



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

SERVED January 15, 1999

Issued by the Department of Transportation  
on the 12<sup>th</sup> day of January

Applications of

**ALLCANADA EXPRESS LIMITED  
ROYAL AVIATION EXPRESS, INC.  
VOYAGEUR AIRWAYS LIMITED**

for foreign air carrier permits under 49 U.S.C. § 41301

OST-98-4406  
OST-98-3733  
OST-98-4148

**ORDER ISSUING FOREIGN AIR CARRIER PERMITS**

The captioned applicants seek foreign air carrier permits under section 41301 of Title 49 of the U.S. Code in the indicated dockets. The applications are fully described in attachments to this order. Because the public interest bases for granting these applications are clear, the applicants' fitness is established by evidence of record and unchallenged, and there are no significant ownership and control questions, it is appropriate to use this simplified, Subpart Q procedure to grant the requested authority.<sup>1</sup>

Each applicant has filed and perfected its application as required by 14 CFR Part 211 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in its descriptive attachment, and 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. No answers to these applications were filed.

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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.

## **Public Interest**

We find, for the reasons set forth in each attachment, that grant of these foreign air carrier permits is in the public interest and each applicant is qualified and designated by its government under the 1995 U.S.-Canada Air Transport Agreement. In each case where charter authority is conferred, that authority is consistent with our charter regulations, 14 CFR Part 212.<sup>2</sup>

## **Operational and Financial Fitness**

Each carrier has demonstrated that it is financially, managerially, and operationally fit to perform the foreign air transportation proposed. The applicants already have operated successfully to this country under previously issued authority. They have furnished financial information which indicates that they can operate without jeopardizing passenger or shipper funds.<sup>3</sup>

We have reviewed each applicant's evidence of managerial/operational fitness, and have consulted the Federal Aviation Administration with respect to each. Each applicant has shown by its evidence, its history of operations to this country, and/or other officially noticeable information, that it has competent management and can operate safely. Each holds effective authority from the Government of Canada for the operations proposed and states that it has had no safety or tariff violations in the preceding five years. The FAA has advised us that each applicant conducts its operations to this country in accordance with Part 129 of the Federal Aviation Regulations.<sup>4</sup>

## **Ownership and Control**

Each applicant has submitted evidence to establish that it is substantially owned and effectively controlled by nationals of Canada.

## **Terms, Conditions and Limitations**

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<sup>2</sup> Under Part 212, unless otherwise ordered by the Department (or, previously, by the CAB), any foreign air carrier whose permit authorizes charters may perform Third and Fourth Freedom charters without limitation or specific prior approval, and may perform Fifth Freedom charters upon obtaining a specific statement of authorization from the Department.

<sup>3</sup> We have addressed any requests for confidential treatment in the appropriate attached appendices.

<sup>4</sup> Copies of the FAA's June 15, August 14 and September 3, 1998, memoranda have been placed in the appropriate docket.

Each foreign air carrier permit is subject to the standard terms, conditions and limitations we consistently impose in the public interest.

### **Pendente Lite Exemptions**

For those carriers operating under current exemptions, those exemptions will expire by their own terms 90 days after we submit this order for review under § 41307 of Title 49 of the U.S. Code.

### **Findings and Conclusions**

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

1. It is in the public interest to issue a foreign air carrier permit to each applicant in the form attached;
2. Each applicant is qualified and designated by its government under the U.S.-Canada Agreement;
3. Each applicant is fit, willing and able to perform properly the foreign air transportation described in its attached permit, and to conform to the provisions of the Act and to the Department's rules, regulations, and requirements;
4. The public interest requires that the exercise of the privileges granted by the attached permits be subject to the terms, conditions and limitations contained in and attached to those permits and to such others required by the public interest as the Department may prescribe;
5. Each applicant is substantially owned and effectively controlled by nationals of Canada;
6. The issuance of these permits does not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of the Department's Regulations;<sup>5</sup> and
7. The public interest does not require an oral evidentiary hearing on any of these applications.

### **ACCORDINGLY,**

1. We issue, in the forms attached, a foreign air carrier permit to each applicant;

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<sup>5</sup> Our finding is based on the fact that each permit issued will not result in a near-term increase in annual fuel consumption by the applicant in excess of 10 million gallons.

