

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2004-107 and should be submitted on or before November 2, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2571 Filed 10-8-04; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3629]

State of Georgia (Amendment #1)

In accordance with a notice received from the Department of Homeland Security ‘Federal Emergency Management Agency—effective September 24, 2004, the above numbered declaration is hereby amended to include Dade, Miller, and Pickens as disaster areas due to damages caused by Hurricane Ivan occurring on September 14, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Decatur and Walker in the State of Georgia; DeKalb and Jackson Counties in the State of Alabama; and Hamilton and Marion Counties in the State of Tennessee may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

The economic injury disaster number assigned to Tennessee is 9AD300.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 17, 2004 and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 30, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04-22860 Filed 10-8-04; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 4857]

60-Day Notice of Proposed Information Collection: DS-3035, J Visa Waiver Recommendation Application, OMB Control Number 1405-0135

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* J Visa Waiver Recommendation Application.

- *OMB Control Number:* 1405-0135.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* CA/VO.
- *Form Number:* DS-3035.
- *Respondents:* All J visa waiver applicants.

- *Estimated Number of Respondents:* 10,000 per year.

- *Estimated Number of Responses:* 10,000 per year.

- *Average Hours Per Response:* 2 hours.

- *Total Estimated Burden:* 20,000 hours per year.

- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: The Department will accept comments from the public up to 60 days from October 12, 2004.

ADDRESSES: Comments and questions should be directed to Brendan Mullarkey at the Department of State, Visa Office, who may be reached on 202-663-1166. You may submit comments by any of the following methods:

- *E-mail:* mullarkeybp@state.gov. You must include the DS form number (if applicable), information collection title, and OMB control number in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Department of State, Visa Office, 2401 E Street, NW., Washington, DC 20522-0106.

- *Fax:* 202-663-3897.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to

Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St., NW., L-703, Washington, DC 20522, who may be reached at 202-663-1166 or mullarkeybp@state.gov.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.

- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection: The form collects information from aliens applying for a waiver of the two-year residency requirement prescribed by INA Section 212(e).

Methodology: Form DS-3035 will be mailed to the Waiver Review Division of the State Department’s Visa Office.

Dated: September 27, 2004.

Stephen A. Edson,

Acting Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 04-22855 Filed 10-8-04; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2004-77]

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

⁹17 CFR 200.30-3(a)(12).

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 October 5, 2004.

Anthony F. Fazio,
Director, Office of Rulemaking.

Dispositions of Petitions

Docket No.: FAA-2002-13602.

Petitioner: Eagle Aviation, Inc.

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

Description of Relief Sought/Disposition: To permit Eagle Aviation, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 7919A.*

Docket No.: FAA-2002-13369.

Petitioner: Aero Sports Connection.

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

Description of Relief Sought/Disposition: To permit Aero Sports Connection to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 7390B.*

Docket No.: FAA-2004-18899.

Petitioner: WorldWind Helicopters, Inc.

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

Description of Relief Sought/Disposition: To permit WorldWind Helicopters, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/23/2004, Exemption No. 8387.*

Docket No.: FAA-2002-13288.

Petitioner: Ozark Air Charter Company, Inc.

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

Description of Relief Sought/Disposition: To permit Ozark Air Charter Company, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/23/2004, Exemption No. 7906A.*

Docket No.: FAA-2004-18666.

Petitioner: Rotor Wing Aviation, LLC.

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

Description of Relief Sought/Disposition: To permit Rotor Wing Aviation, LLC to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 8382.*

Docket No.: FAA-2004-18735.

Petitioner: Morcom Aviation Services, Inc.

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

Description of Relief Sought/Disposition: To permit Morcom Aviation Services, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 8383.*

Docket No.: FAA-2004-18696.

Petitioner: Aviation Expeditions.

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

Description of Relief Sought/Disposition: To permit Aviation Expeditions to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 8386.*

Docket No.: FAA-2004-18866.

Petitioner: California Shock Trauma Air Rescue.

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

Description of Relief Sought/Disposition: To permit California Shock Trauma Air Rescue to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 8384.*

Docket No.: FAA-2004-18871.

Petitioner: Valley Air Express.

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

Description of Relief Sought/Disposition: To permit Valley Air Express to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 8/20/2004, Exemption No. 8385.*

Docket No.: FAA-2004-18950.

Petitioner: Dixie Air Charter, LLC.

