

Order 2000-4-7

Served: April 13, 2000



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

Issued by the Department of Transportation
on the 10th day of April, 2000

Application of

SMOKEY BAY AIR, INC.

Docket OST-99-6150 - 6

for a certificate of public convenience and necessity
under 49 U.S.C. 41102 to engage in interstate scheduled
air transportation of persons, property, and mail

**ORDER TO SHOW CAUSE
PROPOSING ISSUANCE OF CERTIFICATE AUTHORITY**

Summary

By this order, we tentatively find that Smokey Bay Air, Inc., is a citizen of the United States and is fit, willing, and able to provide interstate scheduled air transportation of persons, property, and mail using no more than three aircraft with no more than nine passenger seats each and should be issued a certificate of public convenience and necessity for such operations.

Background

Section 41102 of Title 49 of the United States Code (Transportation) (the "Statute") directs us to determine whether applicants for certificate authority to provide interstate scheduled air transportation are fit, willing, and able to perform such transportation, and to comply with the Statute and the regulations and requirements of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the Statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

On August 18, 1999, Smokey Bay Air, Inc., an operating air taxi based in Homer, Alaska, filed an application in Docket OST-99-6150 for a certificate to provide interstate scheduled air transportation pursuant to 49 U.S.C. 41102. Smokey Bay accompanied its application with the information required by section 204.3 of our regulations for an examination of its fitness.¹

On September 15, 1999, Arctic Transportation Services (ATS), an operating certificated air carrier, filed an answer in opposition to Smokey Bay's application. On November 12, 1999, Smokey Bay filed a response to ATS' answer.

As more fully discussed below, we have reviewed the comments filed by ATS and the answer filed by Smokey Bay in response to those comments. Based on this review, we believe Smokey Bay meets the Department's requirements for the receipt of limited certificate authority. Further, we have received no other answers to the application and no other issues regarding the applicant have come to our attention. Under these circumstances, we propose to decide the issue of the applicant's fitness on the basis of the written record, and we tentatively conclude that Smokey Bay is a U.S. citizen and is fit, willing, and able to operate its proposed interstate scheduled passenger service using aircraft with no more than nine-passenger seats. However, we will give interested persons an opportunity to show cause why we should not adopt as final these tentative findings and conclusions.

FITNESS

The Company

Smokey Bay, an Alaskan corporation headquartered in Homer, Alaska, was organized on March 25, 1998. Shortly thereafter, Smokey Bay registered with the Department as an air taxi operator under Part 298 of our rules (14 CFR Part 298) and began providing on-demand passenger and cargo service to Homer and the villages of Kachemak Bay including Seldovia, Port Graham, and Nanwalek using three small aircraft.

Smokey Bay's ownership is divided into equal thirds between Claire McCann, its President (one-third), Scott Cunningham, the carrier's Vice President, and Samantha Cunningham (one-third), and Clifford and Dianna Jeska (one-third), treasurer and secretary, respectively, of the carrier.

If Smokey Bay receives its certificate authority, it plans to provide round-trip scheduled passenger service to the same areas it now serves as an air taxi operator. Specifically, it will offer four roundtrip flights per day over a Homer-Seldovia-Port Graham-Nanwalek routing using its three five-seat Cessna aircraft.

¹ Information supplementing Smokey Bay's application was filed on November 12, 1999, and February 16, 2000.

SMOKEY BAY AIR, INC.

