



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

Issued by the Department of Transportation  
on the 4th day of January, 1999

SERVED: February 11, 1999

**Applications of**

**Continental Airlines, Inc.**

**Delta Air Lines, Inc.**

**Federal Express Corporation**

**Northwest Airlines, Inc.**

**Dockets OST-97-2516 (45131)**

**OST-95-545 (48307)  
OST-97-3207**

**OST-97-3089**

**OST-97-3177**

**for certificates of public convenience and necessity  
under section 41102 of Title 49 U.S.C. and the orders  
and regulations of the Department of Transportation**

**ORDER ISSUING CERTIFICATES**

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart Q procedure to grant the requested authority.<sup>1</sup>

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<sup>1</sup> 14 CFR 302.1701 *et seq.* Under Rule 29(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision.

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except as noted in individual attachments, no answers to these applications were filed.

#### Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

#### Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations which would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

#### Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).<sup>2</sup> The certificates issued to Continental to serve Venezuela, Delta to serve Venezuela, Federal Express to serve China, and Northwest to serve Japan and China are granted for a five-year term; the certificate issued to Delta to serve Panama is for an indefinite duration.

#### Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal

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<sup>2</sup> 14 CFR Part 399.120.

applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

### Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;<sup>3</sup> and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;
2. To the extent not granted, dismissed or deferred, we deny all motions and requests in these dockets;
3. We will not entertain petitions for reconsideration of this order;<sup>4</sup>

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<sup>3</sup> Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

<sup>4</sup> All parties have had a full opportunity to comment on the applications filed. Except with respect to Delta's application to serve Venezuela in Docket OST-95-545, no answers were filed to the applications for new or amended certificate authority included in this order. With respect to Delta's application in Docket OST-95-545, as described fully in the attached Appendix, the Department's action on Delta's application resolved the concerns raised by the commenting parties.

4. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates and certificate amendments shall become effective upon the 61st day after its submission for section 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 the Department's order under that section, whichever occurs earlier;<sup>5</sup> and

5. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation and  
International Affairs

(SEAL)

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<sup>5</sup> This order was submitted for section 41307 review on January 4, 1999. On February 5, 1999, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.



**VI. Terms, Conditions, and Limitations:** Standard. We will reissue Continental's certificate for Route 381 to reflect renewal of Continental's authority for an additional five years, and to reflect newly authorized service in the Newark-Caracas market. We will also add a new condition regarding route integration authority in limited-entry markets. Finally, we will remove obsolete terms and conditions and add new standard terms and conditions applicable to U.S. carriers.

**VII. Duration:** Five years. Section 41102(c).



# **Experimental Certificate of Public Convenience and Necessity**

**For Route 381**  
(as reissued)

**This Certifies That**

**Continental Airlines, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 99-2-8  
On January 4, 1999  
Effective on February 5, 1999**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

Continental Airlines, Inc. for **Route 381**

is authorized to engage in scheduled foreign air transportation of persons, property and mail:

1. Between the coterminal points New Orleans, Louisiana; and Houston and Dallas/Ft. Worth, Texas; and the coterminal points Maracaibo and Caracas, Venezuela.
2. Between Newark, New Jersey, and Caracas, Venezuela.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

- (6) The holder shall at all times remain a “Citizen of the United States” as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department’s regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found “fit, willing, and able,” its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder’s authority by virtue of the route integration authority granted here, but not being used, the holder of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective February 5, 1999. It shall expire February 5, 2004, unless the Department earlier suspends, modifies, or deletes the authority.

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\*This certificate, issued by Order 83-4-49 and reissued by Order 86-8-78, is further reissued to reflect renewal of authority in the New Orleans/Dallas/Ft.Worth-Maracaibo/Caracas markets and award of new authority in the Newark-Caracas market. The reissued certificate also deletes obsolete terms and conditions and incorporates new standard terms and conditions applicable to U.S. carriers.

Delta Air Lines, Inc.

New Certificate of Public Convenience and Necessity

**Filed:** 8/20/92      **Docket:** OST-95-545 (48307)      **Notice:** 57 FR (39413) 8/31/92

**I. Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States and a point or points in Venezuela, and to integrate this authority with its existing certificate and exemption authority.

**II. Relevant Currently Held Authority:** Delta currently holds exemption authority between Atlanta, Georgia, and Caracas, Venezuela. (See Order 97-7-33.)

**III. Pleadings:** American and United filed answers to Delta's application stating that they had no objections as long as American's application for broad U.S.-Venezuela authority in Docket 47708 and United's application for South America route realignment in Docket 48295 were granted simultaneously.<sup>1</sup> Delta replied that there are no designation limits in the U.S.-Venezuela aviation agreement and, thus, no issues of mutual exclusivity to warrant contemporaneous consideration of its application with those of American and United. As discussed below, we are not granting Delta's request for broad U.S.-Venezuela authority and, thus, the issues raised by American and United are moot.

