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

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ESTABLISHMENT OF SLOT EXEMPTION PROCEEDINGS  
PURSUANT TO 49 U.S.C. § 41718(b)  
Docket OST-2000-7182 - 603

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NOTICE

On January 22, 2003, pursuant to the provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21), the Department issued Order 2003-1-16, which granted a total of six slot exemptions at Ronald Reagan Washington National Airport (DCA) for services inside the 1,250-mile perimeter to AirTran Airways, Inc. and Corporate Airlines, Inc.

Under the provisions of that order, AirTran was granted four DCA slot exemptions to provide nonstop service to Fort Lauderdale, Fort Myers, or West Palm Beach, Florida, and Corporate was granted two slot exemptions to serve Wilmington, Fayetteville, or Jacksonville, North Carolina.

By Order 2003-4-13, issued April 16, 2003, the Department postponed the requirement for AirTran and Corporate to inaugurate their respective DCA services, and, after AirTran and Corporate had failed to inaugurate the services authorized by Order 2003-1-16, by Order 2003-7-5, issued July 2, 2003, the Department granted temporary authority to US Airways, Inc., to operate the DCA authority granted to AirTran and Corporate through October 25, 2003,<sup>1</sup> or until AirTran or Corporate inaugurated their respective services. Order 2003-7-5 also required that AirTran or Corporate provide at least 30 days' advance notice of their date of inauguration of DCA services.<sup>2</sup> We stated in that order that if

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<sup>1</sup> By action dated April 23, 2003, the Federal Aviation Administration waived the use-or-lose requirements for slot and slot exemption operations at the high-density airports for the period March 19, 2003, through April 30, 2003. The FAA took this action, in part, because the Air Transport Association of America (ATA) and individual airlines, such as US Airways, had requested the opportunity to temporarily operate services at levels lower than use-or-lose requirements at the high-density airports, including DCA, as a result of decreased passenger demand, increased operating costs, and other impacts on the airline industry related to the military action in Iraq. The FAA also waived minimum usage requirements for the period May 1, 2003, through October 25, 2003, provided that carriers temporarily return to the FAA any unused slot or slot exemptions.

<sup>2</sup> On August 20, 2003, AirTran filed notice of its intent to inaugurate DCA-Ft. Lauderdale and DCA-Ft. Myers service on October 23, 2003. On October 13, 2003, AirTran filed notice that it will end DCA-Ft. Lauderdale service on December 3, 2003, and initiate service to West Palm Palm Beach on December 4, 2003.

either carrier did not start the service as proposed, we would institute another proceeding to award the unused slot exemptions.

By letter dated October 15, Corporate notified the Department that it would be unable to inaugurate the services it had been authorized by Department Order 2003-1-16.

### **Proceeding**

Given these developments, the Departments will now consider, using the criteria set forth in 49 U.S.C § 41718(b), applications from air carriers using Stage 3 aircraft for the two slot exemptions formerly granted to Corporate, to provide nonstop service to DCA from airports that were designated as small hub or nonhub airports within the 1,250-mile perimeter established for civil operations at DCA under 49 U.S.C. § 49109. Applications should be filed in Docket OST 2000-7182.<sup>3</sup>

Section 41718(c)(3) requires that all 12 inside-perimeter slot exemptions be for air transportation to medium hub airports and smaller and that at least four of the 12 slot exemptions be for air transportation to small hub airports and nonhub airports.<sup>4</sup> Because American Trans Air currently uses four slot exemptions for service to Chicago's Midway Airport, a medium hub airport, and US Airways/AirTran use four slot exemptions to Fort Myers and Fort Lauderdale<sup>5</sup>, also medium hub airports, and Midwest Express uses two slot exemptions for service to Des Moines, a small hub airport, the two slot exemptions to be distributed here must be for nonstop service to a small hub or nonhub airport.<sup>6</sup>

Section 41718(b) directs the Secretary to distribute the 12 inside -perimeter slot exemptions in a manner that promotes air transportation: (1) by new entrant air carriers and limited incumbent air carriers; (2) to communities without existing nonstop air transportation to DCA; (3) to small communities; (4) that will provide competitive nonstop air transportation on a monopoly nonstop route to DCA; *or* (5) that will produce the maximum competitive benefits, including low fares. A new entrant air carrier or limited incumbent air carrier is defined as an air carrier or commuter operator that holds or operates (or held or operated, since December 16, 1985) fewer than 20 slots and slot exemptions at DCA.<sup>7</sup>

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<sup>3</sup> In anticipation of the Department's instituting a proceeding, US Airways and Comair have already filed applications for these two slot exemptions. We have docketed both proposals and will consider them as filed, unless a carrier files, before the deadline, a notice of withdrawal or a revised proposal.

<sup>4</sup> Hub airport definitions are provided under 49 U.S.C. § 41714(h)(7), (8), and (9). The statute specifies that these definitions be based on the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

<sup>5</sup> See Order 2003-7-5.

<sup>6</sup> See also Order 2003-1-16 at 9.

<sup>7</sup> 49 U.S.C. § 41714(h). In addition, under 49 U.S.C. § 41714(k) "...an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the

We are also aware that Congress is now considering authorizing additional DCA slot exemptions for distribution to qualified air carriers for services to eligible communities under the pending Federal Aviation Administration reauthorization act. Should this legislation be enacted into law in the near future, the Department would move expeditiously to allocate any newly available slot exemption authority in accordance with statutory criteria and may consolidate into a single proceeding the available permanent slot exemption authority currently operated in the DCA-Wilmington market on a temporary basis.

Completed applications must be submitted by November 5, and comments with respect to any timely filed request for slot exemptions must be filed by November 14.

As a final matter, we note that Corporate's currently allocated DCA slot times are in the 1000 and 1100 hour periods. Because 49 U.S.C. § 41718(c)(2) does not allow us to assign more than two slot exemptions per one hour period, and most one hour periods were fully subscribed by the Department's Notice dated August 2, 2000, we may not be able to accommodate carrier requests for alternative slot exemption times.

We shall serve a copy of this notice on all certificated air carriers, the Metropolitan Washington Airports Authority, and the Federal Aviation Administration's Slot Administration office.

By:

**MICHAEL W. REYNOLDS**  
Acting Assistant Secretary for Aviation  
and International Affairs

Dated: October 17, 2003

(SEAL)

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total number of slots and slot exemptions held by the 2 carriers at the airport exceed 20 slots and slot exemptions.”