



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

Issued by the Department of Transportation on February 13, 2004

**NOTICE OF ACTION TAKEN -- DOCKET OST 2004-17113**

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: February 11, 2004

Relief requested: Exemption from 49 U.S.C. section 40109(g) to permit the applicant to operate two, one-way, cargo charter flights from Honolulu, Hawaii, to Milwaukee, Wisconsin, through February 20, 2004, using its AN-225 aircraft to transport eight rail cars (four per flight) and ancillary equipment, on behalf of Air Partner PLC and Siemens Automation. The applicant stated that Siemens, due to unforeseen delays in transportation of this cargo by ocean, now urgently needs lift to get the cargo to the Chicago area for the National Manufacturing Week display (starting February 23, 2004); that the cargo is too large for transportation on U.S.-carrier aircraft; and that ocean transportation is not feasible because of the long time period that such mode of transportation would take.

Applicant representative: Robert E. Cohn, 202-663-8060

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

Responsive pleadings: Antonov Design Bureau 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 operation 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: February 13, 2004

Effective dates of authority granted: February 13, 2004, through February 20, 2004

Basis for approval: We are granting Antonov Design Bureau's request to operate its two proposed one-way flights from Hawaii to Milwaukee, through February 20, 2004. We found that Antonov Design Bureau's 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 promptly, following unforeseen delays in shipment by ocean, in order to get the cargo to the Chicago area for the manufacturing display (starting February 23, 2004), the fact that the cargo currently cannot be transported by ocean transportation because of the long time period such movement would entail, 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 that could be used to conduct the operation at issue here. We also found that, under the circumstances, grant of this authority would prevent unreasonable hardship to Air Partners and Siemens Automation. Finally, we found that the applicant was 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 comply with an FAA-approved flight routing for the authorized flight.

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

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