140373

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on October 5, 2001

NOTICE OF ACTION TAKEN -- DOCKET OST-99-6424 – 4

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).

Application of **Polar Air Cargo, Inc.** filed **9/12/01** to:

XX Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between a point or points in the United States, via intermediate points, and a point or points in Argentina, and beyond. The carrier also requests authority to integrate this authority with its existing certificate and exemption authority.

Applicant rep: **Jeffrey A. Manley 202-663-6670** DOT Analyst: **Gerald Caolo 202-366-2406**

DISPOSITION

XX Granted (subject to conditions, see below)

The above action was effective when taken: **October 5, 2001,** through **October 5, 2003,** or until 90 days after final Department action on Polar's corresponding certificate application in Docket OST-99-6425, whichever occurs earlier.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX The authority granted is consistent with the aviation agreement between the United States and Argentina.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificate of public convenience and necessity**
XX Standard exemption conditions (attached)

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Polar rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Polar notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Polar's authority by virtue of the route integration exemption granted here, but that are not then being used by Polar, the holding of such authority by route integration will not be considered as providing any preference for Polar in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(See Reverse Side)

The authority granted to serve intermediate and beyond points is limited to countries with which the United States has signed open-skies agreements and/or countries for which Polar holds authority to serve under certificates and exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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

APPENDIX

U.S. Carrier
Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

(1) Hold at all times effective operating authority from the government of each country served;

(2) Comply with applicable requirements concerning oversales contained in 14 CFR (for scheduled operations, if authorized);

(3) Comply with the requirements for reporting data contained in 14 CFR 241;

(4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;

(5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;

(6) Comply with the applicable requirements of the Federal Aviation Administration Regulations, including all FAA requirements concerning security; and

(7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.