

comparable bright line for determining when a license is required; however, in doing so, the agency noted that it was doing so for consistency and in the belief that processing hazards for RLVs would be comparable to those associated with expendable launch vehicle processing activities. 65 FR at 56679. However, since that rulemaking, a number of new vehicles have been proposed for licensing that do not use conventional expendable launch vehicle technology, such as hybrid RLVs.

Applying the four prong test, if pre-flight operations do not qualify for licensing under the four-prong test, a waiver may be in the public interest because the CSLA advises the agency to streamline licensing and regulate only to the extent necessary to safeguard U.S. interests, including public safety, a key outcome of the four-prong test. There should not be any public safety or safety of property concerns if licensing authority is waived because hazards are addressed in applying the four-prong test.

#### The Four-Prong Test Applied To SpaceShipOne Pre-flight Ground Operations

Certain SpaceShipOne pre-flight preparatory activities conducted at Mojave Airport meet the first three prongs of the four-prong test. That is, certain pre-flight ground operations are closely proximate in time to ignition or lift-off, entail critical steps preparatory to initiating flight, and are unique to space launch. For example, the preparation of the rocket motor and reaction control systems for flight would meet these criteria.

However, no pre-flight ground operations conducted by Scaled Composites in preparing SpaceShipOne for flight meet the fourth prong of the four-prong test. That is, no pre-flight ground operation is inherently so hazardous as to warrant AST's regulatory oversight under 49 U.S.C. Chapter 701.

SpaceShipOne pre-flight ground operations pose negligible risk to the public due to the vehicle's small size and selected propellants. The SpaceShipOne main propulsion system is a hybrid rocket motor that uses non-toxic, storable propellants—nitrous oxide (N<sub>2</sub>O) as the oxidizer and Hydroxyl Terminated Polybutadiene (HTPB) as the fuel. The motor is not explosive and is extremely difficult to ignite accidentally. SpaceShipOne's other propulsion system, its reaction control system, uses only dry air.

SpaceShipOne presents no solid rocket motor handling or processing risks such as fire, explosion, debris, or

unintended motor stage flight. Nor does it present any liquid propellant hazards such as toxicity or vapor cloud explosions. Although high-pressure gas and other industrial hazards may exist, those hazards have limited reach, and should not extend to the public at Mojave Airport.

#### National Security and Foreign Policy Implications of SpaceShipOne Pre-flight Ground Operations

The FAA evaluation conducted in support of Scaled Composites' license (LRLS 04-067) concluded that there are no issues relating to U.S. national security or foreign policy interests that would require the FAA to prevent launches of SpaceShipOne. Pre-flight ground operations conducted at the Mojave Airport have no effects outside of the airport facilities that are used by Scaled Composites. Thus, there are no national security or foreign policy issues associated with pre-flight preparatory ground operations.

#### Summary and Conclusion

A waiver is in the public interest because it accomplishes the goals of the CSLA and avoids unnecessary regulation. The waiver will not jeopardize public health and safety or safety of property because pre-flight preparatory activities for SpaceShipOne conducted at the Mojave Airport are benign to the public. A waiver will not jeopardize national security and foreign policy interests of the United States.

For the foregoing reasons, the FAA has waived the requirement for Scaled Composites to obtain a launch license covering SpaceShipOne pre-flight preparatory activities conducted at the Mojave Airport.

Issued in Washington, DC, on August 2, 2004.

**Patricia Grace Smith,**

*Associate Administrator for Commercial Space Transportation.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2004-63]

#### Petitions for Exemption; Dispositions of Petitions Issued

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

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application,

processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

**FOR FURTHER INFORMATION CONTACT:** Tim Adams (202) 267-8033, or Sandy Buchanan-Sumter (202) 267-7271, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 3, 2004.

**Anthony F. Fazio**

*Director, Office of Rulemaking.*

#### Dispositions of Petitions

*Docket No.:* FAA-2002-11933.

*Petitioner:* ExpressJet Airlines d.b.a. Continental Express Airlines.

*Section of 14 CFR Affected:* 14 CFR 121.434(c)(1)(ii).

*Description of Relief Sought/Disposition:* To permit ExpressJet Airlines, d.b.a. Continental Express Airlines to substitute a qualified and authorized check airman for a Federal Aviation Administration inspector to observe a qualifying pilot in command (PIC) perform prescribed duties during at least one flight leg that includes a takeoff and a landing when that PIC is completing initial or upgrade training as specified in § 121.424.

*Grant, 7/27/2004, Exemption No. 6798B.*

*Docket No.:* FAA-2004-18649.

*Petitioner:* Tower Aviation Services, LLC.

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

*Description of Relief Sought/Disposition:* To permit Tower Aviation Services, LLC to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

*Grant, 7/23/2004, Exemption No. 8364.*

*Docket No.:* FAA-2000-8462.

*Petitioner:* National Warplane Museum, d.b.a. Wings of Eagles.

*Section of 14 CFR Affected:* 14 CFR 91.315, 119.5(g), and 119.21(a).

