

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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In the matter of the application of)	
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POLYNESIAN LIMITED d/b/a SAMOA AIRWAYS))	Docket DOT-OST-2014-0144
)	
for renewal of exemption pursuant to)	
49 U.S.C. 40109(g))	
(Pago Pago-Manu'a Islands))	
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APPLICATION FOR RENEWAL OF EXEMPTION

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DATED: July 22, 2020

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APPLICATION FOR RENEWAL OF EXEMPTION

Polynesian Limited d/b/a Samoa Airways ("Samoa Airways") hereby applies for renewal of its exemption from the provisions of 49 U.S.C. 40109(g) and 41703(c) permitting Samoa Airways to continue to transport persons, property and mail between Pago Pago, American Samoa, and the Manu'a Islands, American Samoa,¹ through February 8, 2021.² This authority will expire August 5, 2020. Without renewal of this exemption, Samoa Airways will be forced to suspend all service linking the Manu'a Islands with Pago Pago.

¹ The Manu'a Islands consist of three volcanic islands, Ofu and Olosega (joined by a bridge) and Ta'u, located approximately sixty miles east of Tutuila. Tutuila is the largest of the five islands and two coral atolls comprising American Samoa. Pago Pago is located on Tutuila.

² Samoa Airways is requesting renewal of this authority to avoid the need to file duplicative applications with the Department. The renewal period requested is the remainder of Samoa Airways' initial twelve-month request. Samoa Airways understands that (i) any authority granted pursuant to this request will be subject to further review by the Department in the event a U.S. carrier resumes full passenger and/or cargo service between Pago Pago and the Manu'a Islands; (ii) the Department's approvals will be valid for periods of no more than 180 days, with the remainder deferred; and (iii) Samoa Airways will be required to cease this service no more than five days after a U.S. carrier initiates Pago Pago-Manu'a Islands service. The Department previously approved identical requests. *Notices of Action Taken*, Docket DOT-OST-2014-0144, February 8, 2019, August 9, 2019 and February 6, 2020.

Samoa Airways remains the only carrier willing and able to transport passengers and cargo between Pago Pago and the Manu'a Islands. The Government of American Samoa has requested that Samoa Airways continue to provide emergency service between Pago Pago and the Manu'a Islands to prevent American Samoan residents from being left without air service. Samoa Airways has agreed to the American Samoa Government's request, and is prepared and willing to continue operations. In accordance with this request and Section 402 of the FAA Reauthorization Act of 2018 Samoa Airways requests renewal of this authority through February 8, 2021.³

Samoa Airways' Manu'a-Pago Pago service is critical to the health and safety of Manu'a residents. Samoa Airways' flights are the only air link available to island residents. As a result, Samoa Airways is regularly called upon to transport patients seeking hospital care in Pago Pago in addition to emergency medical evacuation. Samoa Airways transports numerous passengers weekly seeking medical treatment in a Pago Pago hospital, and it has performed multiple medical evacuation flights for more seriously ill passengers. Without Samoa Airways' service, all of these passengers would be forced to travel to Pago Pago by boat, which requires a sixty-mile journey through frequently rough seas. It is essential that this exemption be extended for the safety and health of Manu'a Islands residents.

No U.S. carrier is able to provide Pago Pago-Manu'a Islands service, nor is one likely to be in a position to provide this service in the near future. Inter Island Airways ("IIA")

³Section 402 of the FAA Reauthorization Act of 2018 authorizes the Department to approve exemptions up to 180 days for cabotage service in American Samoa. *See, Notice of Action Taken*, Docket DOT-OST-2014-0144, February 8, 2019, fn.5.

(which is a U.S. carrier) previously provided this service. However, IIA ceased service some time ago. As a result, there is no U.S. carrier air service—or any air service, other than that operated by Samoa Airways —between Pago Pago and the Manu’a Islands.

Samoa Airways will accept the conditions imposed by the Department in its February 16, 2017, and subsequent *Notices of Action Taken* in continuing Pago Pago-Manu’a Islands service and has no objection to grant of its authority for a 180-day period.

In further support of its request for exemption, Samoa Airways states as follows:

1. Samoa Airways is a citizen of Samoa and is entirely owned by the Government of Samoa. Samoa Airways was established by the Samoan Government pursuant to a restructuring plan intended to isolate certain pre-existing financial obligations of Polynesian Airlines (Holdings) Limited. Pursuant to the plan, effective November 6, 1995, Samoa Airways assumed all of the operating authority held previously by Polynesian Airlines (Holdings) Limited.