2. We grant all motions and requests to file documents out of time, to submit additional or supplementary materials, to withdraw pleadings, and to withhold financial statements from public disclosure;
3. To the extent not granted, the applications and all motions and other requests in these dockets are denied;
4. Unless disapproved by the President of the United States under § 41307 of Title 49 of the U.S. Code, this order and the attached permits shall become effective on the 61st day after their 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 the Department's order under that section, whichever occurs earlier;<sup>6</sup> and
5. We will serve this order on ALLCANADA Express Limited; Royal Aviation Express, Inc.; Voyageur Airways Limited; the Ambassador from Canada in Washington, D.C.; the Department of State (Office of Aviation Negotiations) and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at  
<http://www.dms.dot.gov/general/orders/aviation.asp>*

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<sup>6</sup> This order was submitted for § 41307 review on November 13, 1998. On January 12, 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.

## SUMMARY

### FOREIGN AIR CARRIER PERMIT APPLICATION Docket OST-98-4406

#### **ALLCANADA Express Limited**

**Flag:** Canada

**Federal Register Notice:** 63 FR 43983, August 17, 1998

**Filing Date:** September 1, 1993, as amended

**Authority Sought:** Initial foreign air carrier permit to provide charter foreign air transportation of property and mail between Canada and the United States consistent with the current bilateral aviation undertakings of the United States and Canada.

**Pleadings:** No answers were filed in response to ALLCANADA Express' application.

**Public Interest:** The authority requested is encompassed in the 1995 Air Transport Agreement between the United States and Canada.

**Fitness:** ALLCANADA Express commenced operations in 1992 as an operating division of Kelowna Flightcraft Air Charter Ltd. and received its own authority from the Government of Canada in 1993. ALLCANADA Express received initial Department authority to conduct cargo charter operations between Canada and the United States on January 26, 1995. ALLCANADA Express holds exemption authority issued by the Department to conduct the services at issue here. See Notice of Action Taken, dated March 28, 1997, Docket OST-96-1047.

ALLCANADA Express has experienced management and has had no safety violations, fatal accidents or tariff violations in the last five years. ALLCANADA Express has been designated by its government and holds effective authority from its homeland to conduct the proposed operations. By Memorandum dated June 15, 1998, the FAA advised us that ALLCANADA Express conducts its operations to this country in accordance with Part 129 of the Federal Aviation Regulations.

ALLCANADA Express appears financially sound:

	<b>Financial Indicators</b>	
(\$ thousands)		
year ending 8/31	<b>1997</b>	<b>1996</b>
Total Assets	8,446	7,271
Total Liabilities	8,381	7,233
Owner's Equity	65	38
Operating Profit or (Loss)	28	(182)

ALLCANADA Express has provided financial information which indicates that it can conduct the proposed services without jeopardizing passenger or shipper funds.

DOT verifies compliance with 14 CFR Parts 203 (Warsaw liability waiver), 205 (Insurance requirements) and 129 (FAA Operations Specifications).

**Ownership and Control:** ALLCANADA Express is incorporated under the laws of Canada and is a privately owned company. All of ALLCANADA Express' shareholders, as well as its key management personnel, are Canadian citizens.

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

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**PERMIT TO FOREIGN AIR CARRIER**  
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**ALLCANADA Express Limited**

A Flag Carrier of Canada

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code and the orders, rules, and regulations of the Department of Transportation, to engage in:

**Charter foreign air transportation of property and mail between  
any point or points in Canada and any point in the United States.**

The holder shall also be authorized to engage in other all-cargo charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.

Any all-cargo services conducted under this permit shall be subject to the condition that points in the territory of the United States shall not be combined on any same plane scheduled or nonscheduled all-cargo courier service operated with aircraft having a maximum certificated takeoff weight greater than 35,000 pounds.

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on January 12, 1999. . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or

amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of Canada (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Canada in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreement between the United States and Canada. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and Canada become parties.

The Department of Transportation has executed this permit and affixed its seal on January 12, 1999.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

## **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) Except as specifically exempted or otherwise provided for in a Department Order, 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 (except as otherwise provided in the applicable bilateral agreement) 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).



## SUMMARY

### FOREIGN AIR CARRIER PERMIT APPLICATION Docket OST-98-3733

#### **Royal Aviation Express, Inc. d/b/a Royal Express**

**Flag:** Canada

**Federal Register Notice:** 63 FR 19557-58, April 20, 1998

**Filing Date:** April 10, 1998

**Authority Sought:** Initial foreign air carrier permit to provide scheduled foreign air transportation of persons, property and mail between Canada and the United States consistent with the current bilateral aviation undertakings of the United States and Canada.<sup>1/</sup>

**Pleadings:** No answers were filed in response to Royal Express' application.

**Public Interest:** The authority requested is encompassed in the 1995 Air Transport Agreement between the United States and Canada.

**Fitness:** Royal Express holds exemption authority issued by the Department to conduct the services at issue here. See Notice of Action Taken, dated September 3, 1998, Docket OST-98-3734.

Royal Express has experienced management and has had no safety violations, fatal accidents or tariff violations in the last five years. Royal Express has been designated by its government and holds effective authority from its homeland to conduct the proposed operations. By Memorandum dated September 3, 1998, the FAA advised us that it knew of no reason why we should act unfavorably on Royal Express' application to conduct the services at issue here.

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<sup>1/</sup> Royal Express stated that its services would be limited to scheduled services. As such, Royal Express did not seek our authority to conduct charter operations.

Royal Express has provided financial information which indicates that it can conduct the proposed services without jeopardizing passenger or shipper funds.

On April 17, 1998, Royal Express filed a motion under Rule 39 seeking confidential treatment of the financial information filed as part of its application. In support of its motion, Royal Express states that its financial summaries contain highly confidential and competitively-sensitive information.

Rule 39 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section 552). By this standard, information may be withheld from disclosure if it is “(1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential.” [*Gulf and Western Industries, Inc. v. U.S.*, 615 F.2d 527, 529 (D.C. Cir. 1979)]

The information sought to be withheld from disclosure clearly meets the first two requirements. The remaining question is whether the information is privileged or confidential--whether “disclosure of the information is likely to have either of the following effects: (1) impair the government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained [*National Parks and Conservation Association v. Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974)]. Further, to be privileged or confidential, the information must not be the type that is usually released to the public [*Gulf and Western Industries, Inc. v. U.S.*, *supra*, 615 F. 2d at 530 (D.C. Cir. 1979)].

We have decided to grant confidential treatment to the information requested. The information for which we are granting confidential treatment is information similar to that which we have granted confidential treatment in the past and/or is information that if released could cause substantial harm to the competitive position of the person from whom the information was obtained.

DOT verifies compliance with 14 CFR Parts 203 (Warsaw liability waiver), 205 (Insurance requirements) and 129 (FAA Operations Specifications).

**Ownership and Control:** Royal Express is incorporated under the laws of Canada and is a privately owned company. All of Royal Express’ stock is held by Royal Aviation, Inc., a Canadian carrier holding Department authority. Royal Aviation is a privately held corporation, substantially owned and effectively controlled by Canadian citizens.

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

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PERMIT TO FOREIGN AIR CARRIER  
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**Royal Aviation Express, Inc.  
d/b/a Royal Express**

A Flag Carrier of Canada

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code and the orders, rules, and regulations of the Department of Transportation, to engage in scheduled foreign air transportation as follows:

- A. Of persons, property and mail (combination services);
- (1) Between any point or points in Canada and any point or points in the United States; and
  - (2) Between any point or points in Canada and San Juan, Puerto Rico, and beyond San Juan.
- B. Of property and mail (all-cargo-services);
- Between any point or points in Canada and any point or points in the United States.

The holder shall also be authorized to engage in other charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.

In the conduct of charter operations authorized above, the holder may, without prior Department approval, carry charter traffic between any point or points in a third country or countries, provided that such traffic is carried via the territory of the Party that has designated the airline and makes a stopover in that territory for at least two consecutive nights.

Any all-cargo services conducted under this permit shall be subject to the condition that points in the territory of the United States shall not be combined on any same plane scheduled or nonscheduled all-cargo courier service operated with aircraft having a maximum certificated takeoff weight greater than 35,000 pounds.

In addition to the authority noted above, the holder may also conduct operations beyond points in the United States to points in third countries that it holds authority to serve, without local traffic rights between points in the United States and such other points in third countries (i.e., on a blind sector basis).

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on January 12, 1999 . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of Canada (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Canada in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreement between the United States and Canada. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and Canada become parties.

The Department of Transportation has executed this permit and affixed its seal on January 12, 1999.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

## **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) Except as specifically exempted or otherwise provided for in a Department Order, 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 (except as otherwise provided in the applicable bilateral agreement) 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).



## SUMMARY

### FOREIGN AIR CARRIER PERMIT APPLICATION Docket OST-98-4148

#### **Voyageur Airways Limited**

**Flag:** Canada

**Federal Register Notice:** 63 FR 41889, August 5, 1998

**Filing Date:** July 22, 1998

**Authority Sought:** Initial foreign air carrier permit to provide scheduled and charter foreign air transportation of persons, property and mail between Canada and the United States consistent with the current bilateral aviation undertakings of the United States and Canada.

