



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation on May 15, 2003

**NOTICE OF ACTION TAKEN -- DOCKET OST 2003-14889**

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).

Applicant: ANTONOV DESIGN BUREAU

Date Filed: April 7, 2003

Relief requested: Exemption from 49 U.S.C. section 40109(g) to permit the applicant to operate one, one-way, cargo charter flight from Richmond, VA, to Bismarck, ND, during the period June 1-30, 2003, using its AN-124 aircraft to transport an outsized turbine rotor/trailer unit and ancillary equipment, on behalf of CAP Logistics, Inc., acting on behalf of Basin Electric Power Cooperative (Basin Electric). The applicant stated that Basin Electric urgently needed to move the turbine late April 2003 to Richmond for reconditioning (that portion of the applicant's request was granted on April 15, 2003, in this Docket), and to return it to Bismarck in June 2003 in order to restore a power plant to full service. It stated that the size and weight of the rotor, coupled with the distance involved, foreclosed the possibility of transporting the unit on a timely and reasonably safe basis by surface transportation. The applicant further stated that in order to avoid undue delays to the rotor's reconditioning and return to service, and possible service disruptions for Basin Electric's customers, the rotor needed to be shipped by air, and that the unit is too large for transportation on U.S. carrier aircraft.

Applicant representative: Sheryl Israel, 202-663-8060

DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: Antonov served its application on those U.S. carriers operating large all-cargo aircraft. Each carrier indicated that it did not have aircraft available to conduct the proposed operations and that it had no comment or did not oppose grant of the requested authority to Antonov.

Statutory Standards: Under 49 U.S.C. section 40109(g), we may authorize a foreign air carrier to carry commercial traffic between U.S. points (*i.e.*, cabotage traffic) under limited circumstances. Specifically, we must find that the authority is required in the public interest; that because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. section 41102; that all possible efforts have been made to place the traffic on U.S. carriers; and that the transportation is necessary to avoid unreasonable hardship to the traffic involved (an additional required finding, concerning emergency transportation during labor disputes, was not relevant here). For examples of earlier grants of authority of this type, *see, i.e.*, Order 2001-5-23.

**DISPOSITION**

Action: Approved

Action date: May 15, 2003

Effective dates of authority granted: June 1-30, 2003

Basis for approval: We are granting Antonov's request to operate its proposed flight from Richmond to Bismarck, during the period June 1-30, 2003. We found that its request met all the relevant criteria of 49 U.S.C. section 40109(g) for the grant of an exemption of this type and that the grant was required in the public interest. Specifically, we were persuaded that the need to move the cargo back to Bismarck in June to meet Basin Electric's schedule to restore an electrical power plant to full services as soon as possible; the fact that the cargo could not be transported by other modes in time promptly to meet the restoration schedule; the potential negative impact of delivery delay; and the unique, outsized nature of the cargo, constituted an emergency not arising in the normal course of business. Moreover, based on the representations of the U.S. carriers, we concluded that no U.S. carrier had aircraft available which could be used to conduct the operation at issue here. Finally, we found that the applicant was qualified to perform its proposed operation (*see, e.g.*, Notice of Action Taken dated August 26, 2002, in Docket OST-96-1454).

Except to the extent exempted/waived, this authority is subject to our standard exemption conditions and to the condition that the applicant must comply with an FAA-approved flight routing for the authorized flight.

**Action taken by:**    **Read C. Van de Water**  
Assistant Secretary for Aviation  
and International Affairs

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