2. In addition to its Pago Pago-Manu’a Islands emergency service, Samoa Airways previously operated from its hub, Fagalii Airport in Apia, to Pago Pago in American Samoa in addition to on-demand charter services to Maota and Asau Samoa domestic airstrips on the big island of Savaii as well as to other neighboring island countries such as Tonga and Niue utilizing Twin Otter aircraft.⁴

⁴ Due to the state of emergency created by the COVID-19 virus, these other services have been suspended temporarily.

3. Samoa Airways' operations are regulated by the Government of Samoa, which in turn utilizes under contract the safety and technical regulatory services of the New Zealand Civil Aviation Authority. New Zealand and Samoa are contracting states to the Convention on International Civil Aviation ("Chicago Convention") and observe all applicable ICAO standards. Samoa has been determined by the FAA to be a Category 1 country.

4. Samoa Airways will continue to operate up to twice-daily flights between Pago Pago and the Manu'a Islands depending on the needs of island residents and shippers and aircraft availability as well as medical evacuation and other emergency flights as needed. Flights will be operated with Samoa Airways' 19-seat Twin Otter aircraft.

5. Since approval of its exemption, Samoa Airways has transported approximately 200-300 passengers monthly between Pago Pago and the Manu'a Islands, demonstrating the need for its service.

6. Under 49 U.S.C. 40109(g), the Department may authorize a foreign air carrier to transport commercial traffic between U.S. points under limited circumstances. Specifically, the Department must find that (i) the authority is required in the public interest, (ii) because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. 41102, (iii) all possible efforts have been made to accommodate the traffic on U.S. certificated air carriers, and (iv) the exemption is necessary to avoid unreasonable hardship for the traffic. This application is consistent with the public interest and meets all of

the relevant criteria under 49 U.S.C. 40109(g) for the grant of an exemption. In fact, the Department has found previously that Samoa Airways' emergency cabotage service between Pago Pago and the Manu'a Islands meets the requirements of Section 40109.⁵

7. Grant of this exemption request is in the public interest and necessary to avoid an unusual hardship. No U.S. carriers are available to provide this service.

8. There is no question that suspension of U.S. carrier air service between Pago Pago and the Manu'a Islands has resulted in severe hardship to passengers and shippers and disruption to the American Samoan economy, as confirmed by the Government of American Samoa. Not only is discretionary travel affected, Samoa Airways understands there is very limited medical care in the Manu'a Islands requiring residents to obtain urgent medical care in Pago Pago, thus requiring that Samoa Airways operate medical evacuation flights in addition to its regular service.

9. Samoa Airways' request for an exemption permitting it to continue to provide limited cabotage service between Pago Pago and the Manu'a Islands is supported fully by the Government of American Samoa.

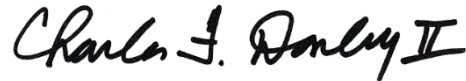
10. An emergency created by unusual circumstances not arising in the normal course of business exists. Since IIA terminated service, U.S. carrier air service between Pago

⁵ *Notice of Action Taken*, Docket DOT-OST-0144, February 16, 2017 ("We found that this action met all the relevant criteria of 49 USC 40109(g) for the grant of an exemption of this type, for a period of 30 days, and that the grant was required in the public interest."); *Notice of Action Taken*, Docket OST-2004-17387, March 26, 2004 ("Given these circumstances, we find that the standards for grant of emergency cabotage authority have been met, and that grant of the exemption requested by Polynesian, for a maximum of 30 days, with deferral on the remainder, is warranted."). *See, also, Notice of Action Taken*, Docket OST-2004-18365, August 23, 2004.

Pago and the Manu'a Islands is not available making it extremely difficult or impossible for passengers to travel between the two points. Boat service (which does not operate reliably) is not a suitable substitute, as the arduous sixty-mile journey by sea can take eight hours or more depending on weather. Moreover, the sea conditions between American Samoa and the Manu'a Islands can be treacherous, and Samoa Airways understands that in the past a number of critically-ill passengers have not survived the boat trip.

WHEREFORE, Polynesian Limited d/b/a Samoa Airways respectfully requests that the Department of Transportation grant this exemption application permitting it to continue to transport persons, property and mail between Pago Pago, American Samoa, and the Manu'a Islands, American Samoa, through February 8, 2021, as more fully explained herein, or grant such other relief as the Department deems necessary and appropriate.

Respectfully submitted,



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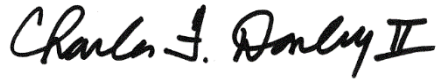
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Counsel to Polynesian Limited d/b/a Samoa
Airways

DATED: July 22, 2020

CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing Application for Renewal of Exemption has this day been served on each of the following individuals via e-mail or telecopier.



Charles F. Donley II

DATED: July 22, 2020

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