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ORDER 2000-10-27

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

Issued by the Department of Transportation  
on the 26th day of October, 2000

**Application of**

**MIDWEST EXPRESS AIRLINES, INC.**

For an exemption from 14 CFR Part 93, under  
49 U.S.C. §41714

Served: October 26, 2000

Docket OST-00-7189 - 8

**ORDER**

**SUMMARY**

By this order the Department is granting the request of Midwest Express Airlines, Inc. (Midwest Express) to temporarily move the operation of a slot at Ronald Reagan Washington National Airport (Reagan National or DCA) from the 0700 hour (7:00 a.m.) to the 1000 hour (10:00 a.m.). This action will be effective only for the period November 1, 2000, through March 31, 2001.

**BACKGROUND**

By Order 2000-7-20, issued July 14, 2000, the Department granted the application of Midwest Express for an exemption to permit it to reassign one DCA slot from the 2100 hour (9:00 p.m.) to the 0700 hour (7:00 a.m.) in order to permit it to offer daily Kansas City-Washington (DCA) service with Stage 3 MD-80 aircraft.

By letter to the Federal Aviation Administration dated September 21, 2000, Midwest Express requested that it be permitted to reassign the 0700 hour slot operation permitted by Order 2000-7-20 from the 0700 hour to the 1000 hour for the period November 1, 2000, through March 31, 2001. Midwest Express states that grant of its request is temporary in nature and would facilitate its operation of an improved DCA air service package for Spring 2001.

## DECISION

We have decided to grant the Midwest Express request.

By Order 2000-7-2000, the Department found that Midwest Express had complied with all of the conditions specified in 49 U.S.C. §41714(d), which authorizes the Department to grant exemptions to air carriers operating or holding slots at Reagan National if such conditions are met. Under 49 U.S.C. §41714(d) the Department may, under circumstances that it finds to be exceptional, grant exemptions to an air carrier that holds or operates slots at Reagan National to enable it to slide the operating times of slots to different times. Such exemptions are very limited and must meet explicit conditions. Under present practice, the Department must find that grant of the authority would not (1) result in an increase in the total number of slots per day at Reagan National; (2) result in an increase in the total number of slots at Reagan National between the hours of 0700 through 2159; (3) increase the number of operations at Reagan National in any one-hour period by more than two operations; (4) result in the withdrawal or reduction of slots operated by an air carrier; and (5) result in a net increase in noise impact on surrounding communities resulting from changes in timing of the exempted operations.

Grant of the Midwest Express request would potentially alter only the two operations per hour criterion (number 3, above) from the set of circumstances under which we approved Midwest Express's application by Order 2000-7-20. In this regard we have reviewed our past actions granting exemptions for the reassignment of Reagan National slots pursuant to 49 U.S.C. §41714(d), and we have found that there have been no exemptions granted for the reassignment of slot exemptions during the 1000 hour (10:00 a.m.) period.

We accept Midwest Express's statement that grant of its request will allow the carrier to more effectively develop and market its Reagan National services.

We also take note of Midwest Express's contention that this request is temporary and would only be effective for the period November 1, 2000 through March 31, 2001. We wish to emphasize that we would not ordinarily grant requests for temporary DCA slot reassignment simply to address variations in seasonal demand, and we do not regard the Midwest Express request as merely seasonal.

## ADMINISTRATIVE TERMS

The administrative terms outlined in Order 2000-7-20 remain in effect.

This Order is issued under authority delegated in 49 CFR 1.56a(f)(1).

**ACCORDINGLY,**

1. The Department grants an exemption from 14 CFR Part 93, subparts K and S to Midwest Express Airlines, Inc. to the extent that Midwest Express will be allowed to move the operation of Slot No. 4101 at Ronald Reagan Washington National Airport from the 0700 hour to the 1000-1059 period;
2. This exemption is granted only to the extent that Midwest Express is allowed to move the operation of Slot No. 4101 for the purpose of providing nonstop service between Kansas City, Missouri, and Ronald Reagan Washington National Airport. Should Midwest Express operate this slot to provide service to a point other than Kansas City, this exemption will expire and the operation of these slots will revert back to the 0700 hour. This slot is not transferable;
3. This exemption is granted only to the extent that Midwest Express is allowed to move the operation of Slot No. 4101 and, therefore, Midwest Express continues to be subject to all of the other requirements delineated in 14 CFR Part 93, Subparts K and S including, but not limited to, the reporting provisions and use or lose requirements;
4. We direct Midwest Express to contact the Federal Aviation Administration's Slot Administration Office to determine the effective date for the exemption granted here. The Federal Aviation Administration will assign a slot number for the slot exemption listed in ordering paragraph 1;
5. This exemption will be effective for the period November 1, 2000 through March 31, 2001; and
6. We shall serve a copy of this order on the parties in this docket.

By:

**FRANCISCO J. SANCHEZ**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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