



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

Issued by the Department of Transportation on January 14, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST 2003-16803

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: VOLGA-DNEPR J.S. CARGO AIRLINE

Amendment Filed: January 12, 2004

Relief requested: Amend exemption from 49 U.S.C. section 40109(g), granted December 31, 2003, and effective through January 11, 2004, permitting the applicant to operate a one-way, cargo charter flight from Philadelphia to Moffet Field, using its AN-124-100 aircraft, carrying a Lockheed Martin Space Systems satellite, to extend the effectiveness of that authority through January 16, 2004. The applicant stated that Lockheed Martin needed to extend the carriage date beyond January 11 due to a production delay.

Applicant representative: Glenn P. Wicks, 202-457-7790 DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: Volga-Dnepr had served its initial 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.

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).

DISPOSITION

Action: Approved

Action date: January 14, 2004

Effective dates of authority granted: January 14, 2004, through January 16, 2004

Basis for approval: On December 31, 2003, we granted (see NOAT issued on that date in this Docket) Volga-Dnepr's request to operate its proposed one-way flights from Philadelphia to Moffet Field, through January 11, 2004. In taking that action, 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. Volga-Dnepr asserts that Lockheed needed to extend the shipping date through January 16, 2004, because of a production delay. Under the circumstances, we also find that this request to extend the duration of the authority meets all the relevant statutory criteria warranting grant. Thus, we are granting Volga-Dnepr's request to conduct this one flight through January 16, 2004. Moreover, based on the representations of the U.S. carriers, we continue to conclude that no U.S. carrier has aircraft available that could be used to conduct the operation at issue here. We also found that grant of this authority would prevent unreasonable hardship to Lockheed Martin Space Systems, and that the applicant remains qualified to perform its proposed operation.

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 operation.

Action taken by: **Karan K. Bhatia**
 Assistant Secretary
 for Aviation and International Affairs

An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp