



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on December 10, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST 96-2025

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).

Application of Evergreen International Airlines, Inc. filed 11/19/98 to:

XX Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between Anchorage, Alaska, on the one hand, and Khabarovsk, Petropavlovsk, Vladivostok, and Yuzhno-Sakhalinsk, Russian Federation, on the other, and beyond to Hong Kong, without local traffic rights between Russia and Hong Kong, and to integrate this authority with its existing certificate and exemption authority.

XX Allocation of three weekly U.S.-Russia all-cargo frequencies to operate the above service

Applicant rep.: Thomas V. Lydon, 202-466-2929 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

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

The exemption authority granted was effective when taken: December 10, 1998, through December 10, 2000

The frequency allocation was effective when taken: December 10, 1998, and will remain in effect, provided that Evergreen continues to hold the necessary underlying authority to serve the U.S.-Russia market.

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 Hong Kong, and the Air Transport Agreement between the United States and the Russian Federation, entered into force January 14, 1994. Although the Annexes to the latter agreement expired May 31, 1997, they continue to be invoked by both parties as the operative source of the rights governing the relationship.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: XX **Holder's certificate of public convenience and necessity**

XX **Standard Exemption Conditions (attached)**

(See Reverse Side)

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

Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert to the Department for reallocation if they are not used for a period of 90 days.

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

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, 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>*