Attachment A

MR CLIFFORD JESKA
TREASURER
SMOKEY BAY AIR INC
PO BOX 457
HOMER AK 99603

AMER ASSOC OF ARPT EXECS
4224 KING STREET
ALEXANDRIA VA 22302

MR JD MEALOR
AIRLINE DATA COOR
INNOVATA LLC
3915 OLD MUNDY MILL RD
OAK BROOK IL 60523

MR RICHARD GORDON
MGR FLT STAND DIV AAL-200
FAA ALASKAN REGION HDQTRS
222 WEST 7TH AVENUE #14
ANCHORAGE AK 99513

MS JONI MOUNT
PRODUCT MANAGER
TRANSP PRINT PRODUCTS
OFFICIAL AIRLINE GUIDES
2000 CLEARWATER DR
OAK BROOK IL 60523

MR TIMOTHY TITUS
ASST CHIEF COUNSEL AAL-7
FAA ALASKAN REGION HDQT
222 WEST 7TH AVENUE #14
ANCHORAGE AK 99513

MR RICHARD DUTTON
ASST MGR CSET
FEDERAL AVIATION ADMIN
AFS-900 SUITE 203B
45005 AVIATION DRIVE
DULLES VA 20166-7537

MR JIM ZAMMAR
DIR OF REV ACCOUNTING
AIR TRANSPORT ASSOC
1301 PENNSLY AVE NW STE 1100
WASHINGTON DC 20004

MR JOHN ECKELS
PRESIDENT
ARCTIC TRANS SERV
5701 SILVERADO WAY
UNIT L
ANCHORAGE AK 99518

MR PETER LYNCH AGC-300
ASST CH COUNSEL
FOR ENFORCEMENT
FEDERAL AVIATION ADMIN
800 INDEPENDENCE AVE SW
WASHINGTON DC 20591

MR ALLAN MUTEN
ASST TREASURER
AIRLINES REPORTING CORP
1530 WILSON BLVD STE 800
ARLINGTON VA 22209

MR ROGER BROWN
FAA FSDO
4510 W. INTL AIRPORT ROAD
ANCHORAGE AK 99502

MR TIM CARMODY K-25
DIR OFF OF AIRLINE INFO
DEPT OF TRANSP
400 SEVENTH ST SW
WASHINGTON DC 20590

Managerial Competence

Ms. Claire McCann, a commercial pilot² and Airframe and Powerplant Mechanic, has been Smokey Bay's President, Chief Pilot, Director of Operations, and Director of Maintenance since the carrier's March 1998 inception. Prior to this time, Ms. McCann had served as a Director of Maintenance, pilot, and aviation mechanic for twenty years with various companies including Homer Air, Bald Mountain Air, Kenai Fjords Outfitters, Gulf Air Taxi, Tanana Air Service, and Big Lake Air Service. Ms. McCann has logged over 6,000 hours of flight time.

Mr. Scott Cunningham has served as Smokey Bay's Vice President and Office Manager since its inception. Before then, Mr. Cunningham was employed by Homer Air for three years and by PenAir for one year with duties that included dispatch services, freight, fueling, maintenance, and U.S. mail handling.

Before authorizing a carrier to conduct air transportation operations, the FAA also evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations.³ The FAA has advised us that it has granted Ms. McCann a deviation from section 119.69(b) of the Federal Aviation Regulations to allow her to hold the combined positions of Chief Pilot and Directors of Maintenance and Operations as long as the carrier maintains a three pilot/three aircraft operation. Should Smokey Bay decide to increase its operations beyond that threshold, the FAA would, at a minimum, require the carrier to employ a separate individual in the position of Director of Maintenance.

In view of the experience and background of the applicant's key personnel, together with the fact that the FAA has approved Ms. McCann to hold all key technical positions with Smokey Bay at this time, we tentatively conclude that Smokey Bay has demonstrated that it has the management skills and technical ability to conduct its proposed limited certificated air carrier operations.

Operating Plan and Financial Position

If granted the certificate authority it seeks, Smokey Bay plans to offer scheduled passenger service between Homer, and Seldovia, Port Graham, and Nanwalek using three five-seat Cessna aircraft. These aircraft are currently being utilized by Smokey Bay to provide on-demand operations to the noted points.

² The FAA has advised us that it is unnecessary for Ms. McCann to hold an Airline Transport Pilot license given the limited scope of Smokey Bay's operations.

³ The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

Smokey Bay furnished a financial forecast for its first year of scheduled operations.⁴ In its forecast, Smokey Bay has included expense adjustments for the additional costs associated with scheduled service and U.S. mail carriage. The carrier anticipates that its total additional operating expenses for the first year of scheduled service will approximate \$174,000.

