



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

Issued by the Department of Transportation on **September 25, 2003**

NOTICE OF ACTION TAKEN—DOCKET OST-95-838

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 **Federal Express Corporation (Federal Express)** filed **8/14/03** to:

XX Renew exemption pursuant to 49 U.S.C. §40109 to:

Integrate its certificate authority on Routes 119, 205-F, 451, 472, 473, 553, 568, 638, 748, 787, and 793, and all other international route authority held by Federal Express by exemption to permit Federal Express operating flexibility to provide around-the-world scheduled all-cargo air transportation via various points named in its certificates and exemption authority, and other inter-regional and intra-regional all-cargo services, subject to applicable bilateral, certificate, and exemption restrictions. Federal Express requests that the integration authority be granted on an indefinite basis or, in the alternative, for a two year period, through October 24, 2005.

Applicant rep: **David E. Short (901) 434-8584** DOT Analyst: **Linda L. Lundell (202) 366-2336**

DISPOSITION

XX **Granted in part** (subject to conditions, see below).

XX **Balance dismissed** (*i.e.*, for longer term authority).

The above action was effective when taken: **September 25, 2003**, through **October 24, 2005**.

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

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX **Holder's Certificates of Public Convenience and Necessity**

XX **Standard Exemption Conditions (attached Appendix A)**

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

Dismissal: Consistent with our standard practice for this type of application, we renewed Federal Express' exemption for a period of two years, and dismissed its request for longer-term authority.¹

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 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 or 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 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

¹ In this regard, the two-year duration of this exemption will be through October 24, 2005, the alternate date requested by Federal Express in this proceeding.

APPENDIX A

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. 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; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

8/2003