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

Description of Relief Sought/Disposition: To permit Dixie Air Charter, LLC to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 9/3/2004, Exemption No. 8395.*

Docket No.: FAA-2000-8474.

Petitioner: Howell Enterprises, Inc.

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

Description of Relief Sought/Disposition: To permit Howell Enterprises, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 9/3/2004, Exemption No. 7427B.*

Docket No.: FAA-2000-8434.

Petitioner: Air Transport Association of America, Inc.

Section of 14 CFR Affected: 14 CFR 121.652(a) and (c).

Description of Relief Sought/Disposition: To permit Air Transport Association of America, Inc., member airlines and any similarly situated part 121 operator, to permit a pilot in command (PIC) conducting operations under part 121 to perform an instrument approach procedure to the weather minima prescribed by this exemption during the first 100 hours of service as PIC, in the type of airplane he/she is operating, using an alternative means approved by the Administrator to satisfy the requirements of § 121.652(a) and (c). *Grant, 8/28/2004, Exemption No. 5549C.*

Docket No.: FAA-2001-10191.

Petitioner: Department of the Air Force.

Section of 14 CFR Affected: 14 CFR 91.209(a)(1) and (b).

Description of Relief Sought/Disposition: To permit the Department of the Air Force an amendment to Exemption No. 7960 that will allow the participation of other military services while conducting joint operations. *Grant, 8/28/2004, Exemption No. 7960A.*

Docket No.: FAA-2004-17905.

Petitioner: Cherry-Air, Inc.

Section of 14 CFR Affected: 14 CFR appendix G to part 91.

Description of Relief Sought/Disposition: To permit Cherry-Air, Inc., to operate its aircraft in reduced vertical separation minimum airspace without Cherry-Air or its aircraft complying with appendix G to part 91. *Denial, 8/25/2004, Exemption No. 8393.*

Docket No.: FAA-2001-9501.

Petitioner: United States Air Force.

Section of 14 CFR Affected: 14 CFR 91.209(a)(1) and (b).

Description of Relief Sought/Disposition: To permit the United States Air Force an amendment to Exemption No. 7687A that will extend the expiration date for 5 years and remove the requirement to issue a NOTAM. *Grant, 8/26/2004, Exemption No. 7687B.*

Docket No.: FAA-2002-13377.

Petitioner: Continental Micronesia, Inc.

Section of 14 CFR Affected: 14 CFR 121.440(a).

Description of Relief Sought/Disposition: To permit Continental Micronesia, Inc., to meet line check requirements using an alternative line check program. *Grant, 8/28/2004, Exemption No. 7902A.*

Docket No.: FAA-2000-8153.

Petitioner: American Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.317(a).

Description of Relief Sought/Disposition: To permit American Airlines, Inc., to operate its Boeing 737 and 777 aircraft with "No Smoking" signs that are always illuminated. *Grant, 8/28/2004, Exemption No. 6853C.*

Docket No.: FAA-2000-8000.

Petitioner: Delta Air Lines, Inc.

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

Description of Relief Sought/Disposition: To permit Delta Air Lines, Inc., to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424. *Grant, 8/28/2004, Exemption No. 7376D.*

Docket No.: FAA-2000-8454.

Petitioner: United Airlines, Inc.

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

Description of Relief Sought/Disposition: To permit United Airlines, Inc., to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424 *Grant, 9/8/2004, Exemption No. 6570F.*

Docket No.: FAA-2004-18971.

Petitioner: Spirit Airlines.

Section of 14 CFR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).

Description of Relief Sought/Disposition: To permit Spirit Airlines to conduct its supplemental operations within the 48 contiguous United States and the District of Columbia using the flight regulations for alternate airports as required by § 121.619 and fuel reserve requirements as required by § 121.639 that are applicable to domestic operations. *Grant, 9/9/2004, Exemption No. 8398.*

Docket No.: FAA-2004-17232.

Petitioner: Raytheon Aircraft Charter & Management.

Section of 14 CFR Affected: 14 CFR 91.501.

Description of Relief Sought/

Disposition: To permit Raytheon Aircraft Charter & Management to transport customers and aircraft parts for owners of Raytheon Aircraft Company-manufactured aircraft for a nominal fee. *Denial, 9/9/2004, Exemption No. 8397.*

Docket No.: FAA-2002-12010.
Petitioner: Taunton Airport Association, Inc.

Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

Description of Relief Sought/Disposition: To permit Taunton Airport Association, Inc., to conduct local sightseeing flights at the Taunton Municipal Airport, Taunton, Massachusetts, on or about October 23, 2004, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to certain conditions and limitations. *Grant, 9/13/2004, Exemption No. 8401.*

Docket No.: FAA-2003-15373.

Petitioner: Ameriflight, Inc.

Section of 14 CFR Affected: 14 CFR 135.85.

Description of Relief Sought/Disposition: To permit Ameriflight, Inc., and each Ameriflight pilot to transport FAA-certificated airmen who are employed as flight crewmembers by another part 121 or part 135 certificate holder, and who are fully current and qualified with that other part 121 or part 135 certificate holder subject to certain conditions and limitations. *Grant, 9/8/2004, Exemption No. 8396.*

Docket No.: FAA-2002-12249.

Petitioner: Aviation Systems Standards.

Section of 14 CFR Affected: 14 CFR 61.3(a) and (c).

Description of Relief Sought/

Disposition: To permit Aviation Systems Standards to issue facsimile pilot certificates and medical certificates to crewmembers whose certificates have been lost, destroyed, or misplaced. *Grant, 9/10/2004, Exemption No. 7363B.*

Docket No.: FAA-2002-14166.

Petitioner: Mr. Kent Ewing.

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

Description of Relief Sought/

Disposition: To permit Mr. Kent Ewing to conduct certain flight instruction and simulated instrument flights to meet the recent experience requirements in Beechcraft Bonanza, Baron, and Travel Air airplanes equipped with a functioning throwover control wheel in place of functioning dual controls. *Grant, 9/10/2004, Exemption No. 7961A.*

Docket No.: FAA-2000-8527.

Petitioner: SIMCOM Training Center.

Section of 14 CFR Affected: 14 CFR 91.9(a) and 91.531(a)(1) and (2).

Description of Relief Sought/

Disposition: To permit SIMCOM Training Center and operators of Cessna Citation model 500, S550, 552, and 560 airplanes an amendment to Exemption No. 7487D that will specifically name the Cessna Citation models as the Bravo, Encore, and Ultra. *Denial, 9/10/2004, Exemption No. 7487E.*

Docket No.: FAA-2001-10269.
Petitioner: Executive Jet Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.152(h)(1) through (h)(57), (i), and (j).

Description of Relief Sought/Disposition: To permit Executive Jet Aviation, Inc., to operate its Falcon 2000 aircraft without recording the parameters listed in § 135.152(h)(1) through (h)(57) within the ranges, accuracies, resolutions, and recording intervals specified in appendix F to part 135. *Denial, 9/10/2004, Exemption No. 8400.*

Docket No.: FAA-2004-19087.

Petitioner: Mesaba Aviation, Inc., d.b.a. Mesaba Airlines.

Section of 14 CFR Affected: 14 CFR 121.574(a)(1)(i) and (iii) and (3)(i).

Description of Relief Sought/Disposition: To permit Mesaba Aviation, Inc., d.b.a. Mesaba Airlines to allow its passengers to use oxygen storage and dispensing equipment for medical purposes while aboard Mesaba aircraft when the equipment is furnished and maintained by another part 121 certificate holder. *Denial, 9/10/2004, Exemption No. 8399.*

Docket No.: FAA-2002-13012.

Petitioner: Frontier Flying Service, Inc.

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

Description of Relief Sought/Disposition: To permit Frontier Flying Service, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 9/14/2004, Exemption No. 8402.*

Docket No.: FAA-2004-19099.

Petitioner: Cottonwood Aviation, Inc.

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

Description of Relief Sought/Disposition: To permit Cottonwood Aviation, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 9/14/2004, Exemption No. 8403.*

Docket No.: FAA-2004-18995.

Petitioner: Crystal Shamrock.

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

Description of Relief Sought/Disposition: To permit Crystal Shamrock to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 9/17/2004, Exemption No. 8406.*

Docket No.: FAA-2003-14204.
Petitioner: Abilene Aero, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/
Disposition: To permit Abilene Aero, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.
Grant, 9/17/2004, Exemption No. 7948B.

Docket No.: FAA-2000-8338.
Petitioner: Tatonduk Outfitters Limited d.b.a. Everts Air Alaska.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/
Disposition: To permit Tatonduk Outfitters Limited d.b.a. Everts Air Alaska to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.
Grant, 9/16/2004, Exemption No. 7403C.