We have reviewed Smokey Bay's projections and find them to be reasonable in light of the very limited scope of the proposed operations. Based on our analysis of its forecasts, we conclude that Smokey Bay will need access to approximately \$43,500 to meet our financial fitness criteria.⁵

We have also reviewed Smokey Bay's balance sheet as of January 31, 2000, and its income statement for the calendar year ended December 31, 1999. Although the balance sheet showed the carrier to have a current assets to current liabilities ratio of 0.25 to 1 and negative working capital of approximately \$112,000, it also showed that Smokey Bay has positive stockholders' equity of about \$143,000. Moreover, approximately 74 percent of Smokey Bay's current liabilities is debt owed for loans for its Cessna aircraft. Smokey Bay has indicated that it will utilize its own resources to support its scheduled service. While its overall working capital position is negative, its positive shareholders' equity position should enable it to borrow additional funds if needed to support its operations. Further, Smokey Bay's income statement for the calendar year ended December 31, 1999, disclosed a net income of nearly \$50,000.

In light of the foregoing, we tentatively conclude that Smokey Bay will have sufficient financial resources available to enable it to institute its proposed limited scheduled passenger operations without posing an undue risk to consumers or their funds.

Compliance Disposition

Smokey Bay stated that there are no actions or outstanding judgments against it, its owners or key personnel, and that there are no pending investigations, enforcement actions, or formal complaints that have been brought by the Department, including the FAA, involving the carrier or its owners or key personnel with respect to compliance with the Statute or any orders, rules, or requirements issued pursuant to the Statute. Smokey Bay also stated that there have been no charges of unfair or deceptive or

⁴ Smokey Bay indicated that its pre-operating costs were minimal since it already has the aircraft, personnel, and other resources necessary for the proposed scheduled service.

⁵ In evaluating an applicant's financial fitness, the Department generally asks that the company have available to it resources sufficient to cover any pre-operating costs plus a working capital reserve equal to the operating costs that would be incurred in three months of "normal" certificated operations. Because projected expenses during one or more of the first several months of service frequently do not include all costs of operations that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast. In calculating available resources, projected revenues may not be used.

anticompetitive business practices, or of fraud, felony or antitrust violations brought against it, its owners or its key personnel, and that there have been no accidents or incidents involving any of these parties in the last year or at any time in the past that remains under investigation.

Our search of the Department's records found no compliance problems with Smokey Bay, its owners, or key personnel. In addition, FAA records reflect no accidents or incidents involving Smokey Bay.

The FAA has advised us that Smokey Bay holds a Part 135 Air Carrier Certificate and Operations Specifications and that the carrier has submitted an application to have its current operations specifications amended to authorize scheduled passenger service. The FAA has also advised us that Smokey Bay's operations with respect to safety and compliance have been satisfactory and that Ms. McCann is qualified to hold the multiple positions of Director of Operations, Director of Maintenance, and Chief Pilot.

In light of the above, we tentatively conclude that Smokey Bay will have the proper regard for the laws and regulations governing its services to ensure that its aircraft and personnel conform to applicable safety standards and that acceptable consumer relations practices will be followed.

CITIZENSHIP

Section 41102 of the Statute requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Smokey Bay is a corporation organized under the laws of the State of Alaska. The applicant has provided an affidavit attesting that it is a U.S. citizen and has affirmed that its owners, Claire McCann, Samantha and Scott Cunningham, and Clifford and Dianna Jeska, and all of its key personnel are U.S. citizens. Furthermore, there is nothing in the record that would lead us to conclude that control of Smokey Bay is not with citizens of the United States.

