



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

Issued by the Department of Transportation on **October 20, 1999**  
**NOTICE OF ACTION TAKEN -- DOCKET OST 96-1008**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **FEDERAL EXPRESS CORPORATION** filed **4/3/98** and amended **9/10/99** to:

**XX** Renew and amend exemption under 49 U.S.C. §40109 to provide the following service:

**Scheduled foreign air transportation of property and mail (1) from points in the United States, and points behind the United States via the United States, via intermediate points, to a point or points in Argentina, and beyond; and (2) between Argentina and any point or points. Federal Express requests that the authority be granted for an indefinite term.**  
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Applicant rep: **Nathaniel P. Breed (202) 663-8078** DOT Analyst: **Linda L. Lundell (202) 366-2336**

**DISPOSITION**

**XX** **Granted U.S.-Argentina and beyond exemption authority, subject to conditions (see remarks)**

**XX** **Balance dismissed (see remarks)**

The above action was effective when taken: **October 20, 1999,** through **October 20, 2001,** or until 90 days after final Department action on a corresponding certificate application, whichever occurs earlier.

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

**XX** **The authority granted is consistent with the August 12, 1999, Memorandum of Consultations (MOC) and *ad referendum* amendments to Annex I of the 1985 U.S.-Argentina Air Transport Services Agreement (Attachment A, Annex I, Section 6).** <sup>2</sup>

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

**XX** **Holder's certificate of public convenience and necessity**

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

**Conditions:** The authority granted to serve third countries intermediate to and beyond Argentina is subject to the condition that all services operated are fully consistent with the bilateral agreements between the United States and the foreign countries involved, and 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 by virtue of either the present action or other action of the Department.

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<sup>1</sup> Subsequent to the filing of the original application in this matter, the United States and Argentina agreed to *ad referendum* amendments to the 1985 U.S.-Argentina Air Transport Services Agreement as set forth in an August 12, 1999, Memorandum of Consultations (MOC). The 1999 *ad referendum* agreement, among other things, removes U.S. carrier designation and frequency limitations for all-cargo services. Federal Express amended its application to conform to the provisions of the amended agreement. Specifically, Federal Express (1) amended the scope of the exemption authority requested to conform to that provided for in the Route Annex to the new Agreement; and (2) withdrew its request for renewal of its frequency allocation awarded under the previous aviation regime. In addition, Federal Express amended its request to seek indefinite duration of the subject authority (originally, the carrier had requested a two-year renewal).

<sup>2</sup> Pending the conclusion of the amendment by their Governments, the United States and Argentina agreed to permit operations consistent with the new provisions and Annexes on the basis of comity and reciprocity.

**Remarks:** We dismissed that portion of Federal Express' application with respect to operations from behind the United States. The authority to conduct operations from points behind the United States is inherent in the authority that we award U.S. carriers to perform foreign air transportation. We also dismissed Federal Express' request to operate between Argentina and any point or points, new rights available under the 1999 *ad referendum* amended agreement, since such services are not in foreign air transportation and Federal Express requires no additional Departmental authorization to conduct those services, as long as there is not more than a *de minimus* amount of traffic that would be in foreign air transportation, having an origin or destination in the United States.

Finally, consistent with our standard practice for this type of application, we granted Federal Express' exemption for a period of two years, and dismissed its request for longer-term authority.

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On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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

## **APPENDIX A**

### **U.S. CARRIER** **Standard Exemption Conditions**

In the conduct of operations authorized by the attached order, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.