



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

Issued by the Department of Transportation
on the 22nd day of May, 2020

**CONTINUATION OF CERTAIN AIR
SERVICE**

Docket DOT-OST-2020-0037

Under Public Law 116-136 §§ 4005 and 4114

ORDER TO SHOW CAUSE

I. SUMMARY

By this Order, and pursuant to the Notice of Adjustments to Service Obligations issued May 12, 2020 (Notice), the U.S. Department of Transportation (Department) tentatively grants point exemptions to 15 Covered Carriers¹ from their Service Obligations as determined by Order 2020-4-2 (April 7, 2020) (Final Order).² Any objections or comments to our tentative findings should be filed by 5:00 PM (EDT) on May 28, 2020 in the Docket and served upon all interested parties.

II. BACKGROUND

On May 12, 2020, the Department issued the Notice allowing Covered Carriers to request exemptions from their Service Obligation up to five percent of the points of their service obligation, or five points, whichever is greater, subject to certain conditions. The Notice directed Covered Carriers to submit prioritized lists of the points for which they wish to be granted an exemption. The Department explained that it would not grant an exemption to a Covered Carrier for a point if it would result in that point losing service from all Covered Carriers. The Notice also described how the Department would resolve conflicts should multiple Covered Carriers request an exemption for the same point where the Department could not grant all the requests. The Department reserved the right to deny an exemption request for a point if the exemption would result in inadequate capacity or connectivity to serve the point, as informed by the standards in the CARES Act³ or public interest considerations.

¹ See Notice of Adjustments to Service Obligations (May 12, 2020). For purposes of the Notice, the Department included carriers that have applied for CARES Act assistance, but not yet received it, as Covered Carriers.

² The Service Obligation points were updated on May 12, 2020 and filed together with the Notice in the Docket.

³ “When considering whether to exercise the authority granted by this section, the Secretary of Transportation shall take into consideration the air transportation needs of small and remote communities and the need to maintain well-functioning health care and pharmaceutical supply chains, including for medical devices and supplies.” Section 4005.

The Department requested Covered Carriers submit their prioritized lists of exemption points no later than 5:00 PM (EDT) on May 18, 2020.

As of the deadline, the Department received submissions from 15 carriers: Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Elite Airways, Frontier Airlines, Cape Air, JetBlue Airways, Ravn Alaska, Seaborne Virgin Islands, Silver Airways, Southern Airways Express, Spirit Airlines, Sun Country Airlines, and United Airlines.

III. METHODOLOGY

This Show Cause Order implements the approach outlined in the Notice without change. To determine whether a Covered Carrier would be granted an exemption for a point, the Department applied the rules described in the Notice and compared each Covered Carrier's request. The Department granted all requests (up to each carrier's maximum) that would not result in any point losing all Covered Carrier service or otherwise result in inadequate capacity or connectivity to serve the point. Following the procedure set forth in the Notice, for those covered points where multiple Covered Carriers requested an exemption such that granting all exemptions would leave that point with inadequate or no Covered Carrier service, the Department implemented a "tie-breaking" process that considered various factors. The Department first considered which of the Covered Carriers ranked the point higher on their priority list; the Covered Carrier that ranked the point the highest was granted the exemption. If two or more Covered Carriers ranked the point equally, the Department examined which of the Covered Carriers had the fewest minimum weekly frequencies at the point; the Covered Carrier(s) with the fewest weekly frequency obligations was granted the exemption to the maximum extent possible that would still leave one covered carrier serving the point. If two or more carriers had the same weekly frequency obligations, the Covered Carriers with the fewest system-wide obligations were granted the exemptions to the maximum extent possible that would leave one Covered Carrier serving the point.

IV. TENTATIVE DECISION

After reviewing the carriers' prioritized lists, and resolving any conflicts per the procedures described above and in the Notice, the Department has tentatively decided to grant exemptions to Covered Carriers for points as described in Appendix A. The Department granted all requests that were possible to grant under the procedures published in the Notice and described above. We did not tentatively grant a Covered Carrier its full allotment of exemptions (five percent of the points of their service obligation, or five points, whichever is greater) only for situations in which that Covered Carrier did not request its full allotment, or did not provide sufficient back-up points for the Department to grant its full allotment after resolving conflicting requests. In only five instances was the Department unable to grant all of a carrier's top requests: Aguadilla, Puerto Rico; Culebra, Puerto Rico; Vieques, Puerto Rico; Destin, Florida and Worcester, Massachusetts. In resolving these cases, we applied the methodology described above in resolving competing requests or situations where a point would be left without service from a

covered carrier. At Culebra and Vieques, we resolved multiple requests for service point relief based upon the carrier with fewer system frequency obligations and the fact that granting all requests would have resulted in no covered carriers serving the point. At Worcester, MA, one or more carriers ranked the point higher than another carrier and granting all requests would have resulted in no covered carriers serving the point. At Aguadilla, PR and Destin, FL, granting the requests would have left the point without any service from a covered carrier, contrary to our methodology principles.