Response Filed by Arctic Transportation Services

In its objection, ATS contends that Smokey Bay (1) misstates the number of aircraft in its fleet given the fact that the carrier recently sold its Cessna 185 aircraft, (2) is in violation of its operating authority and FAA regulations by conducting more than five scheduled flights per week between two points, (3) has not accounted for the additional key personnel, as well as training and operating manuals for those personnel, needed for the carrier to hold the appropriate FAA operating authority, (4) does not yet have

the appropriate insurance for its proposed operations, and (5) overstates the amount of mail revenues it proposes to earn in its proposed markets. Therefore, ATS requests that the Department consider these issues in connection with its review of Smokey Bay's application.

On November 12, 1999, Smokey Bay filed a response to ATS' answer. With respect to ATS' statement that Smokey Bay's aircraft fleet was incorrectly stated because of the sale of one of its aircraft, Smokey Bay indicates that, although it sold its Cessna 185 aircraft in August 1999, the carrier currently has three aircraft in its fleet consisting of a Cessna 206 aircraft and recently purchased Cessna 172 and Cessna U206 aircraft. Smokey Bay contends that it is an air taxi conducting its operations within the guidelines of FAA regulations and that it does not have a published schedule, nor does it operate as a scheduled air carrier. Specifically, Smokey Bay indicates that it conducts its on-demand operations on average of four to five flights each day to the villages it indicated in its application, but that none of those flights are scheduled. The carrier further indicates that as its flight requests increase, it adds more flights to its service according to the times and destinations that are needed.

Regarding whether it will have adequate personnel to comply with the FAA's requirements for scheduled air carriers, Smokey Bay indicates that the FAA has advised it that its current management structure under which one person, Claire McCann, serves as its Chief Pilot, Director of Operations, and Director of Maintenance, is in compliance with the company's Operations Specifications and that the company has been granted approval to operate scheduled air service using up to three aircraft and three pilots under this current management structure. Smokey Bay also states that it understands that if it adds either another aircraft or pilot to its current operational structure, it would need to hire additional personnel and separate these key technical positions.

Further, Smokey Bay states that with respect to appropriate insurance for its proposed operations, its insurance provider states that the increased insurance will be available when it is needed. Finally, regarding Smokey Bay's mail revenue projections in Homer, the carrier states that, when it initially submitted its application to the Department, there was not another certificated air carrier providing mail carriage in Homer. Smokey Bay later discovered that ATS stationed a Cessna 207 aircraft in Homer to conduct mail carriage. Smokey Bay states that, even in light of the recent competition in Homer, if it garners only 50 percent of the mail revenues in this market, those revenues should be sufficient for it to earn a profit on its proposed operations.

We find Smokey Bay's response to each objection raised by ATS to be persuasive and thus find nothing in these allegations that would lead us to conclude that Smokey Bay is not fit to conduct its proposed limited certificated air carrier operations.

In view of the foregoing, we tentatively conclude that Smokey Bay is a citizen of the United States and is fit, willing, and able to provide the limited scheduled operations it proposes as a certificated air carrier.

OBJECTIONS

We will give interested persons 14 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 7 days thereafter. We expect such persons to direct their objections, if any, to the application and points at issue and to support such objections with detailed economic analyses.⁶ We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to Smokey Bay's fitness and certification and will issue the company a certificate that will contain an exact copy of the attached Terms, Conditions, and Limitations.

CERTIFICATE CONDITIONS AND LIMITATIONS

If Smokey Bay is found fit and issued the certificate it seeks, its authority will not become effective until the company has fulfilled all requirements for effectiveness as set forth in the terms and conditions attached to the certificate. Among other things, this includes our receipt of evidence that Smokey Bay has been certified by the FAA to engage in the subject operations, a fully executed OST Form 6410 evidencing liability insurance coverage that meets the requirements of section 205.5(b) of our rules for all of its aircraft, and a statement of any changes it may have undergone since its fitness was examined.

