



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

Issued by the Department of Transportation on August 17, 1999

**NOTICE OF ACTION TAKEN -- DOCKET OST-99-6023 & OST-99-5076**

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).

Applicant: **Japan Air Charter Co., Ltd.**

Date Filed: July 26, 1999

Relief requested:

- (a) Exemption from 49 U.S.C. § 41301 to engage in scheduled foreign air transportation of persons, property and mail between any point or points in Japan and any point or points in the United States.
- (b) Statement of Authorization under 14 CFR Part 212 to display Japan Airlines Co., Ltd.'s designator code (JL) on flights operated by Japan Air Charter between any point or points in Japan and any point or points in the United States.
- (c) Permission to use the name JALways Co., Ltd. until such time as the carrier notifies the Department in writing that the Government of Japan has formally changed its name from Japan Air Charter to JALways Co. Ltd.<sup>1</sup>
- (d) Renewal of Japan Air Charter's exemption authority to engage in charter foreign air transportation of persons, property and mail between Japan and the United States, most recently renewed February 5, 1999, in Docket OST-99-5076, for a term coextensive with the term of the scheduled authority it seeks here.
- (e) Renewal of Japan Air Charter's Statement of Authorization to wet lease aircraft to Japan Airlines, most recently renewed May 4, 1999, for a term coextensive with the term of the scheduled authority it seeks here.

If renewal, date and citation of last action:

- (a-c) New authority
- (d) Renewal Notice of Action Taken, dated February 5, 1999, Docket OST-99-5076
- (e) Renewal Statement of Authorization, dated May 4, 1999, Undocketed

Applicant representative: William Karas (202) 429-6223 & Benjamin R. Achenbach (202) 429-6289  
Responsive pleadings: None filed

**DISPOSITION**

Action: Approved

Action date: August 17, 1999

Effective dates of authority granted: August 17, 1999-August 17, 2000

Basis for approval (bilateral agreement/reciprocity): 1998 Memorandum of Understanding between the United States and Japan (1998 MOU)

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

Japan Air Charter—Standard exemption conditions, Order 92-3-4 and the 1998 MOU

<sup>1</sup> Japan Air Charter states that on October 1, 1999, its corporate name will be changed to JALways Co., Ltd., and that while it intends to market services under the name JALways prior to the October 1 startup date, it intends to provide services under the authorities outlined above under its present name (Japan Air Charter) until the effective date of the name change.

Special conditions/Partial grant/Denial basis/Remarks:

The authority granted to Japan Air Charter, in addition to the conditions described above, is subject to the following conditions:

(a) To the extent that Japan Air Charter is operating the service, the exemption authority granted above is subject to the frequency limitations and service points authorized under the 1998 MOU.

(b) The number of weekly round-trip frequencies conducted under the codeshare authority authorized above shall not exceed the limitations on same country airline codeshare frequencies available for such services under Section IV.E of the 1998 MOU.

(c) Japan Air Charter and/or Japan Airlines must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket OST-99-6023.

(d) Japan Air Charter and/or Japan Airlines must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services. We expect this notification to be received within 10 days of such non-effectiveness or of such decision. Such notices should be filed in Docket OST-99-6023.

(e) The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted.<sup>2</sup> Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service, except to the extent here provided, and notwithstanding in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

(f) The authority granted here is specifically conditioned so that neither Japan Air Charter nor Japan Airlines shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) the applicant was qualified to perform the proposed operations; (2) immediate action was required and was consistent with Department policy; (3) grant of the authority was consistent with the public interest; and (4) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Docket. 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 review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, 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 review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

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<sup>2</sup> On March 8, 1999, the Department issued Part 257 (14 CFR Part 257) governing code-sharing operations. That regulation will now become effective on August 25, 1999. (See Federal Register 59416, July 15, 1999)