*Description of Relief Sought/Disposition:* To permit the National Warplane Museum, d.b.a. Wings of Eagles (Wings) to carry passengers on local flights for compensation or hire in its limited category Boeing B-17 aircraft, Serial No. 4483563, in support

of the Wings' fundraising efforts, subject to certain conditions and limitations.

*Grant, 7/23/2004, Exemption No. 8363.*

*Docket No.: FAA-2003-15115.*

*Petitioner: Martinaire, Inc.*

*Section of 14 CFR Affected: 14 CFR 135.105(c)(1).*

*Description of Relief Sought/*

*Disposition:* To permit Martinaire, Inc., to carry passengers, specifically certified airmen employed by other airlines, on board their aircraft with a 2-axis autopilot installed and operating.

*Denial, 7/22/2004, Exemption No. 8362.*

*Docket No.: FAA-2003-16836.*

*Petitioner: John R. Deakin.*

*Section of 14 CFR Affected: 14 CFR 91.109(a).*

*Description of Relief Sought/*

*Disposition:* To permit Mr. John R. Deakin to conduct flight instruction to meet the flight review and recent experience requirements in Bonanza, Debonair, Baron, and Travel Air aircraft equipped with a single functioning throwover control wheel in place of fixed dual controls, subject to certain conditions and limitations.

*Grant, 7/22/2004, Exemption No. 8361.*

*Docket No.: FAA-2003-15795.*

*Petitioner: Mr. Terry Lee Claussen.*

*Section of 14 CFR Affected: 14 CFR 67.113(a).*

*Description of Relief Sought/*

*Disposition:* To permit Mr. Terry Lee Claussen to obtain a first-class airman medical certificate while he requires insulin treatment for the control of diabetes mellitus.

*Denial, 7/22/2004, Exemption No. 8360.*

*Docket No.: FAA-2003-16714.*

*Petitioner: Ward Air, Inc.*

*Section of 14 CFR Affected: 14 CFR 135.203(a)(1).*

*Description of Relief Sought/*

*Disposition:* To permit Ward Air, Inc., an amendment to Exemption No. 8295 that would change the airspace defined by latitude and longitude listed in condition and limitation No. 1.

*Grant, 7/14/2004, Exemption No. 8295A.*

*Docket No.: FAA-2000-8425.*

*Petitioner: Aero Sports Connection, Inc.*

*Section of 14 CFR Affected: 14 CFR 103.1(a) and (e).*

*Description of Relief Sought/*

*Disposition:* To permit individuals authorized by Aero Sports Connection, Inc., to give instruction in two-place powered ultralight vehicles that have a maximum empty weight of 496 pounds, have a maximum fuel capacity of 10

U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed.

*Grant, 7/27/2004, Exemption No. 6080G.*

*Docket No.: FAA-2001-9976.*

*Petitioner: United States Ultralight Association, Inc.*

*Section of 14 CFR Affected: 14 CFR 103.1(a) and (e).*

*Description of Relief Sought/*

*Disposition:* To permit individuals authorized by the United States Ultralight Association, Inc., to give instruction in two-place powered ultralight vehicles that have a maximum empty weight of no more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed, subject to specific conditions and limitations.

*Grant, 7/27/2004, Exemption No. 4274L.*

*Docket No.: FAA-2001-8939.*

*Petitioner: Experimental Aircraft Association, Inc.*

*Section of 14 CFR Affected: 14 CFR 103.1(a) and (e).*

*Description of Relief Sought/*

*Disposition:* To permit individuals authorized by the Experimental Aviation Association, Inc., to give instruction in powered ultralights that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed.

*Grant, 7/27/2004, Exemption No. 3784M.*

*Docket No.: FAA-2004-18599.*

*Petitioner: Hawk Eye Aerial.*

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

*Description of Relief Sought/*

*Disposition:* To permit Hawk Eye Aerial to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

*Grant, 7/23/2004, Exemption No. 8365.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

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

**ACTION:** Monthly Notice of PFC Approvals and Disapprovals. In June 2004, there were 13 applications approved. This notice also includes information on three applications, approved in May 2004, inadvertently left off the May 2004 notice. Additionally, eight approved amendments to previously approved applications are listed.

**SUMMARY:** The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

#### PFC Applications Approved

*Public Agency:* Burbank-Glendale-Pasadena Airport Authority, Burbank, California.

*Application Number:* 04-06-C-BUR.  
*Application Type:* Impose and use a PFC.

*PFC Level:* \$4.50.

*Total PFC Revenue Approved in This Decision:* \$4,417,000.

*Earliest Charge Effective Date:* March 1, 2010.

*Estimated Charge Expiration Date:* July 1, 2010.

*Class of Air Carriers not Required to Collect PFC's:* Nonscheduled/demand air carriers filing FAA Form 1800-31.

*Determination:* Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Bob Hope Airport.

*Brief Description of Projects Approved for Collection and Use at a \$4.50 PFC Level:*

Aircraft rescue and firefighting truck. Engineered material arresting system. Runway protection zone land acquisition.

Luther Burbank Middle School acoustical treatment.

Hangar 3 obstruction removal.

Runway/service road rehabilitation.

Airfield lighting rehabilitation.

*Brief Description of Projects Approved for Collection and Use at a #3.00 PFC Level:*