U.S. Virgin Islands on August 13, described above, is likely to impact severely and discourage passenger travel to St. Thomas. In light of this, we find that it would not be reasonable or practicable for the carrier to continue to operate service to St. Thomas while a stay-at-home order is in place. We also find that it would not be reasonable or practicable to require United to resume service for 12 days—from September 18, the date the prohibition on accepting leisure travel reservations terminates, through September 30, the date the Service Obligations set forth in Order 2020-4-2 terminates—given the amount of time needed by the carrier to readjust its network schedule to include flights to St. Thomas and the booking curve associated with travel to St. Thomas. Therefore, we find it reasonable and practicable to grant United an exemption at St. Thomas through September 30, 2020.

Finally, we grant United's request for a waiver of the 10-business day advance filing requirement for exemptions under Order 2020-4-2, so that its proposed schedule changes can be implemented promptly.

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 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.