

Served: September 14, 2000

108651



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

Issued by the Department of Transportation
on the 11th day of September, 2000

Applications of

AMERISTAR AIR CARGO, INC.

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign
charter air transportation of property and mail

Dockets OST-99-6221-13
OST-99-6222-12

Application of

AMERISTAR AIR CARGO, INC.

for an exemption to carry revenue cargo on FAA proving
run flights

Docket OST-00-6840 - 3

**ORDER ISSUING EFFECTIVE CERTIFICATES
AND CONFIRMING ORAL ACTIONS**

Summary

By this order, we (1) confirm our oral actions taken with respect to Ameristar Air Cargo, Inc., and (2) reissue to the carrier its certificates of public convenience and necessity authorizing it to engage in interstate and foreign charter air transportation of property and mail to reflect their effective date.

Background

By Order 2000-2-20, served February 15, 2000, the Department found that Ameristar was fit, willing, and able to conduct interstate and foreign charter all-cargo air transportation and issued to it a certificate authorizing it to engage in interstate operations. Subsequently, by Order 2000-3-30, served April 3, 2000, we issued the company a companion certificate authorizing it to engage in foreign charter all-cargo operations.

The authority granted by these certificates was to become effective on the sixth (business) day after we had received, among other things, a copy of Ameristar's Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing it to engage in such operations, and a description of any fitness-related changes the company had undergone since the date of the Show Cause order in this case (*see* Order 2000-1-27, served January 28, 2000).

On January 31, 2000, Ameristar filed an application in Docket OST-00-6840 requesting that the Department grant it an exemption from section 201.5 of the Department's Regulations to the extent necessary to permit it to carry revenue cargo on its FAA-required proving run flights. According to Ameristar, these proving run flights were scheduled to commence on or about February 10, 2000. Prior to acting on this exemption request, we contacted the FAA and were advised that, while the FAA supported the company's request to carry revenue cargo during the proving run stage of its certification, the anticipated commencement date of these proving runs was not realistic. Hence, we advised Ameristar that we would defer acting on its exemption request until such time as the FAA advised us that commencement of proving runs for Ameristar were imminent.

On June 9, 2000, Ameristar filed a supplement to its exemption request. In this supplement, Ameristar advised us that it had taken delivery of its first aircraft, the FAA was currently conducting the required conformity checks, and its proving runs were now scheduled to commence on or about June 19. After confirming with the FAA the anticipated proving run dates and that it continued to support Ameristar's carriage of revenue cargo on these proving runs, we orally granted Ameristar's exemption request on June 15, 2000.¹ We confirm that action herein.

On September 5, 2000, Ameristar submitted evidence that it had obtained an Air Carrier Certificate from the FAA authorizing it to conduct charter all-cargo operations. Our review of these documents found them to be satisfactory. As the company had previously fulfilled all of the other terms for receipt of effective authority,² and had requested a waiver from the standard six-day waiting period, we advised the carrier on that same date that we were making its section 41102 certificate authority effective immediately. By this order, we confirm that

¹ Subsequent to this grant, Ameristar experienced difficulties with its aircraft conformity checks, which resulted in delaying the proving runs until late August. Ameristar has advised us that it ultimately did not carry any revenue cargo on these proving run flights.

² In its June 9 supplement, Ameristar provided evidence of its available funding and appropriate liability insurance. It also stated that it had not undergone any significant changes in its fitness since the issuance of our Show Cause Order in this case. Later, on July 10, Ameristar notified us that Mr. James Vertucci, an Airframe and Powerplant mechanic, had been promoted to serve as its Director of Quality Assurance. Prior to this action, Mr. Vertucci had worked for several months with Ameristar as its Manager for Maintenance Control, and for over 15 years in maintenance positions with various aircraft repair stations and air carriers, including Sierra Pacific, Express One, and American International/Kitty Hawk Air Cargo.

action and reissue to Ameristar its interstate and foreign all-cargo certificates to reflect the September 5, 2000, effective date.

ACCORDINGLY, Acting under authority assigned by the Department in its Regulations, 14 CFR 385.12:

1. We confirm our oral action of June 15, 2000, that granted Ameristar Air Cargo, Inc., an exemption from section 201.5 of our regulations to the extent necessary to permit it to carry revenue cargo on its proving runs (Docket OST-00-6840).
2. We confirm our oral action of September 5, 2000, granting Ameristar Air Cargo, Inc., a waiver from the six-day waiting period and making its section 41102 certificate authority effective on that same date.
3. We reissue to Ameristar Air Cargo, Inc., the interstate and foreign charter all-cargo section 41102 certificates issued to it by Orders 2000-2-20 and 2000-3-30, respectively, in the attached form to reflect their effective date (Dockets OST-99-6221 and 6222).
4. Should Ameristar Air Cargo, Inc., propose to operate more than two aircraft, we direct it to notify the Department in writing at least 45 days prior to the proposed operation and demonstrate its fitness to conduct such operations before their commencement.³
5. We direct Ameristar Air Cargo, Inc., to submit to the Air Carrier Fitness Division a first year progress report within 45 days following the end of its first year of actual flight operations.⁴
6. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

³ This notice shall be submitted to the Air Carrier Fitness Division. The carrier may contact the Air Carrier Fitness Division prior to submitting its notice to determine what fitness information must be provided.

⁴ 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 these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements, and a listing of current senior management and key technical personnel.

The actions confirmed in this order were effective when taken and the filing of a petition for review shall not alter their effectiveness.

By:

RANDALL D. BENNETT
Acting Director
Office of Aviation Analysis

(SEAL)

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



**Certificate of Public Convenience and Necessity
for
Interstate Charter Air Transportation
(as reissued)**

This Certifies That

AMERISTAR AIR CARGO, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate charter 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 2000-9-7

(On September 11, 2000)

Effective on September 5, 2000

Randall D. Bennett

Acting Director

Office of Aviation Analysis



Terms, Conditions, and Limitations

AMERISTAR AIR CARGO, INC.

is authorized to engage in interstate charter air transportation of 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 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 freight shipments).*
- (3) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) 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.*
- (6) The holder is not authorized to engage in air transportation operations between points within the State of Alaska.*
- (7) 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.*

**This certificate is being reissued to reflect its effective date.*

(8) In the event that the holder commences but subsequently 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.



**Certificate of Public Convenience and Necessity
for
Foreign Charter Air Transportation
(as reissued)**

This Certifies That

AMERISTAR AIR CARGO, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign charter 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 2000-9-7

On September 11, 2000

Effective on September 5, 2000

Randall D. Bennett

Acting Director

Office of Aviation Analysis

**As reissued by
Order 2000-9-7
Attachment*



Terms, Conditions, and Limitations

AMERISTAR AIR CARGO, INC.

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

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

- (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 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 orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.*
- (4) 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.*
- (5) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all FAA requirements concerning security.*
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*

**This certificate is being reissued to reflect its effective date.*

(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 Title 49 of the United States Code 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(f)), it must first comply with the requirements of 14 CFR 204.5.*

(9) *In the event that the holder commences but subsequently 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.*

SERVICE LIST FOR AMERISTAR AIR CARGO, INC.

Attachment

MR TOM WACHENDORFER
PRESIDENT
AMERISTAR AIR CARGO INC
4400 GLENN CURTISS DR STE 202
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