



AMENDED

NOTICE OF ACTION TAKEN

April 28, 1998

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This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applications of AMERICAN AIRLINES, INC., filed 5/7/97 and 9/30/97 in Dockets OST-97-2477 and 97-2944; AERO CALIFORNIA S.A. de C.V. (AeroCalifornia), filed 5/7/97 and 10/1/97 in Dockets OST-97-2481 and 97-2961; and AMERICAN AIRLINES, INC., and AERO CALIFORNIA filed 5/7/97 and 9/30/97 (Undocketed)

By letter dated April 7, 1998, American and Aero California requested clarification of the Notice of Action Taken dated March 20, 1998 (in the matter of the docketed and undocketed cases captioned, above), with respect to the carriers' request for immediate action on discrete U.S.-Mexico city-pair markets. The carriers stated that their February 4 and 11 requests (addressed in the March 20 Notice) intended to also seek exemption authority for AeroCalifornia in the Boston-La Paz, Boston-Loreto, and Boston-Mazatlan markets, and statement of authorization authority to American to display Aero California's "JR" code on American's flights between Boston and Los Angeles for these Mexico-U.S. services. The attached clarification would:

XX Amend Exemption for Aero California, under 49 U.S.C. 40109, granted by Notice dated 3/20/98, to authorize the following service:

**Scheduled foreign air transportation of persons, property, and mail between the terminal point Boston, Massachusetts, and the coterminal points La Paz, Loreto, and Mazatlan, Mexico. AeroCalifornia plans to operate the service under a code-share arrangement with American.**

XX Amend Statement of Authorization for American Airlines, under Part 207 of the Department's regulations, granted by Notice dated 3/20/98, to:

**Display AeroCalifornia's "JR" airline designator code on flights operated by American between Los Angeles and Boston for the carriage of AeroCalifornia's Mexico-Boston traffic described above.**

No answers were filed to the carriers' April 7 letter.

Applicant reps: Carl Nelson for American (202) 496-5647 DOT Analyst: Linda Lundell (202) 366-2336  
David Coburn for Aero California (202)429-8063 Allen Brown (202)366-2405

DISPOSITION

XX Granted Carriers' Clarification Request of April 7, 1998, for the operating authority, described above.

XX As to those requests granted, dismissed carriers' request for longer term authority.

The above actions were effective when taken: April 27, 1998. The exemption authority will expire March 20, 1999, or 90 days after final Department action on a corresponding foreign air carrier permit application, whichever occurs earlier; the statement of authorization authority will expire 6/14/98, both awards coextensive with the authorities granted to American and AeroCalifornia in the captioned dockets on March 20, 1998.

(See next page)

**XX** Under assigned authority (14 CFR 385) by:

**Paul L. Gretch, Director**  
**Office of International Aviation**  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of this action.)

**XX** Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with Mexico.

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

**XX** Holder's certificate of public convenience and necessity (American)

**XX** Standard Exemption Conditions (attached) (AeroCalifornia)

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Special Conditions/Remarks: **The code-share operations authorized here are subject to compliance with section 399.88 of the Department's regulations regarding code-sharing operations and any amendments to those regulations that may be adopted by the Department, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.**

**Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.**

**Foreign Air Carrier**  
**CONDITIONS OF AUTHORITY**

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:
  - (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or
  - (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code (formerly the Federal Aviation Act of 1958, as amended).

12/96