



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on October 13, 2021

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2020-0129

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **Skyway Enterprises, Inc. (Skyway)** filed **October 6, 2021**, for:

XX Amendment of emergency exemption under 14 C.F.R. §302.311 to provide the following service:¹

Skyway requests an amendment to its emergency exemption from Order 2020-8-4, in order to operate up to four weekly all-cargo charter operations to transport humanitarian aid and diplomatic cargo between Miami, Florida, and Havana, Cuba. Skyway also requests authority to operate up to three weekly all-cargo humanitarian operations between Miami, on the one hand, and the following additional points in Cuba at Skyway's discretion on the other hand: Santiago de Cuba, Matanzas/Varadero, Holguin, Santa Clara, and Camagüey. Skyway states that it will use small aircraft for these operations and seeks expedited approval of the above authority from the date of approval to March 31, 2022.

In support of its request, Skyway states that each flight will carry up to 7,500 lbs. of aid and essential supplies to Cuba, with a small portion occasionally dedicated to U.S. Embassy officials, as well as diplomatic cargo. Skyway asserts that its proposed operation would satisfy two exceptions noted in Order 2020-8-4, that permit certain charter operations for "emergency medical purposes..., and other travel deemed to be in the interest of the United States."²

Applicant reps: **Evelyn D. Sahr and Alexander T. Marriott (202) 659-6622**

DOT Analyst: **Brett D. Kruger (202) 366-8025**

DISPOSITION

XX **Granted** (subject to conditions, see below; see Discussion below.)

The above action was effective when taken: **October 13, 2021**, through **March 31, 2022**.

¹ By Notice of Action Taken dated July 23, 2021, in this docket, the Department granted an emergency exemption to Skyway in order to operate up to two weekly all-cargo charter operations to transport humanitarian aid and diplomatic cargo, using small aircraft, between Miami, Florida, and Havana, Cuba; and to operate up to one weekly all-cargo charter operation to transport humanitarian aid, using small aircraft, from Miami to any of the following additional points in Cuba: Santiago de Cuba, Matanzas/Varadero, Holguin, Santa Clara, and Camagüey, between July 22, 2021, and November 30, 2021.

² By Order 2020-8-4, the Department suspended the authority of all U.S. air carriers and foreign air carriers to provide charter flights between the United States and all airports in Cuba, except for authorized public charters to and from Havana and other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States.

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

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX Applicant's air taxi authority (14 CFR Part 298)**
- XX DOT charter regulations (e.g., 14 CFR Parts 212 and 380)**
- XX Standard exemption conditions (attached)**

DISCUSSION

Background: By Order 2020-8-4, issued August 13, 2020, the Department suspended the authority of all U.S. air carriers and foreign air carriers to provide charter flights between the United States and all airports in Cuba, except for authorized public charters to and from Havana and other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States.

The Department issued Order 2020-8-4 at the request of the U.S. Department of State, following the receipt of a letter from then-Secretary of State Michael R. Pompeo to then-Secretary of Transportation Elaine L. Chao, stating that:

To advance the Administration's policy to strengthen the economic pressure on the Cuban regime as a means to restrict the regime's ability to repress its people and support the illegitimate Maduro regime in Venezuela, and in the foreign-policy interests of the United States, I respectfully request that the Department of Transportation suspend until further notice all charter flights between the United States and all airports in Cuba over which the Department of Transportation exercises jurisdiction, except for authorized public charters to and from Havana, and other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States.³

Accordingly, the Department found that it was in the public interest to suspend the charter authority of all U.S. and foreign carriers to the extent necessary to prohibit charter operations between the United States and Cuba as set forth in the Order.

Responsive Pleadings: Skyway served its application on interested parties and reports that no party has expressed opposition towards grant of its requested emergency exemption. On October 12, 2021, Swift Air, L.L.C. d/b/a iAero Airways (iAero) and Cuba Charter Services, LLC d/b/a Aerocuba (Aerocuba) filed responses to the Skyway application, each stating that it does not object to Skyway's application and urging the Department to grant without delay a pending iAero application for humanitarian relief flights to Cuba.⁴

Decision: We have decided to grant Skyway's application for an amended exemption from Order 2020-8-4 to operate the proposed charter flights. Our action in Order 2020-8-4 suspending carriers' U.S.-Cuba charter authority was taken at the request of the U.S. Department of State, and it incorporated the Department of State's language as to permitted exceptions.

³ The full text of the State Department's request is attached as an Appendix to Order 2020-8-4.

⁴ We acted on iAero's pending application by Notice of Action Taken dated October 13, 2021, in Dockets DOT-OST-2020-0011 and DOT-OST-2020-0129.

We consulted with the Department of State to determine whether it regards the proposed Skyway flights to be in the foreign policy interests of the United States and to be consistent with the exceptions to the suspension of charters between the United States and Cuba set forth in Order 2020-8-4.

On October 12, 2021, after considering the specific circumstances presented, the Department of State provided its view that the proposed operation would be in the foreign policy interests of the United States, and would be consistent with the Department of State's specified exceptions to the suspension of charter flights between the United States and Cuba. Against this background, we find that it would be in the public interest to grant the requested exemption.

As a final matter, we remind the applicant that a number of significant limitations and requirements remain in place concerning air transportation between Cuba and the United States. Nothing in the Department's award of authority will relieve any party from complying with all applicable regulations and requirements of other U.S. agencies and with all applicable laws of the United States.

To the extent not granted, we denied all requests in the referenced application. We may amend, modify, or revoke the authority granted in this Notice 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.

An electronic version of this document is available on the World Wide Web 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 applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (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 assure 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; and
- (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.