**IV. Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and Venezuela. Consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will grant Delta the authority to integrate the above authority with its existing certificate and exemption authority. The route integration authority granted is subject to the provisions of the aviation agreements between the United States and the foreign countries involved, and with our standard condition regarding route integration in limited-entry markets.

**V. Fitness/Citizenship:** Delta has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 98-4-3. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Delta's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. The U.S.-Venezuela aviation agreement limits U.S. carrier services from certain regions of the United States to specific cities in Venezuela. Against this background, it has been our longstanding policy to award U.S.-Venezuela combination service authority on a city-pair specific basis (see e.g., Orders 92-10-58 and 92-7-9). Delta has not persuaded us to deviate from that policy here. Therefore, we will issue Delta a certificate

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<sup>1</sup> American and United filed motions to modify scope on September 17 and October 1, 1992, respectively.

to reflect new authority in the Atlanta-Caracas market as opposed to authority between a point or points in the United States and a point or points in Venezuela. Should Delta in the future seek to serve other Venezuela markets, it is free to file such an application at that time. We will also include a new condition regarding route integration authority in limited-entry markets.

**VII. Duration:** Five years. Section 41102(c).



# **Experimental Certificate of Public Convenience and Necessity**

**For Route 757**

**This Certifies That**

**Delta Air Lines, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 99-2-8  
On January 4, 1999  
Effective on February 5, 1999**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

Delta Air Lines, Inc. for **Route 757**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between Atlanta, Georgia, and Caracas, Venezuela.

The authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but not being used, the holder of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective February 5, 1999. It shall expire February 5, 2004, unless the Department earlier suspends, modifies, or deletes the authority.

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\*This certificate is issued to reflect new authority in the Atlanta-Caracas market. It also incorporates new standard terms and conditions applicable to U.S. carriers.

Delta Air Lines, Inc.

Amendment of Certificate for **Route 152**

**Filed:** 12/5/97      **Docket:** OST-97-3207      **Notice:** 62 FR (65844) 12/16/97

**I. Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States and a point or points in Panama, and to integrate this authority with Delta's existing exemption and certificate authority.

**II. Relevant Currently Held Authority:** Delta currently holds certificate authority on segment 1 of Route 152 to provide service between the coterminal points Miami, FL; New Orleans, LA; Houston and Dallas/Ft. Worth, TX; and Los Angeles, CA, and a point or points in Panama. Order 88-8-57. Delta also holds exemption authority for service between Atlanta, Georgia, and Panama City, Panama. (See Order 98-1-6.)

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Panama. Consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will grant Delta the authority to integrate the above authority with its existing exemption and certificate authority. The route integration authority granted is subject to the provisions of the aviation agreements between the United States and the foreign countries involved, and with our standard condition regarding route integration in limited-entry markets.

**V. Fitness/Citizenship:** Delta has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. *See, e.g.,* Order 98-4-3. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Delta's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. We will amend segment 1 of Delta's certificate for Route 152 to grant the requested authority, and reissue the certificate to remove obsolete terms and conditions, and to add new standard terms and conditions applicable to U.S. carriers. We will also add a new condition regarding route integration in limited-entry countries.

**VII. Duration:** Indefinite.



## **Certificate of Public Convenience and Necessity**

**For Route 152**  
(as reissued)

**This Certifies That**

**Delta Air Lines, Inc.**

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 99-2-8**  
**On January 4, 1999**  
**Effective on February 5, 1999**

**Charles A. Hunnicutt**  
**Assistant Secretary for Aviation**  
**and International Affairs**

Terms, Conditions and Limitations

Delta Air Lines, Inc. for **Route 152**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between a point or points in the United States and a point or points in Panama.
2. Between a point or points in the United States and a point or points in the Bahama Islands, Jamaica, Haiti, Dominican Republic, Trinidad and Tobago, Barbados, the Netherlands Antilles, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.
3. Between a point or points in the United States and a point or points in Belgium, the Netherlands, Luxembourg, and the Federal Republic of Germany.
4. Between a point or points in the United States and a point or points in Korea, Hong Kong, Thailand, and Singapore, and Taiwan.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (8) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (9) The holder may combine on a single flight services between the United States, on the one hand, and Korea, on the other, authorized on this certificate with services between Portland, Oregon, and Tokyo, Japan authorized on its certificate for Route 515, so as to provide one-stop service between Portland and Seoul, Korea, via Tokyo, subject to the condition that no local traffic be carried between Tokyo and Seoul.
- (10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but not being used, the holder of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

\*As reissued by  
Order 99-2-8  
Route 152  
Page 3 of 3

This certificate shall become effective February 5, 1999.

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\*This certificate, issued by Order 88-8-57, amended by Orders 90-9-13 and 92-5-20, is reissued to reflect award of expanded authority to serve Panama on segment 1 of the certificate to include authority from all points in the United States. The reissued certificate also deletes obsolete terms and conditions, and incorporates revised standard terms and conditions applicable to U.S. carriers.

