



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

Issued by the Department of Transportation
on the 22nd day of January, 1999

In the matter of

**EXPANDED AIR SERVICES AT ALASKA
INTERNATIONAL AIRPORTS**

Docket OST-99- 5035

ORDER TO SHOW CAUSE

Summary

By this order we announce steps designed to permit expanded activities at international airports in the State of Alaska.

Background

For many years Alaska's international airports played a significant role as transiting stops for passenger and cargo flights by foreign and domestic air carriers on numerous long-haul operations between Asia, the United States and Europe. These operations provided important benefits to the State of Alaska and to the United States. In recent years, however, Alaska's airports have suffered significant losses in service because of the introduction of new, long-range aircraft that no longer needed an Alaska refueling stop, and the opening of Russian airspace with the resulting shortening of many northerly air routes. The adverse impact that these developments have had on Alaska's transportation system are particularly significant because of Alaska's geographic isolation and dependence on air transportation as a means of local, national and international travel. Over the years, the Department, and the Civil Aeronautics Board before it, have recognized these challenges and have taken measures to support Alaska's efforts to attract air services to the state.

For example, the Department has granted a number of carriers extra-bilateral authority to serve Alaska, has amended bilateral agreements to substitute the State of Alaska for the names of specified cities in Alaska, and has, in the bilateral negotiations process, regularly sought to include traffic rights to and beyond Alaska in route descriptions. We have also granted certain blanket authority to foreign carriers to conduct expanded cargo transfer activities at Alaska's international

airports.¹ In addition, many foreign carriers hold authority which permits conditional passenger stopovers and emergency passenger and cargo transfers at Anchorage.

While these measures have proved beneficial, we have come to realize that in light of Alaska's special geographic and economic circumstances a more comprehensive approach is still needed to facilitate the development of additional international services at airports in Alaska.

Therefore, we intend as a matter of general policy in appropriate bilateral aviation negotiations² to seek, on a reciprocal basis with the other country involved, to waive any designation and/or frequency limitations in the bilateral agreement, for services by carriers of both countries on flights that operate via a point or points in Alaska. This would allow each side in an otherwise restricted bilateral relationship to add carriers beyond the number allowed in the agreement, so long as those new carriers operated via Alaska, and to add frequencies beyond the number allowed in the agreement, so long as those additional frequencies were operated via Alaska.

Tentative Findings and Conclusions

In addition to our intention to pursue the change in negotiating policy, we tentatively find that the public interest also supports responding to Alaska's air service needs through changes in regulatory policy. Specifically, we have two steps in mind.

First, we propose to grant, on our own initiative, exemption authority to all foreign air carriers that hold scheduled permit or exemption authority (except foreign air carriers of the United Kingdom),³ to allow them to serve any point or points in Alaska, and to coterminalize points in Alaska with other U.S. points for which they hold our authority. This will allow foreign carriers to offer their passengers stopover privileges at Alaskan points, and those passengers may also stop over at other U.S. points, so long as all stopover passengers are ticketed and carried by the foreign carrier in question on a through movement into or out of the United States.⁴ We propose to make this authority effective for two years from the date this order becomes final.

Second, we seek comments on whether we should invite foreign air carriers to apply for exemption authority to serve additional U.S. points on an extrabilateral basis, where those additional points would be served only on flights also serving Alaska.⁵ Commenters should address whether, if we were to extend such an invitation, our willingness to grant such

¹ See Docket OST-96-1600.

² We would, of course, not offer this provision in negotiations where to do so would inhibit our ability to achieve a more liberal result.

³ For the reasons discussed in Orders 96-9-19 and 96-11-2, we are not prepared at this time to grant this type of extrabilateral authority to foreign air carriers of the United Kingdom. However, we do not intend existing Alaska authority held by carriers of the United Kingdom to be affected by our action here.

⁴ Such stopovers must be conducted in accordance with the *Qantas Empire, Foreign Transfer Traffic* case, 29 CAB 33 (1959), *i.e.*, no cabotage traffic may be carried.

⁵ For example, if the U.S. air service agreement with the homeland of a foreign carrier does not include rights to serve Chicago, the carrier could secure authority to serve Chicago provided its flights to/from Chicago also served a point in Alaska.

extrabilateral authority should be open ended, or whether instead we should limit the number of extrabilateral points we would be prepared to award (such as, for example, two). As has been the case under the Department's "Cities Program," the award of this extrabilateral authority would not be automatic. Specifically, under this proposal, a foreign applicant's homeland would need to be respecting all aspects of its bilateral aviation regime with the United States in order for the carrier to be eligible for the expanded authority.⁶

It is our tentative view that these two regulatory proposals, if implemented, would serve to address the special needs of Alaska for expanded air service opportunities, and would provide substantial benefits to Alaska's economy, by facilitating the operation of new international services to Alaskan points.

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

1. It is consistent with the public interest to grant all foreign air carriers, except those of the United Kingdom, an exemption from 49 U.S.C. 41301 to allow them to serve any point or points in Alaska, and to coterminalize points in Alaska with other U.S. points for which they hold Department authority, for a two-year term;
2. It is consistent with the public interest also to invite comments on the regulatory element (authorize operations to new points if operated via Alaska) as discussed in the body of this order; and
3. Our action with respect to item (1) should be subject to amendment or modification, at our discretion and without hearing, should such action be necessary in the public interest, and would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

ACCORDINGLY,

1. We direct all interested persons to show cause why the tentative decision set forth in item (1) above should not be made final;
2. Any interested person objecting to the issuance of an order making final item (1) of our tentative findings and conclusions shall, no later than fourteen (14) calendar days after the date of service of this order, file with the Department and serve on the parties who have filed pleadings in Docket OST-99- 5035 , a statement of objections specifying the part or parts of the tentative findings and conclusions objected to.⁷ If objections are filed, answers to objections are due no later than seven (7) calendar days thereafter;⁸

⁶ For the reasons discussed in Orders 96-9-19 and 96-11-2, we are not prepared at this time to grant this type of extrabilateral authority to foreign air carriers of the United Kingdom.

⁷ The original filing should be on 8½" x 11" paper using dark ink and be unbound without tabs, which will expedite use of our docket imaging system. Submissions can also be sent using the Electronic Submission capability at the Dockets DMS web site, <http://dms.dot.gov>.

⁸ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action;
4. In the event no objections are filed, we will deem all further procedural steps to be waived, and we will enter an order which will make final item (1) of our tentative findings and conclusions set forth in this order;
5. Any interested person shall, no later than fourteen (14) calendar days after the date of service of this order, file with the Department and serve on the parties who have filed pleadings in Docket OST-99- 5035, comments on the other regulatory element of our initiative. Reply comments are due no later than seven (7) calendar days thereafter;⁹ and
6. We will serve a copy of this order on all U.S. certificated and foreign air carriers, and all other parties to this proceeding.

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://dms.dot.gov/general/orders/aviation.html>*

⁹ See footnote 7, above.