



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

Order 2021-9-11

Issued by the Department of Transportation  
on the 13<sup>th</sup> day of September, 2021

Served: September 13, 2021

In the matter of

ALL U.S. AIR CARRIERS

Waiver of the dormancy and startup conditions on  
limited entry route authority

Docket DOT-OST-2020-0035

**ORDER EXTENDING TEMPORARY WAIVERS**

**Summary**

By this Order, the U.S. Department of Transportation (the Department) further extends the expiration date of the blanket waiver granted by Order 2020-3-9. That is, all U.S. air carriers holding limited-entry international route authority are granted a waiver of the startup and dormancy conditions applicable to their authorities through March 26, 2022, subject to the conditions set forth in this Order.

**Background and Motion of A4A**

By Order 2020-3-9, issued March 27, 2020, the Department found it in the public interest to grant all U.S. air carriers temporary blanket relief from startup and dormancy conditions through October 24, 2020, *i.e.*, through the IATA 2020 Summer traffic season. The Department noted that U.S. air carriers have found it necessary to reduce various international flight operations because of significant declines in traffic, and particularly international traffic, in the wake of the coronavirus (COVID-19) public health emergency. The Department stated its belief that, in the current environment, air carriers should not be obligated to reach decisions on restoring such services based on the “use-it-or-lose-it” constraints associated with a startup or dormancy condition for certain international services.<sup>1</sup>

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<sup>1</sup> The waiver applies to two standard conditions that the Department imposes on limited-entry route authority. Under the startup condition, air carriers must begin services for newly allocated route or frequency authority by a date certain. Under the dormancy condition, an allocation of route or frequency authority would be deemed dormant and would revert automatically to the Department if not used for a period of 90 days. We have imposed startup and/or dormancy conditions on authority to serve the following limited-entry markets: China, Cuba, Ecuador, Hong Kong, Russia, South Africa, Tokyo Haneda, and Vietnam.

By Order 2020-9-26, issued September 25, 2020, the Department granted a request of Airlines for America (A4A) and extended through March 27, 2021, the effective dates of the waiver granted by Order 2020-3-9 (*i.e.*, the waiver was extended through the IATA 2020-2021 Winter traffic season). Then, by Order 2021-3-3, issued March 1, 2021, the Department granted a second request of A4A and further extended the effective dates of the waiver through October 30, 2021 (*i.e.*, the waiver was extended through the IATA 2021 Summer traffic season).

On June 23, 2021, A4A, on behalf of its members,<sup>2</sup> filed a request for an additional extension of the waiver through March 26, 2022, *i.e.*, through the IATA Winter 2021-2022 traffic season. A4A asserts that an extension is necessary and justified because international flight operations remain reduced at unprecedented levels during the ongoing COVID-19 public health emergency. A4A further asserts that an extension is in the public interest for the same reasons for which the Department granted the previous temporary waivers, as well as new developments in the global response to the COVID-19 public health emergency.

A4A served its request on interested air carriers, and on July 6, 2021, Hawaiian Airlines submitted comments in support of the A4A request. No other responsive pleadings were filed.

### **Decision**

The Department has decided to grant the request of A4A and extend the effective dates of the waiver granted by Order 2020-3-9, through March 26, 2022, *i.e.*, through the IATA 2021-2022 Winter traffic season. In the circumstances presented, the Department finds that extension of the temporary blanket relief from these conditions is in the public interest, and that it will continue to serve the public interest to afford air carriers flexibility to begin or resume their international services as market conditions warrant, without risk that they will lose their route or frequency awards for nonuse.

At the same time, we recognize the value of limited-entry route/frequency awards and the importance of encouraging the availability of services in restricted markets. Under the terms of this waiver, any limited-entry authorities that have not been used for the applicable dormancy period and for which services have not resumed prior to March 27, 2022, will be deemed dormant as of that date and will revert to the Department.<sup>3</sup> Similarly, any limited-entry authorities that are subject to a startup condition and have not begun prior to March 27, 2022, will revert to the Department.

We will also require all U.S. air carriers to notify the Department, in writing, no later than March 1, 2022, of the limited-entry route rights that they will not be using beginning March 27. The March 1 notice requirement will provide all interested air carriers notice of any authorities that

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<sup>2</sup> A4A states that its members are: Alaska Air Group, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. A4A also states that Air Canada is an associate member.

<sup>3</sup> In other words, no additional 90-day period of permissible dormancy will attach to the March 27 date.

will be dormant after expiration of the blanket waiver, and sufficient time to plan for services during the summer traffic season, including receipt of the necessary regulatory authorities.<sup>4</sup>

The Department recognizes that specific cases may call for relief going beyond that which we have deemed justified on a blanket basis in the current circumstances. In this regard, air carriers may seek further extension of the waiver beyond March 26, 2022, for specific city-pair limited-entry services where they can demonstrate that circumstances warrant. Air carriers should file such requests in sufficient time for other interested parties to comment and for the Department to make a decision in a timely manner.<sup>5</sup>

**ACCORDINGLY,**

1. The Department grants the request of Airlines for America to extend the effective dates of the waivers granted by Order 2020-3-9 to all U.S. air carriers of the startup conditions and dormancy conditions applicable to their limited-entry international route authorities;
2. The waivers granted by Order 2020-3-9 shall expire March 26, 2022;
3. The Department requires all air carriers granted waivers as discussed in this Order to file a notice no later than March 1, 2022, in Docket DOT-OST-2020-0035 listing each limited-entry market as set forth in the text of this Order in which it will not resume service beginning March 27, 2022; and
4. The Department will serve this Order on all certificated air carriers operating large aircraft; the Federal Aviation Administration; and the U.S. Department of State.

By:

**Carol A. (Annie) Petsonk  
Deputy Assistant Secretary  
for Aviation and International Affairs**

(SEAL)

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<sup>4</sup> Order 2021-3-3 requires air carriers to file notice by October 1, 2021, of limited-entry route rights that they will not be using beginning October 31, 2021. In light of the extension we are granting here, we will waive the October 1 due date, and will now require that such notice be filed by March 1, 2022. The notice should be filed in the captioned docket of this Order and served on all other U.S. air carriers. To the extent that an air carrier may institute less than its fully authorized service in a particular market, the market involved and limited-entry route rights not being used should be included in the notification.

<sup>5</sup> Such requests should be filed in the captioned docket for this Order and the applicable docket(s) for the authority at issue. Requests should also be served on all other interested parties.