



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

Issued by the Department of Transportation on September 6, 2005

**NOTICE OF ACTION TAKEN -- DOCKET OST-2004-16945**

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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).

Joint Application of COMPANIA MEXICANA DE AVIACION, S.A. DE C.V. (MEXICANA) AND AMERICAN AIRLINES, INC. (AMERICAN)<sup>1</sup>, filed 8/3/05 for:

**XX** Exemption for American under 49 U.S.C. 40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between Los Angeles, California, and Mazatlan, Mexico, and to integrate this authority with its existing certificate and exemption authority. American intends to operate this service pursuant to a code-share arrangement with Mexicana, whereby the "AA" designator code will be placed on flights operated by Mexicana in this market. The joint applicants request that the exemption authority be granted for a period co-extensive with the exemptions granted previously to American in the instant docket (through April 29, 2006).**

**XX** Statement of authorization for Mexicana under 14 CFR Part 212 to:

**Display American's "AA" designator code on flights operated by Mexicana between Los Angeles and Mazatlan.**<sup>2</sup>

Applicant reps: Carl B. Nelson, Jr. (American) (202) 496-5647 and Charles F. Donley II (Mexicana) (202) 626-6840  
DOT Analyst: Thuy H. Cooper (202) 366-5423

**DISPOSITION**

**XX** **Granted (subject to conditions, see below)**

The above action granting new exemption authority to American was effective when taken: **September 6, 2005**, through **April 29, 2006**.

The above action granting an amended statement of authorization to Mexicana was effective when taken: **September 6, 2005**, and will remain in effect indefinitely, subject to the conditions below.

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

**XX** **The authority granted is consistent with the aviation agreement between the United States and Mexico.**

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<sup>1</sup> The joint applicants include American affiliates American Eagle Airlines, Inc., and Executive Airlines, Inc. d/b/a American Eagle.

<sup>2</sup> Mexicana holds Mazatlan-Los Angeles operating authority pursuant to its foreign air carrier permit. (See Order 78-6-127)

Except to the extent exempted or waived, the exemption authority granted above is subject to the terms, conditions, and limitations indicated:

**XX American's certificates of public convenience and necessity**

**XX Standard exemption conditions (attached)**

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**Conditions:** The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. The exemption authority granted to American is limited to services provided on a code-share basis only.

The route integration authority granted to American is subject to the condition that any service provided under this authority shall be consistent with the applicable bilateral aviation agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority granted should be construed as conferring upon American rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless American notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in American's authority by virtue of the route integration authority granted here, but that are not then being used by American, the holding of such authority will not be considered as providing any preference for American in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The Statement of Authorization granted to Mexicana is subject to the following conditions:

- (a) The statement of authorization will remain in effect only as long as American (and its affiliates) and Mexicana continue to hold the underlying authority to operate the code-share services at issue, and the code-share agreement providing for the code-share operations remains in effect.
- (b) American (and its affiliates) and/or Mexicana must promptly notify the Department (Office of International Aviation) if the code-share agreement is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services.<sup>3</sup> (Such notice should be filed in Docket OST-2004-16945.)
- (c) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendment to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (i.e., the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.
- (d) The authority granted here is specifically conditioned so that neither American (and its affiliates) nor Mexicana shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

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

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority 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, 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.

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<sup>3</sup> We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

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 seven (7) 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.

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[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)

**U.S. Carrier Exemption Conditions**

In the conduct of the operations authorized, the U.S. carrier 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) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; 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.