

with the same ITS requirements as other market makers if they voluntary choose to register as an ITS/CAES Market Makers.

The Commission notes that ECN and ATS ITS/CAES Market Makers will also be required to follow the NASD's rules, as well as the terms of the ITS Plan, concerning the pre-opening application, trade throughs, locked and crossed markets, and block transactions.<sup>14</sup> These market integrity provisions provide for continuity of transaction among the various market centers.

The Commission also believes it is appropriate to prohibit ECNs and ATSs that choose to register as ITS/CAES Market Makers from charging quote access fees for trades effected through CAES. Market Makers are prohibited under NASD rules from charging access fees when trading through CAES. Moreover, trades in ITS between markets are not subject to market fees, even though these markets charge fees to their members for executing trades on that market.<sup>15</sup>

The Commission also believes it is not inconsistent with the Exchange Act to allow the CAES functionality to operate in order delivery mode, as opposed to automatic execution mode, in accessing an ITS/CAES Market Maker's quote. ECNs, which, to date, have functioned only within order delivery systems (e.g., SelectNet for Nasdaq securities), have been reluctant to participate in CAES due to the automatic execution feature. The proposed rule change will allow all ITS/CAES Market Makers, including ECNs and ATSs that choose to register as such, to operate in CAES in either order delivery mode or automatic

execution mode. The Commission believes that requiring ITS/CAES Market Makers that choose to operate in order delivery mode to have an automated response to an incoming order should ensure that transactions done through CAES, as well as those done through the ITS/CAES interface, are executed efficiently. The ability of an ITS/CAES Market Maker to select the mode of operation in which it receives orders of ITS commitments addresses the ECNs' concerns over exposure to double executions.<sup>16</sup> Specifically, allowing an ITS/CAES Market Maker to operate in order delivery mode will permit it to suspend acceptance of orders when it is in the process of updating its quote, providing such action is in compliance with the Commission's and NASD's firm quote rules.

Finally, the Commission believes that the proposed rule change is not inconsistent with the terms of the ITS Plan. Specifically, under the proposed rule change, ITS/CAES Market Makers will continue to be required to provide automated responses to all ITS commitments sent by other exchange participants to the third market. The Commission notes that, although the proposed rule change may affect the operation of the ITS pre-opening application,<sup>17</sup> no amendment to the ITS Plan is technically required. Specifically, the ITS Plan defines "ITS/CAES Market Maker" as an "NASD member that is registered as a market maker with the NASD \* \* \* with respect to one or more specified ITS/CAES securities." Thus, the NASD's proposed definition of "ITS/CAES Market Maker" does not conflict with or

violate the ITS Plan. Furthermore, nothing in the ITS Plan requires that ITS/CAES Market Maker automatically execute commitments received through ITS.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-NASD-99-75) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-7067 Filed 3-21-00; 8:45 am]

**BILLING CODE 8010-01-M**

## DEPARTMENT OF STATE

**[Public Notice 3260]**

**Culturally Significant Objects Imported for Exhibition Determinations:  
"Michelangelo to Picasso: Master Drawings From the Collection of the Albertina, Vienna"**

**DEPARTMENT:** United States Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999, as amended by Delegation of Authority No. 236-1 of November 9, 1999, I hereby determine that the objects to be included in the exhibit, "Michelangelo to Picasso: Master Drawings from the Collection of the Albertina, Vienna," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Frick Collection, New York, NY, from on or about April 17, 2000, to on or about June 18, 2000, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of exhibit objects, contact Paul W.

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> A trade through occurs when a transaction is effected at a price below the best prevailing bid, or above the best prevailing offer. The NASD's rules and the ITS Plan require price protection among the various markets by ensuring that the best national bids and offers are provided opportunities to trade with other markets effecting trades outside the best national quote. The NASD's rules and the ITS Plan also contain a block trade policy that provides special rights to any market displaying the best national bid or offer when block-size transactions are occurring in another market.

<sup>15</sup> The Commission received one comment letter from an ECN regarding the proposed rule change. See MarketXT Letter. MarketXT believes that ECNs should be permitted to charge fees in the ITS/CAES market because Nasdaq has proposed a rule change that would permit market makers to charge an access fee for agency quotes in the Nasdaq market. See Securities Exchange Act Release No. 41343 (April 28, 1999), 64 FR 24430 (May 6, 1999) (File No. SR-NASD-99-16). ECN fees have been permitted in the Nasdaq market since ECNs were first linked to that market in 1997. The Commission has stated that it is considering options to reduce or eliminate ECN fees in the Nasdaq market. The Commission does not believe that investors' interests are best served by permitting ECN fees in the ITS market, where fees are not permitted among existing participants.

