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

Issued by the Department of Transportation on July 22, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST 98-3961

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).

Applicant: WESTAIR de MEXICO, S.A. de C.V. Date Filed: June 16, 1998

Relief requested: Exemption from 49 USC section 41301 to permit the applicant to conduct all-cargo charter operations between Mexico and the United States, and other all-cargo charter operations in accordance with 14 CFR Part 212, using small equipment.

Applicant representative: Lee A. Bauer, 202-331-3300
Responsive pleadings: None.

DISPOSITION

Action: Approved. Action date: July 22, 1998

Effective dates of authority granted: July 22, 1998, through July 22, 1999.

Basis for approval (bilateral agreement/reciprocity): United States-Mexico Air Transport Services Agreement of August 15, 1960, as amended and extended (Agreement).

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: Standard exemption conditions.

Special conditions/Partial grant/Denial basis/Remarks: We find that the carrier is operationally and financially qualified to conduct the operations it proposes. Also, the record in this case shows that 75% of Westair's stock is owned by Mexican citizens and 25% is owned by citizens of the United States and that two of the applicant's key personnel (the president and vice president) are U.S. citizens. We find, however, that, to the extent necessary, the public interest warrants waiver of our policy that the foreign carrier be substantially owned and effectively controlled by citizens of its homeland, as there appears to be nothing in Westair's ownership and control that would be inimical to U.S. aviation policy or interests. Further, in the conduct of these operations, the carrier must adhere to all applicable provisions of the U.S.-Mexico Agreement. In the conduct of these operations, the carrier may only use aircraft having a maximum payload capacity of no more than 18,000 pounds (small equipment). The above grant includes authority to conduct Third and Fourth Freedom charter operations. While we have subjected, consistent with the provisions of the Agreement, Mexican carriers conducting charter operations with large aircraft to prior approval of their Third and Fourth Freedom charters (see Order 92-2-7 at 5), we determined that a Third/Fourth Freedom prior-approval requirement was not necessary on public interest grounds in the case of this carrier, since it will be conducting these operations solely with small aircraft. (Other charter operations to/from the United States under this authority, however, are subject to prior approval under 14 CFR Part 212.)

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

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and 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/deferred/dismissed, 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.

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 ten (10) 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.

An electronic version of this document is available on the World Wide Web at: http://dms.dot.gov/general/orders/aviation.html.