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

Issued by the Department of Transportation on March 22, 2002

NOTICE OF ACTION TAKEN -- DOCKET OST-98-3652~/7

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 Polar Air Cargo, Inc. filed 3/7/02 for:

XX Waiver of dormancy condition:

By Notice of Action Taken dated September 8, 1998, the Department granted Polar Air Cargo exemption authority to provide scheduled all-cargo service between points in the United States and Jeddah, Saudi Arabia, via Ostend, Belgium, and Shannon, Ireland, and beyond Saudi Arabia to Johannesburg, South Africa; Harare, Zimbabwe; and Nairobi, Kenya, and allocated it two weekly U.S.-Saudi Arabia frequencies for this service. That award was subject to the condition that the frequency allocation would expire automatically and the frequencies would revert to the Department for reallocation if they are not used for a period of 90 days. Polar temporarily suspended Saudi Arabia service on June 18, 1999. Since then the Department has granted Polar waivers of the 90-day dormancy condition until January 10, 2002. The dormancy waiver was extended through March 31, 2002 by the Department's blanket waiver in Order 2001-11-15.

Polar now seeks a waiver of the dormancy waiver applicable to its allocation of two U.S.-Saudi Arabia all-cargo frequencies through October 26, 2002. In this regard, Polar notes that the last time the Department renewed Polar's US-Saudi Arabia dormancy waiver, the Department advised Polar that in the absence of countervailing circumstances, the Department may no longer continue to find that the public interest warrants an extension of this dormancy waiver should Polar not make use of the available frequencies. Polar states that the events of September 11, 2001, together with their impact on the economy in general and the air transportation industry in particular represent "countervailing circumstances" that warrant the instant limited extension.

Applicant rep.: Jeffrey A. Manley, 202-663-6670 DOT analyst: Linda Senese, 202-366-2367

DISPOSITION

XX **Granted.** (See Remarks below)

The above action was effective when taken: March 22, 2002, through October 26, 2002¹

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

(See Reverse Side)

¹ Polar's waiver from the dormancy condition, with respect to each of the two frequencies at issue, is effective through October 26, 2002, or until the date on which Polar begins services with these frequencies, whichever occurs earlier. The 90-day dormancy period will begin on the date Polar begins service. As to any frequency with which Polar does not begin service by October 26, 2002, its frequency allocation with respect to that frequency expires automatically.

Remarks: By Order 2001-11-15, following the events of September 11, 2001, the Department granted all U.S. carriers a blanket waiver from the dormancy conditions related to their international route authorities through March 31, 2002. The Department stated that it would entertain applications to extend the dormancy waiver beyond March 31 for specific city-pair, limited-entry services where carriers can demonstrate that circumstances warrant. While we have granted Polar's request here, as in the public interest, based on the circumstances stated in the request, there should be no expectation that an additional request will similarly be granted. Any future requests to extend the dormancy waiver for the frequencies at issue here will have to be considered in light of the specific arguments offered in support of the request and any comments that might be filed in response, and in the context of the circumstances present at that time. Furthermore, should another carrier seek to use the frequencies at issue here, we reserve the right to reexamine whether the waiver granted here continues to be in the public interest.

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

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