Moreover, given the limited scope of Smokey Bay's proposed operations, we will impose certain limitations on its authorization to provide scheduled air service as a certificated air carrier. The Department has adopted a policy, consistent with the recommendations of the *FAA 90-Day Safety Review*, issued September 16, 1996, of imposing conditions in fitness orders to facilitate appropriate monitoring of individual air carriers' growth.⁷ Along these lines, we note that our finding of fitness for Smokey Bay is based on the operating plans described in its application, namely, utilizing three five-seat aircraft that can be operated under Part 135 of the Federal Aviation Regulations. Were the applicant to propose to expand its operations to include

⁶ If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedures should be specified (see Part 302, Rules 25 and 26 [see former Part 302, Rules 19 and 20]); if not, the reasons why not should be explained.

⁷ See, e.g., Orders 98-1-3, 97-10-22, 97-11-34, and 97-12-18.

additional or larger aircraft (i.e., aircraft having 10 passenger seats or more), our fitness findings, particularly involving the adequacy of Smokey Bay's management and financial resources, might no longer apply. Therefore, we propose to limit any authority issued to Smokey Bay to operations with aircraft having 9 passenger seats or less. Further, Smokey Bay's total aircraft fleet size may not exceed three aircraft. Should Smokey Bay desire to acquire and operate either additional or larger aircraft, it must first be determined fit for such operations.

Furthermore, we remind Smokey Bay of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a carrier is found fit initially, it must remain fit in order to hold its authority. Thus, should Smokey Bay propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our rules.⁸ The compliance of the company with this requirement is essential if we are to carry out our responsibilities under section 41110(e).⁹

Finally, to aid the Department in monitoring the fitness of new carriers, we have adopted a requirement that all certificated carriers must submit a detailed progress report, within 45 days following the end of the first year of certificated flight operations, to the Air Carrier Fitness Division. The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how its operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,¹⁰ and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

⁸ Smokey Bay may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership or management, and to determine what additional information, if any, will be required under section 204.5. In addition, by notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

⁹ We also remind Smokey Bay about the requirements of section 204.7 of our rules. This section provides, among other things, that (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences operations for which it was found fit and subsequently ceases such operations, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

¹⁰ These financial statements should include a balance sheet as of the end of the company's first full year of certificated flight operations and a 12-month income statement ending that same date.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and award a certificate to Smokey Bay Air, Inc., authorizing it to engage in interstate scheduled air transportation of persons, property, and mail subject to the attached specimen Terms, Conditions, and Limitations.
2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or the certificate award set forth here to file them with Department of Transportation Dockets, 400 Seventh Street, SW, Room PL-401, Washington, D.C. 20590, in Docket OST-99-6150, and serve them upon all persons listed in Attachment A no later than 14 days after the service date of this order; answers to objections shall be filed no later than 7 days thereafter.
3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.¹¹
4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter an order making final our tentative findings and conclusions and will issue Smokey Bay Air, Inc., a certificate that will contain an exact copy of the attached specimen Terms, Conditions, and Limitations.
5. We will serve a copy of this order on the persons listed in Attachment A.
6. We will publish a summary of this order in the Federal Register.

By:

A. BRADLEY MIMS
Deputy 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/reports/reports_aviation.asp*

¹¹ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

Specimen



Terms, Conditions, and Limitations

SMOKEY BAY AIR, INC.

is authorized to engage in interstate air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card) or issue tickets for the operations proposed under this certificate, and any advertisement or listing of flights by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) The holder may not operate aircraft designed to have a maximum passenger capacity of more than nine seats. In the event that the holder wishes to institute operations with aircraft having a larger capacity, it must first be determined fit for such operations.

- (4) *The holder may not operate more than three aircraft. In the event that the holder wishes to conduct operations utilizing more than three aircraft, it must first be determined fit for such operations.*
- (5) *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.*
- (6) *The holder's authority is effective only to the extent that such operations are also authorized by the FAA.*
- (7) *The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (8) *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 Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (9) *In the event that the holder receives effective scheduled passenger authority, the following additional conditions will apply:*
- (a) *The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*
- (b) *The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979, as amended by section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1998.*
- (10) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(f)), it must first comply with the requirements of 14 CFR 204.5.*

(11) In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held 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.