



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

Issued by the Department of Transportation on March 24, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-1996-2025

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 1/27/04

XX Renewal of waiver of 90-day dormancy condition:

Evergreen seeks to renew through March 31, 2005, 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.

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 of the dormancy condition. Evergreen maintains that at the time of its previous request for an extension of the dormancy waiver it anticipated that economic conditions would improve and that it could resume service in the U.S.-Russia market prior to the expiration of the dormancy waiver. Under the terms of the latest waiver Evergreen's frequency allocation would automatically expire if Evergreen does not resume service by March 31, 2004. Evergreen states that it remains committed to resuming service when warranted by traffic demands and seeks a waiver through March 31, 2005. Evergreen states that more than 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.

Applicant rep: William C. Evans (202) 861-6459 DOT Analyst: Sylvia Moore (202) 366-6519

DISPOSITION

XX Granted (See remarks below.)

The above action was effective when taken: March 24, 2004, through March 31, 2005¹

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

¹ Evergreen's waiver from the dormancy condition is effective through March 31, 2005, or until the date on which Evergreen begins service with each of these frequencies, whichever occurs earlier. As to any frequency with which Evergreen does not begin service by March 31, 2005, its frequency allocation with respect to that frequency expires automatically.

Remarks: We find that grant of Evergreen's request, in the particular circumstances presented, is in the public interest. However, we are putting Evergreen on notice that there should be no expectation that an additional request will necessarily be granted. Any future request to extend the dormancy waiver for the frequencies at issue here will have to be considered in light of any specific arguments offered and responses thereto, and in the context of the circumstances present at that time, including whether another carrier seeks to use the frequencies at issue.

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 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*