Federal Express Corporation

Amendment of Certificate for **Route 638**

**Filed:** 11/5/97      **Docket:** OST-97-3089      **Notice:** 62 FR (61573) 11/18/97

**I. Authority Sought:** Scheduled foreign air transportation of property and mail between a point or points in the United States via any intermediate points to a point or points in China open to scheduled international operations, and beyond to any points outside of China, with full traffic rights.

**II. Relevant Currently Held Authority:** Federal Express holds certificate authority to provide service between the coterminal points New York, NY; Chicago, IL; Columbus, OH; Los Angeles, CA; San Francisco, CA; Seattle, WA; Anchorage, AK; and Fairbanks, AK; via the intermediate points Tokyo, Japan, and Seoul Korea; and the coterminal points Beijing, Guangzhou, and Shanghai, China, and all points in China open to scheduled international operations, and beyond to Subic Bay, the Philippines. Order 97-10-8.

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and China.

**V. Fitness/Citizenship:** Federal Express has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 97-10-8. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Federal Express' fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. We will amend Federal Express' certificate for Route 638 to reflect the broader intermediate and beyond authority requested and reissue its certificate for this route. We recently renewed Federal Express' U.S.-China route authority for an additional five years, consistent with our standard policy. Since all we are doing here is expanding its authority to serve intermediate and beyond points, we will not change the current expiration date. The rights to operate to third countries will be subject to our standard condition regarding service to limited-entry countries (conditions (3) and (4)). These conditions make clear that services involving third countries are limited to countries with which the United States has signed open-skies agreements and/or countries for which Federal Express holds authority by certificate or exemption. They further make clear that the award of open third-country authority does not confer on Federal Express any limited-entry authority that requires further DOT authorization.

**VII. Duration:** Five years. Section 41102(c).





# **Experimental Certificate of Public Convenience and Necessity**

**For Route 638**  
(as reissued)

**This Certifies That**

**Federal Express Corporation**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 99-2-8  
On January 4, 1999  
Effective on February 5, 1999**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

Federal Express Corporation for **Route 638**

is authorized to engage in scheduled foreign air transportation of property and mail:

Between a point or points in the United States via any intermediate points, to a point or points in China open to scheduled international operations, and beyond to any points outside of China, with full traffic rights.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The authority granted to serve intermediate and beyond points on this certificate is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority under this certificate or by virtue of some other action of the Department.
- (5) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(6) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(7) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

(8) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(9) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective February 5, 1999. It shall expire November 17, 2002, unless the Department earlier suspends, modifies, or deletes the authority.

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\*This certificate originally issued by Order 95-8-9 and reissued by Order 97-10-8, is further reissued to reflect amendment of its U.S.-China authority to grant broader authority to serve intermediate and beyond points.

Northwest Airlines, Inc.

Renewal of Certificate for **Route 378**

**Filed:** 11/21/97      **Docket:** OST-97-3177      **Notice:** 62 FR (65844) 12/16/97

**I. Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between the terminal point Chicago, IL; the intermediate points Los Angeles, CA; San Francisco, CA; Seattle, WA or Honolulu, HI; an intermediate point in Japan; and the coterminal points Shanghai, Guangzhou, and Beijing, China.

**II. Relevant Currently Held Authority:** Northwest currently holds certificate authority on segment 1 of Route 378 to serve the above route. Order 93-4-39. Under the terms of the certificate, Northwest's authority expired on May 20, 1998. Northwest filed a timely application for renewal of its certificate authority. Its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreements between the United States and China and between the United States and Japan.

**V. Fitness/Citizenship:** Northwest has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 98-6-22. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Northwest's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. We will reissue Northwest's certificate for Route 378 to reflect renewal of Northwest's authority on segment 1 for an additional five years. We will also remove obsolete terms and conditions, and add new standard terms and conditions applicable to U.S. carriers.

**VII. Duration:** Five years. Section 41102(c).



# **Experimental Certificate of Public Convenience and Necessity**

**For Route 378**  
(as reissued)

**This Certifies That**

**Northwest Airlines, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 99-2-8  
On January 4, 1999  
Effective on February 5, 1999**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

Northwest Airlines, Inc. for **Route 378**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the terminal point Chicago, IL, the intermediate points Los Angeles, CA; San Francisco, CA; Seattle, WA or Honolulu, HI; an intermediate point in Japan; and the coterminal points Shanghai, Guangzhou, and Beijing, China.
2. Between Detroit, Michigan, and Beijing, China.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

- (5) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The authority to serve Chicago, Los Angeles, San Francisco, Seattle, and Honolulu on segment 1 shall expire February 5, 2004, unless the Department earlier suspends, modifies, or deletes the authority.
- (11) The authority to serve Detroit-Beijing on segment 2 shall expire December 5, 2001, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate shall become effective February 5, 1999.

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\*This certificate, originally issued by Order 83-4-42, and reissued by Orders 88-1-54, 93-4-39, and 96-10-44, is further reissued to reflect renewal of authority in the U.S. China market on segment 1 for an additional five years. The reissued certificate also incorporates revised standard terms and conditions applicable to U.S. carriers.