



Order 2008-3-12

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

Issued by the Department of Transportation  
on the 12<sup>th</sup> day of March, 2008

Served: March 12, 2008

In the matter of

U.S.-Mexico economic authority issued to U.S.  
air carriers pursuant to 49 U.S.C. § 40109  
(code-share services)

DOCKET DOT-OST-2008-0076

**Order Simplifying Licensing for Certain U.S.-Mexico Code-Sharing Arrangements**

By this Order we implement, effective immediately, a change in our licensing practices where U.S. air carriers seek economic authority<sup>1</sup> to serve a U.S.-Mexico city-pair market on a code-share-only basis, with another U.S. air carrier.<sup>2</sup> This order amends previously issued authority to implement the change.

Under the U.S.-Mexico aviation agreement, up to a total of two (and, in certain markets, up to a total of three), U.S. carriers may be designated to provide direct-carrier (own aircraft) services on a given city-pair route. The agreement also provides that the United States may authorize up to ten U.S. carriers to provide code-share services on a given city-pair route and must notify the Government of Mexico of such authorizations.

In granting requests by U.S. carriers for economic authority to support code-share-only service with a U.S. carrier partner, it has been our practice to identify specifically, as part of the authority granted, the U.S. carrier on whose aircraft the code-share service will be provided. This practice has resulted in the need for U.S. carriers to seek amended economic authority whenever they change their U.S. partner, or add an additional partner, with which they intend to provide code-share services.

In furtherance of our streamlining initiatives, and in the interest of easing regulatory burdens and enhancing administrative efficiency, we will no longer make the identity of the U.S. direct-carrier partner a part of the economic authority granted. Effective immediately, and unless a future authority should specifically state otherwise, economic authority to support code-share-only service with another U.S. air carrier(s) will reference, for illustrative purposes only, the U.S. direct-carrier information presented in the application. As a result, the U.S. direct-carrier

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<sup>1</sup> By economic authority, we mean authority granted either by exemption or by small-aircraft (60-seats or less) authorization.

<sup>2</sup> The Department's licensing procedures for code-sharing services between U.S. and foreign-flag carriers remain unchanged.

information will not restrict the underlying economic authority for the U.S. code-share carrier.<sup>3</sup> By removing this limitation, a U.S. air carrier that is authorized to serve a given city-pair route by code sharing on a U.S. direct-carrier's flights may change, add, or subtract a U.S. direct-carrier partner without the need to amend its underlying economic authority to serve the U.S.-Mexico city-pair market.<sup>4</sup> The U.S. code-share carrier would simply request, through the appropriate procedures already in place and which remain unchanged, that the Department issue an amended code-share notification to the Mexican aviation authorities, changing or adding the name of the new or additional U.S. direct carrier(s) on the subject city-pair route.<sup>5</sup> This new licensing practice will allow carriers to more quickly respond to, and implement, operational changes in this competitive environment.<sup>6</sup>

The relief provided by this Order will also apply to existing U.S. carrier economic authority to provide code-share-only service in a given U.S.-Mexico city-pair market with a U.S. partner. Where the Department has previously issued authority to a U.S. carrier to support code-share-only U.S.-Mexico service, and the U.S. direct-carrier partner(s) was identified as part of the economic authority granted, the U.S. direct-carrier information will now be deemed illustrative only. Those authorities are amended by this Order as stated below.

#### **ACCORDINGLY,**

1. To the extent that any currently effective U.S. carrier-U.S. carrier economic authority for U.S.-Mexico city-pair code-share services is inconsistent with the approach described in the body of this order, such authority is hereby amended, to the extent necessary, to provide for the relief described herein;

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<sup>3</sup> The U.S.-Mexico aviation market is limited-entry and, consistent with our longstanding policy when issuing U.S.-Mexico operating authority, we will continue to grant U.S.-Mexico direct-carrier and code-share-only economic authority only where firm plans for service are presented. We will also continue to apply the standard U.S.-Mexico 90-day start-up and 90-day dormancy conditions, including dormancy notice provisions, on such authority.

<sup>4</sup> The direct-carrier partner must also hold the necessary underlying economic authority as required by the Department's regulations.

<sup>5</sup> Where a large-aircraft carrier does not already hold economic authority for a city-pair market, it can combine its request for code-share notification in its docketed application for new exemption authority. Under this approach, the code-share notification request will be processed as part of the exemption application (with the standard 15-day answer period for exemption applications). Where a large-aircraft carrier already holds economic authority for a city-pair market and wishes to make a change in its code-share services with a U.S. carrier partner, it need only request an amended code-share notification. This request should be filed in the form of a letter to the Director, Office of International Aviation, U.S. Department of Transportation. A copy of the request should be placed in the applicable docket where the code-share carrier received its underlying economic authority to serve the subject market, and the request should be served on all U.S. carriers serving U.S.-Mexico markets. A summary of the code-share notification request will be posted in the Department's Weekly List of Applications Filed (Weekly), and can be accessed at the following web site: [www.regulations.gov](http://www.regulations.gov). There is a standard three-week answer period for such requests, unless the carrier chooses to conduct a poll and reports the results of the poll to the Director, Office of International Aviation. Any requests for new and/or amended authority for small-aircraft (60-seats or less) code-share operations (both for the direct-carrier and the code-share only carrier), need only be filed in the form of a letter (undocketed) to the Director, Office of International Aviation, U.S. Department of Transportation, and the request should be served on all U.S. carriers serving U.S.-Mexico markets. As stated above, such requests will be posted in the Weekly and will be subject to the prescribed three-week answer period, unless the carrier conducts a poll on the request.

<sup>6</sup> The action taken here does not relieve major U.S. air carriers of their obligations to file applicable joint venture agreements pursuant to 14 U.S.C. 41720.

2. The relief provided for in this order shall become effective immediately;<sup>7</sup>
3. We may amend, modify, or revoke the relief granted by this order at any time at our discretion without hearing; and
4. We will serve this order on all U.S. certificated air carriers; the Ambassador to Mexico in Washington, D.C.; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

**Michael W. Reynolds**  
Acting Assistant Secretary  
for Aviation and International Affairs

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[www.regulations.gov](http://www.regulations.gov)

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<sup>7</sup> Persons entitled to petition the Department for review of the action set forth in this order under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Order. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.