

DEPARTMENT OF
TRANSPORTATION

JAN 4 1993

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

SERVED JAN 4 1993

Issued by the Department of Transportation
on the 31st day of December, 1992

Application of

MORRIS AIR SERVICE, INC.

Docket 48565

for a disclaimer of jurisdiction under section 401(h) of
the Federal Aviation Act

**ORDER DISCLAIMING JURISDICTION AND
REISSUING CERTIFICATE**

Morris Air Service, Inc., a Utah corporation (Morris), holds a certificate of public convenience and necessity under section 401(d)(1) of the Federal Aviation Act authorizing it to engage in interstate and overseas scheduled air transportation of persons, property and mail, as issued by Order 92-11-34, November 23, 1992.

On December 21, 1992, Morris filed an application in Docket 48565 requesting the Department to disclaim jurisdiction under section 401(h) of the Act and to transfer its certificate authority to Morris Air Corporation (MAC), a new entity established in the State of Delaware. Morris stated that, except for the change in state of incorporation, the company has undergone no material changes in ownership, management or in any other fitness-related area since its authority was granted in November. The applicant also furnished a certificate and articles of incorporation for MAC as approved by the State of Delaware on December 15, 1992.

We have decided to disclaim jurisdiction over the transfer of Morris's section 401 certificate to MAC and reissue the certificate in the name of MAC. We have reviewed the information provided by Morris and find that the change of corporate jurisdiction from Utah to Delaware will have no significant effect on the actual ownership, management, financial posture, or operations of the carrier. In similar circumstances in the past, the Department has disclaimed jurisdiction over this type of transaction based on its conclusion that it is not a transfer within the meaning of section 401(h) of the Act.¹

¹ See, for example, Orders 81-8-71, 81-8-155, 85-2-66, 88-1-74, 88-12-38, 90-7-24, and 92-12-26.

ACCORDINGLY, acting under authority assigned by the Department in its Regulations, 14 CFR 385.14(q):

1. We disclaim jurisdiction over the transfer of the section 401 domestic scheduled air transportation certificate issued to Morris Air Service, Inc., to Morris Air Corporation;
2. We reissue the section 401 domestic scheduled air transportation certificate issued to Morris Air Service, Inc., by Order 92-11-34 in the name of Morris Air Corporation;
3. The authority contained in Morris Air Corporation's certificate shall become effective on the sixth (business) day after we have received the following documents:²

(a) a copy of Morris Air Corporation's Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration authorizing such operations; and

(b) a certificate of insurance on OST Form 6410 in the name of Morris Air Corporation evidencing liability insurance coverage meeting the requirements of Part 205 of our rules for all of its aircraft;

provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date;³

4. We remind Morris Air Corporation of the requirements concerning substantial changes and dormancy contained in sections 204.5 and 204.7 of the Department's Regulations;⁴ and
5. We will serve a copy of this order on all persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.50, may file their petitions within 10 days of the service date of this order.

² These documents should be sent to the Department, Attention: Chief, Air Carrier Fitness Division, P-56. When the certificate has become effective, we will issue a notice to that effect, with a copy of the certificate, including its effective date, attached.

³ Morris Air Service's certificate authority will remain in effect until Morris Air Corporation's certificate has been made effective.

⁴ See discussion under the heading "Effective Certificate Conditions" in Order to Show Cause 92-11-6.

The action taken in this order is effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

JOHN V. COLEMAN
Director
Office of Aviation Analysis

(SEAL)



**Certificate of Public Convenience and Necessity
for
Interstate and Overseas Air Transportation**

(as reissued)

This certifies that

MORRIS AIR CORPORATION

is authorized, subject to the provisions of Title IV of the Federal Aviation Act of 1958, as amended, the orders, rules, and regulations issued thereunder, and the attached terms, conditions, and limitations, to engage in interstate and overseas air transportation of persons, property and mail.

This certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 92-12-48
On December 31, 1992
Effective on see attached

JOHN V. COLEMAN
Director
Office of Aviation Analysis

Terms, Conditions, and Limitations

MORRIS AIR CORPORATION

is authorized to engage in interstate and overseas scheduled air transportation of persons, property, and mail between all points in the United States, its territories, and possessions. 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.
- (2) The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of sections 401(j) and 419 of the Act, and all orders and regulations issued by the Department of Transportation under those sections.
- (3) The holder shall not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, and one or more points outside of Texas except that:
 - (a) The holder may provide charter air transportation not to exceed ten flights per month;
 - (b) The holder may provide scheduled passenger air transportation between Love Field and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico and Texas, if, in connection with the service:
 - (i) the holder does not offer or provide any through service or ticketing with another air carrier or foreign air carrier; and
 - (ii) the holder does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside Texas or the four contiguous States.
- (4) The exercise of the privileges granted by this certificate is subject to such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

* This certificate is being reissued to reflect the transfer of authority from Morris Air Service, Inc., to Morris Air Corporation.

(5) The holder shall maintain in effect liability insurance coverage as required under Part 205 of the Department's Regulations (14 CFR 205). Failure to maintain such insurance coverage renders a certificate ineffective and this or other failure to comply with the Federal Aviation Act or the Department's regulations shall be sufficient grounds to revoke this certificate.

(6) The holder's authority to operate under this certificate is effective to the extent that such operations are also authorized by the Federal Aviation Administration.

(7) 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. Further, in the event the holder commences operations for which it was found "fit, willing, and able," and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not 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.

(8) The authority granted here shall become effective on the sixth (business) day after the Department has received the following documents:

(a) a copy of the company's Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration authorizing such operations; and

(b) a certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of Part 205 of our rules for all of its aircraft;

provided, however, that the Department may stay the effectiveness of this authority prior to that date.

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