**Pleadings:** No answers were filed in response to Voyageur's application.

**Public Interest:** The authority requested is encompassed in the 1995 Air Transport Agreement between the United States and Canada.

**Fitness:** Voyageur received initial Department authority in 1993 to conduct charter services between Canada and the United States (see Order 95-2-47). By Notices of Action Taken, dated July 30 and August 18, 1998, in Docket OST-98-4148, we granted Voyageur exemption authority to conduct the services at issue here.

Voyageur has experienced management and has had no safety violations, fatal accidents or tariff violations in the last five years. Voyageur has been designated by its government and holds effective authority from its homeland to conduct the proposed operations, subject to aircraft size limitations. By Memorandum dated August 14, 1998, the FAA advised us that Voyageur conducts its operations to this country in accordance with Part 129 of the Federal Aviation Regulations.

**Financial Indicators:** Voyageur has provided financial information which indicates that it can conduct the proposed services without jeopardizing passenger or shipper funds.

On July 22, 1998, Voyageur filed a motion under Rule 39 seeking confidential treatment of the financial information filed as part of its application. In support of its motion, Voyageur states that it is a closely-held corporation and its financial summaries contain highly confidential and competitively-sensitive information. Voyageur further states that disclosure of such information could, among other things, cause substantial harm to the competitive position of Voyageur.

Rule 39 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section 552). By this standard, information may be withheld from disclosure if it is “(1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential.” [*Gulf and Western Industries, Inc. v. U.S.*, 615 F.2d 527, 529 (D.C. Cir. 1979)]

The information sought to be withheld from disclosure clearly meets the first two requirements. The remaining question is whether the information is privileged or confidential--whether “disclosure of the information is likely to have either of the following effects: (1) impair the government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained [*National Parks and Conservation Association v. Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974)]. Further, to be privileged or confidential, the information must not be the type that is usually released to the public [*Gulf and Western Industries, Inc. v. U.S.*, *supra*, 615 F. 2d at 530 (D.C. Cir. 1979)].

We have decided to grant confidential treatment to the information requested. The information for which we are granting confidential treatment is information similar to that which we have granted confidential treatment in the past and/or is information that if released could cause substantial harm to the competitive position of the person from whom the information was obtained.

DOT verifies compliance with 14 CFR Parts 203 (Warsaw liability waiver), 205 (Insurance requirements) and 129 (FAA Operations Specifications).

**Ownership and Control:** Voyageur is substantially owned and effectively controlled by Canadian nationals. Voyageur is wholly owned by 519222 Ontario Limited, a Canadian corporation. 519222 Ontario Limited is 100% owned by a Canadian citizen. All of Voyageur’s officers, directors and key management personnel are Canadian citizens.

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

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PERMIT TO FOREIGN AIR CARRIER  
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**Voyageur Airways Limited**

A Flag Carrier of Canada

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code and the orders, rules, and regulations of the Department of Transportation, to engage in scheduled foreign air transportation as follows:<sup>1/</sup>

- A. Of persons, property and mail (combination services);
- (1) Between any point or points in Canada and any point or points in the United States; and
  - (2) Between any point or points in Canada and San Juan, Puerto Rico, and beyond San Juan.
- B. Of property and mail (all-cargo-services);
- Between any point or points in Canada and any point or points in the United States.

The holder shall also be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.<sup>2/</sup>

In the conduct of charter operations authorized above, the holder may, without prior Department approval, carry charter traffic between any point or points in a third country or countries, provided that such traffic is carried via the territory of the Party that has designated the airline and makes a stopover in that territory for at least two consecutive nights.

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<sup>1/</sup> Consistent with its homeland license, scheduled services shall be limited to those performed with aircraft designed to have a maximum passenger capacity of less than 30 seats or a maximum payload capacity of less than 7,500 pounds.

2/ Consistent with its homeland license, charter services shall be limited to those performed with aircraft designed to have a maximum passenger capacity of less than 60 seats or a maximum payload capacity of less than 18,000 pounds.

In addition to the authority noted above, the holder may also conduct operations beyond points in the United States to points in third countries that it holds authority to serve, without local traffic rights between points in the United States and such other points in third countries (i.e., on a blind sector basis).

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on January 12, 1999 . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of Canada (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Canada in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreement between the United States and Canada. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and Canada become parties.

The Department of Transportation has executed this permit and affixed its seal on January 12,, 1999.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

## 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) Except as specifically exempted or otherwise provided for in a Department Order, 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 (except as otherwise provided in the applicable bilateral agreement) 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).



