



Order 2020-8-4

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

Issued by the Department of Transportation
on the 13th day of August, 2020

Served: August 13, 2020

SUSPENSION OF U.S.-CUBA CHARTER AUTHORIZATIONS

DOCKET DOT-OST-2020-0129

ORDER

By this Order, the U.S. Department of Transportation (the Department) announces action that will suspend all 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 is taking this action at the request of the U.S. Department of State. By letter dated August 13, 2020, Secretary of State Michael R. Pompeo wrote to 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.¹

Accordingly, the Department finds, or, in the case of authority held by certificate or permit, tentatively finds, that it is 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 this Order. The Department will effectuate the suspension by the mechanisms and procedures discussed below.

¹ The full text of the letter is attached as an Appendix to this Order.

Specifically, the Department will add a condition to all existing and future exemption authority granted to U.S. and foreign air carriers, and to all existing and future authorizations granted to foreign civil aircraft operators under 14 CFR Part 375, to the extent necessary to preclude the operation of charter flights between the United States and Cuba. This suspension includes charter flights operated directly and indirectly by U.S. air carriers and foreign air carriers pursuant to exemptions granted under 49 U.S.C. § 40109, U.S. air taxi and commuter air carrier operations pursuant to exemptions granted under 14 CFR § 298.11, Canadian charter air taxi operations pursuant to exemptions granted under 14 CFR § 294.10, and all other charter or on-demand air transportation operated under exemptions whether granted by regulation or by specific Department action.² Consistent with the Department of State's request, this condition will allow for certain exceptions. Specifically, the suspension shall not preclude the operation of authorized public charters to and from Havana,³ or other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States. Consistent with the Department of State's desire to facilitate an orderly wind down of services, this suspension will become effective on October 13, 2020, and will remain in effect until further order of the Department.

The Department has also tentatively decided to add a condition, subject to show-cause procedures, to all existing and future U.S. air carrier certificates and all existing and future foreign air carrier permits, to preclude U.S. air carriers and foreign air carriers from operating charter flights between the United States and Cuba. Consistent with the Department of State's request, the condition will allow for certain exceptions. Specifically, the suspension will not preclude the operation of authorized public charters to and from Havana, or 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 proposes that the condition become effective on the third day after the date of service of a final order in this matter. We will afford interested parties 21 calendar days from the date of this order to file objections to our tentative decision. Answers to objections will be due seven calendar days thereafter.⁴

² The suspension applies to charter flights operated nonstop from the United States, or involving third-country intermediate, behind, or beyond points. The Department will not look favorably upon operations that seek to evade the requirements of this order. The Department reserves the right to pursue those involved in such operations through enforcement action.

³ See Order 2020-5-7 regarding the Department's allocation procedures for authorized U.S.-Havana public charter flights.

⁴ In the event that the Department finalizes this tentative decision, our action should, unless disapproved by the President of the United States under §41307 of Title 49 of the U.S. Code, become effective on the 61st day after its submission for §41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove this portion of the Department's decision under that section, whichever occurs earlier.

ACCORDINGLY,

1. The Department amends all exemptions granted under 49 U.S.C. § 40109, 14 CFR Part 294, and 14 CFR Part 298, and all authorizations granted under 14 CFR Part 375, to add the following condition as described in the text of this order:

Effective October 13, 2020, and until further order of the Department, the holder shall not operate any charter flight between the United States and any airport in Cuba, except that nothing in this condition shall preclude the operation of authorized public charters to and from Havana, or other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States.

2. The Department may amend, modify, or revoke the provisions of Ordering Paragraph 1 above at its discretion at any time and without hearing;

3. The Department tentatively amends all U.S. air carrier certificates issued under section 49 U.S.C. § 41102, and all foreign air carrier permits issued under section 49 U.S.C. § 41302, to add the following condition as discussed in the text of this order, to be effective three days after the service date of a final order in this matter:

Until further order of the Department, the holder shall not operate any charter flight between the United States and any airport in Cuba, except that nothing in this condition shall preclude the operation of authorized public charters to and from Havana, or other authorized charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States.

4. The Department directs any interested parties having objections to its tentative findings and conclusions set forth in this Order and in ordering paragraph 3 above to file their objections, in the above-captioned docket, with the Department's Docket Section, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, 20590, no later than twenty-one (21) calendar days from the date of service of this Order; answers thereto shall be filed by interested parties no later than seven (7) calendar days thereafter;

5. If timely and properly supported objections are filed, the Department will afford full consideration to the matters or issues raised by the objections, and any answers thereto, before taking further action;

6. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Department will enter an order which will (subject to Presidential review under §41307 of Title 49 of the U.S. Code) make final our tentative findings and conclusions set forth in this order; and

7. The Department will serve this Order on all certificated carriers operating large aircraft; all foreign air carriers holding permits; all other U.S. and foreign carriers holding Department authority under which they might perform charter flights to Cuba and which have electronic mail addresses currently on file with the Department; the Ambassador of Cuba in Washington, DC; the Federal Aviation Administration; and the U.S. Department of State.

By:

David E. Short
Deputy Assistant Secretary
Aviation and International Affairs

(SEAL)

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THE SECRETARY OF STATE
WASHINGTON

August 13, 2020

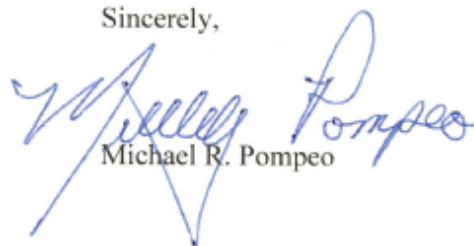
The Honorable Elaine Chao
Secretary of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Madam Secretary:

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.

Suspending these charter flights to all of Cuba's airports would prevent charter operators from filling the gap in air service left by the suspensions of non-Havana scheduled air service and public charter service that took effect on December 10, 2019, and March 10, 2020, respectively. Moreover, this action would further restrict U.S. funds from enriching the Cuban regime. Scheduled service and public charter flights to José Martí International Airport in Havana will continue serving as the main gateway for travel from the United States to Cuba for family visitation or other lawful purposes. Meanwhile, private charter flights for emergency medical purposes, search and rescue, and other travel deemed to be in the interest of the United States would be preserved. The Department of Transportation's implementation of this charter suspension measure with a 60-day advance notice period would allow for the orderly wind-down of flight operations. The Department of State considers that this action would not conflict with the U.S. government's obligations under applicable international agreements.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael R. Pompeo".

Michael R. Pompeo