

260404

Served: November 24, 2003



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

Issued by the Department of Transportation  
on the 24<sup>th</sup> day of September, 2003

Application of

**PRIMARIS AIRLINES, INC.**

For certificates of public convenience and necessity  
under 49 U.S.C. 41102 to engage in foreign scheduled  
air transportation of persons, property and mail

**Docket OST-2003-14774 - //**

**ORDER ISSUING FOREIGN CERTIFICATE**

By Order 2003-9-19, issued September 24, 2003, we found Primaris Airlines, Inc. (Primaris) fit, willing, and able to engage in interstate and foreign scheduled air transportation of persons, property, and mail. By that order, we issued a certificate of public convenience and necessity authorizing Primaris to engage in interstate passenger air transportation.

By this order, we are issuing a companion certificate authorizing Primaris to engage in foreign air transportation. Instead of repeating our findings and conclusions in Order 2003-9-19, we incorporate them here by reference.

**ACCORDINGLY,**

1. We issue a certificate of public convenience and necessity in the forms attached to Primaris Airlines, Inc., to engage in foreign scheduled air transportation.
2. Unless disapproved by the President of the United States under section 41307 of the Transportation Code, this order shall become effective on the 61<sup>st</sup> day after its submission for section 41307 review or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier.<sup>1</sup>

<sup>1</sup> This order was submitted for section 41307 review on September 24, 2003. The 61<sup>st</sup> day is November 24, 2003. Since the President's designee did not disapprove this order before that date, it became effective on November 24, 2003.

3. We direct that, should Primaris Airlines, Inc., want to operate more than six aircraft, it must first provide the Department with at least 45-days' notice and demonstrate its fitness for, such expansion.
4. We direct Primaris Airlines, 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 certificated operations.<sup>2</sup>
5. We will serve a copy of this order on the persons listed in Attachment A.

By:

**MICHAEL W. REYNOLDS**  
Acting Assistant Secretary  
for Aviation and International Affairs

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

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<sup>2</sup> The report shall include a description of Primaris'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 (including a balance sheet at the end of its first year of flight operations and a 12-month income statement ending that same date), and a listing of current senior management and key technical personnel.



**Certificate of Public Convenience and Necessity  
for  
Foreign Air Transportation**

**Route 818**

*This Certifies That*

**PRIMARIS AIRLINES, 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 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 2003-11-21  
On September 24, 2003  
Effective on (See Attached)*

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



*Terms, Conditions, and Limitations*

**PRIMARIS AIRLINES, INC.**

*is authorized to engage in scheduled foreign air transportation of persons, property and mail over the following segments:*

- 1. Between a point or points in the United States and a point or points in Canada;*
- 2. Between a point or points in the United States and a point or points in France; and*
- 3. Between a point or points in the United States and a point or points in Germany.*

*This authority is subject to the following conditions:*

*(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 by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) 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.

(4) 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 order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

(5) 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.

(6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all applicable U.S. Government requirements concerning security.<sup>1</sup>

(7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

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<sup>1</sup> 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 Principal Security Inspector (PSI) to advise the PSI 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.

(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) *The holder is authorized to conduct charter flights in interstate and/or foreign air transportation in accordance with the provisions of 14 CFR 212.*

(10) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), 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.*

(12) *Any all-cargo services operated under this certificate in relation to segment 1 shall be subject to the following condition:*

*Points in the territory of Canada shall not be combined on any same plane scheduled or nonscheduled all-cargo courier service operated with aircraft having a maximum takeoff weight greater than 35,000 pounds.*

(13) *In addition to the authority granted in this certificate, the holder may also conduct operations beyond points in Canada to points in third countries that it holds authority to serve, without local traffic rights between points in Canada and such other points in third countries (i.e., on a blind sector basis).*

**SERVICE LIST FOR PRIMARIS AIRLINES, INC.**

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