The Department will provide interested parties until 5:00 PM (EDT) on May 28, 2020 to file objections or comments on these tentative decisions.

ACCORDINGLY:

1. The Department directs all interested parties to show cause why the Department should not issue an order making final its tentative findings and conclusions discussed herein and in Appendix A, and award exemptions to the 15 Covered Carriers allowing them to suspend service through September 30, 2020, to the points listed in Appendix A, subject to the standard conditions contained in Appendix B. This tentative grant of exemptions will not eliminate the point from the Covered Carrier's underlying Service Obligations;
2. The Department directs any interested parties having objections to the issuance of an order making final any of the proposed findings, conclusions, or the exemption awards set forth here to file such objections in Docket DOT-OST-2020-0037, and serve all interested parties as required by the Department's procedural rules, by 5:00 PM (EDT) on May 28 2020;⁴
3. Once finalized, the Department may amend, modify, or revoke these exemptions at any time without hearing at our discretion; and
4. The Department will serve this Order on all parties on the service list for this docket.

By:

JOEL SZABAT
Assistant Secretary
Aviation and International Affairs

(SEAL)

An electronic version of this document is available at: <http://www.regulations.gov>

⁴ 14 C.F.R. Part 302.

Appendix A: Proposed Exemptions

Carrier	City
Alaska Airlines Inc.	Charleston, SC Columbus, OH El Paso, TX New Orleans, LA San Antonio, TX
Allegiant Air	New Orleans, LA Ogdensburg, NY Palm Springs, CA San Antonio, TX Springfield, IL Tucson, AZ
American Airlines Inc.	Aspen, CO Eagle, CO Montrose/Delta, CO Worcester, MA
Cape Air	Portland, ME
Corvus Airlines, Inc d/b/a Era Aviation d/b/a Ravn Alaska⁵	Goodnews Bay, AK Kodiak, AK Napakiak, AK Napaskiak, AK Platinum, AK
Delta Air Lines Inc.	Aspen, CO Bangor, ME Erie, PA Flint, MI Fort Smith, AR Lincoln, NE New Bern/Morehead/Beaufort, NC Peoria, IL Santa Barbara, CA Scranton/Wilkes-Barre, PA Williston, ND
Elite Airways LLC	Sarasota/Bradenton, FL
Frontier Airlines Inc.	Greenville/Spartanburg, SC Mobile, AL Palm Springs, CA Portland, ME

⁵ As of the publication of this Order, Ravn has applied for, but not yet received, CARES Act assistance. The carrier is also undergoing Chapter 11 bankruptcy restructuring and is not currently operating. At such time as it does receive CARES Act assistance and resumes operations, the exemptions granted here will be effective. Our granting of these exemptions to Ravn did not prejudice any other Covered Carrier's exemption requests in this proceeding.

	Tyler, TX
JetBlue Airways	Albuquerque, NM Palm Springs, CA Sacramento, CA Sarasota/Bradenton, FL Worcester, MA
Seaborne Virgin Islands, Inc.	Charlotte Amalie, VI Christiansted, VI Culebra, PR San Juan, PR Vieques, PR
Silver Airways	Charlotte Amalie, VI Huntsville, AL Key West, FL Tallahassee, FL Tampa, FL (Metropolitan Area)
Spirit Air Lines	Asheville, NC Charlotte Amalie, VI Christiansted, VI Greensboro/High Point, NC Plattsburgh, NY
Sun Air Express LLC dba Sun Air International / Southern⁶	Nashville, TN
Sun Country Airlines d/b/a MN Airlines	Madison, WI Philadelphia, PA Portland, OR Sacramento, CA St. Louis, MO
United Air Lines Inc.	Allentown/Bethlehem/Easton, PA Charlotte Amalie, VI Chattanooga, TN Fairbanks, AK Hilton Head, SC Ithaca/Cortland, NY Kalamazoo, MI Key West, FL Lansing, MI Myrtle Beach, SC Rochester, MN

⁶ As of the publication of this Order, Southern has applied for, but not yet received, CARES Act assistance. At such time as it does receive CARES Act assistance, the exemptions granted here will be effective. Our granting of these exemptions to Southern did not prejudice any other Covered Carrier's exemption requests in this proceeding.

Appendix B: U.S. Carrier Standard 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.