Docket No.: FAA-2003-14279.
Petitioner: South Aero, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/
Disposition: To permit South Aero, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.
Grant, 09/16/2004, Exemption No. 7985A.

Docket No.: FAA-2002-12484.
Petitioner: Dynamic Aviation.
Section of 14 CFR Affected: 14 CFR 137.53(c)(2).

Description of Relief Sought/
Disposition: To permit Dynamic Aviation an amendment to Exemption No. 7827C that will allow Dynamic Aviation pilots to operate additional aircraft.
Grant, 9/15/2004, Exemption No. 7827D.

Docket No.: FAA-2001-11090.
Petitioner: Army Aviation Heritage Foundation.
Section of 14 CFR Affected: 14 CFR 91.319, 119.5(g), and 119.25.

Description of Relief Sought/
Disposition: To permit an extension of Exemption No. 7736 to the Army Aviation Heritage Foundation (AAHF), which will allow them to operate its former military UH-1H helicopter for the purpose of carrying passengers on local educational flights, subject to revised conditions and limitations.
Grant, 9/16/2004, Exemption No. 7736C.

Docket No.: FAA-2004-19071.
Petitioner: Mr. Daryl Baker.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

Description of Relief Sought/
Disposition: To permit Mr. Daryl Baker

to conduct local sightseeing flights at the Windham Airport, Willimantic, Connecticut, between September 25, and October 10, 2004, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to certain conditions and limitations.
Grant, 9/20/2004, Exemption No. 8407.

Docket No.: FAA-2004-19006.
Petitioner: Traffic Management Corporation.

Section of 14 CFR Affected: 14 CFR 125.224.

Description of Relief Sought/
Disposition: To permit Traffic Management Corporation to operate two leased L-188 Electra aircraft without a Traffic Alert and Collision Avoidance System II and the appropriate Mode S transponder for a period of 1-year, because of economic hardship endured since the terrorist attack of September 11, 2001.
Denial, 9/16/2004, Exemption No. 8408.

Docket No.: FAA-2004-19004.
Petitioner: Zantop International Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.356.

Description of Relief Sought/
Disposition: To permit Zantop International Airlines, Inc., to operate certain aircraft without a Traffic Alert and Collision Avoidance System II and the appropriate Mode S transponder for a period of 1-year, because of economic hardship endured since the terrorist attack of September 11, 2001.
Denial, 9/16/2004, Exemption No. 8409.

Docket No.: FAA-2000-8100.
Petitioner: Northwest Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.440(a) and SFAR 68, section 6(b)(3)(ii)(A).

Description of Relief Sought/
Disposition: To permit Northwest Airlines, Inc., an amendment to Exemption No. 5815, that will enable them to meet line check requirements using an alternative line check program, subject to revised conditions and limitations.
Grant, 9/16/2004, Exemption No. 5815F.

[FR Doc. 04-22853 Filed 10-8-04; 8:45 am]
BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[**FRA Emergency Order No. 18, Notice No. 2]**

Burlington Northern Santa Fe Railway Company; Notice Rescinding FRA Emergency Order 18, Requiring the Capability To Initiate Emergency Application of Air Brakes From the Head End and Rear of Trains, After a 60-day Interim Transition Period

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that, absent further notice, FRA will consider the emergency situation requiring the issuance of Emergency Order 18 to have abated at the conclusion of a 60-day interim transition period during which the Burlington Northern Santa Fe Railway Company (BNSF) will comply with a series of modified operational requirements before beginning full operation under the existing Federal regulations related to end-of-train (EOT) devices. Emergency Order 18 requires that all westward trains operated by the BNSF on the Cajon Subdivision, between Barstow milepost 745.9 and Baseline milepost 79.9, have the capability to initiate an emergency application of the air brakes from both the head and rear of the train and imposes certain inspection, testing, and operational requirements on the railroad.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. 20104. These orders may immediately impose such "restrictions and prohibitions * * * that may be necessary to abate the situation." (*Ibid.*)

Background

BNSF's line of railroad between Barstow and Los Angeles, California, consists of double main track which passes through the San Bernardino Mountains via "Cajon Pass." The route for westward moving trains involves a steady climb from Barstow to Summit, California, a distance of approximately 55 miles. At Summit, the line begins a