



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

Issued by the Department of Transportation on September 23, 2003

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 **9/8/2003**

XX Renewal of waiver of 90-day dormancy condition:

Evergreen seeks to renew through March 31, 2004, its waiver of the 90-day dormancy condition applicable to its allocation of three weekly all-cargo frequencies for services between Anchorage, on the one hand, and Khabarovsk, Petropavlovsk, Vladivostok and Yuzhno-Sakhalinsk, Russia, on the other.

In support of its application, Evergreen notes that it began serving the U.S.-Russia market in 1995 and expended significant resources in an effort to develop the market. Although it is continuing those efforts, Evergreen states that the company was dealt a serious setback by the events of September 11, 2001 and the subsequent downturn in the world economy, necessitating its previous waivers for the dormancy condition. Evergreen maintains that conditions have not improved and have been exacerbated by the Iraq war and the attendant demands placed on all-cargo airlines for transportation in support of the war and the construction effort and that it is not in a position to resume service on an economic basis in the near future. Evergreen states that it remains committed, however, to resuming service when warranted by traffic demands and seeks a waiver through March 31, 2004, and that the extension waiver request will enable Evergreen to accomplish that goal in an orderly and efficient manner. Evergreen states that nearly half of the available all-cargo frequencies are available for allocation so grant of this waiver will not deter the Department from allocating frequencies to other interested cargo airlines.

No answers to the application were filed.

Applicant rep: **William C. Evans (202) 861-6459** DOT Analyst: **Linda W. Senese (202) 366-2367**

DISPOSITION

XX Granted. (See conditions and remarks below.)

The above action, granting a waiver from the dormancy condition was effective when taken: **September 23, 2003**, through **March 31, 2004**.¹

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

¹ Evergreen's waiver from the dormancy condition is effective through March 31, 2004, or until the date on which Evergreen begins service with these frequencies, whichever occurs earlier. As to any frequency with which Evergreen does not begin service by March 31, 2004, its frequency allocation with respect to that frequency expires automatically.

Remarks: While we have granted Evergreen'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.

On the basis of data officially noticeable under Rule 24(g) 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) our action was consistent with Department policy; (2) grant of the exemption and waiver 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 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 order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*