<sup>16</sup> Double execution could occur if an ECN displays a customer order to buy and an order to sell comes in through ITS, while another order to sell comes into the ECN at the same time. Automatic execution would force the ECN to honor both sell orders.

<sup>17</sup> Generally, under ITS rules, an exchange specialist is required to accept those pre-opening responses sent to the exchange by market makers from other participant markets prior to the opening of their markets for trading in the security. If, however, one or more market makers from other participant markets have already opened trading in a security, the exchange specialist is not required to (but may in his discretion) accept pre-opening responses from the other participant market for the purpose of including them in the opening transaction. Because a pre-opening response from the ITS/CAES market is sent in aggregate form—that is, pre-opening third market buy and sell interest from all third market makers—is sent as one response, it is possible that an ECN and ATS ITS/CAES Market Maker trading a security before the opening will trigger the exception to the requirement that the exchange specialist accept a pre-opening response from the third market. The same procedure applies of re-openings following trading halts. See Exhibit A of the ITS Plan, "Pre-Opening Application rule," Sec. (b)(iii)(B).

Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is Room 700, United States Department of State, 301 4th Street, SW, Washington, DC 20547-0001.

Dated: March 15, 2000.

**William B. Bader,**

*Assistant Secretary for Educational and Cultural Affairs, United States Department of State.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**[Summary Notice No. PE-2000-10]**

**Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 11, 2000.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No. \_\_\_\_\_, 800 Independence Avenue, SW., Washington, DC. 20591.

Comments may also be sent to electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW.,

Washington, DC. 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:**

Cherie Jack (202) 267-7271 or Vanessa Wilkins (202) 267-8029 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC., on March 16, 2000.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

**Dispositions of Petitions**

*Docket No.: 26183.*

*Petitioner:* Air Transport Association of America.

*Section of the FAR Affected:* 14 CFR appendix H to part 121.

*Description of Relief Sought/*

*Disposition:* To permit member airlines of the ATA and other similarly situated part 121 certificate holders to continue to use Level C simulators for pilot-in-command initial and upgrade training and checking.

*Grant, 01/31/2000, Exemption No. 54000*

*Docket No.: 27202.*

*Petitioner:* Skydive Arizona, Inc.

*Section of the FAR Affected:* 14 CFR 105.43(a).

*Description of Relief Sought/*

*Disposition:* To permit SAI to allow nonstudent foreign nationals to participate in SAI-sponsored parachute jumping events without complying with the parachute equipment and packing requirements of § 105.43(a).

*Grant, 01/21/2000, Exemption No. 7106*

*Docket No.: 29076.*

*Petitioner:* RR Investments, Inc., d.b.a. Million Air Dallas.

*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/*

*Disposition:* To permit Million Air Dallas to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on each aircraft.

*Grant, 01/28/2000 Exemption No. 6718A*

*Docket No.: 29776.*

*Petitioner:* Pomona Valley Pilots Association.

*Section of the FAR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.

*Description of Relief Sought/*

*Disposition:* To permit the PVPA to conduct local sightseeing flights for the

25th annual Pomona Valley Air Fair at Cable Airport, Upland, California, on January 8 and 9, 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 01/05/2000, Exemption No. 7094*

*Docket No.: 29795.*

*Petitioner:* Western North Carolina Pilots Association, Inc.

*Section of the FAR Affected:* 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.

*Description of Relief Sought/*

*Disposition:* To permit the WNCPA to conduct local sightseeing flights at the Asheville Regional Airport for fall scenic rides on October 23 and 24, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 10/22/1999, Exemption No. 7049*

*Docket No.: 29846.*

*Petitioner:* Air Cargo Carriers, Inc.

*Section of the FAR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/*

*Disposition:* To permit Air Cargo to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in each aircraft.

*Grant, 01/11/2000, Exemption No. 7124*

*Docket No.: 29879.*

*Petitioner:* Santoku Aviation Electric, Inc.

*Section of the FAR Affected:* 14 CFR 145.47(b).

*Description of Relief Sought/*

*Disposition:* To permit SAE to substitute the calibration standards of the National Research Laboratory of Metrology and the Electrotechnical Laboratory, Japan's national standards organizations, for the calibration standards of the U.S. National Institute of Standards and Technology, formerly the National Bureau of Standards, to test its inspection and test equipment.

*Grant, 01/14/2000, Exemption No. 7105*

[FR Doc. 00-7043 Filed 3-21-00; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**[Docket No. RSPA-98-4470]**

**Pipeline Safety: Meetings of Pipeline Safety Advisory Committees**

**AGENCY:** Office of Pipeline Safety, Research and Special Programs Administration, DOT.