

Although the proscriptions on deceptive and anticompetitive conduct found in Part 399 are written in general terms, at a minimum, air charter brokers without economic authority (or other ticket agents for that matter) should take care not to hold out as “airlines,” “air carriers,” “operators,” “airways,” or in any other way likely to create the false impression that they are direct air carriers in their own right. Toward this end, such entities should not refer to an aircraft used in the air services that they are marketing in a manner that conveys the false impression that they are an air carrier or the operator of the air transportation (e.g., “our fleet,” or “our charters,” “our charter service,” “our jet operators,” or “we operate a fleet of”).

In the course of several recent enforcement investigations, the Enforcement Office has also become aware of the use of air charter brokers by operators of commercial service with large aircraft operated pursuant to 14 CFR part 125. Such operators may not hold out or provide air transportation to the public for compensation or hire, directly or indirectly through third parties.⁹ Therefore, air charter brokers who offer transportation services to the public, regardless of whether they hold economic authority in their own right, may not act as an agent of a Part 125 operator with respect to the provision of air transportation. Such actions may be unfair and deceptive practices and unfair methods of competition on the part of the air charter broker, in violation of 49 U.S.C. 41712, and would subject the Part 125 operator to enforcement action for unlawfully engaging in common carriage.

Another area of interest regarding the relationship between Part 125 carriers and air charter brokers that has recently come to our attention involves the use of so-called Internet “bid bonds.” The Enforcement Office understands that some air charter brokers, who often style themselves as “charter managers” or “logistics companies,” manage the

mind the prohibition in 14 CFR 399.80(b) on a ticket agent displaying its name on aircraft in a manner that may mislead or confuse the traveling public as to the agency status of the ticket agent, the Enforcement Office has reviewed such matters on a case-by-case basis and has generally declined to take enforcement action where the name of the carrier is also displayed prominently on the aircraft and consumers are not otherwise misled into believing that the ticket agent is an airline.

⁹ See, e.g., Premier Aircraft Management, Inc., Violations of 49 U.S.C. 41101 and 41712 and 14 CFR Part 375, Order 2004-5-11 (May 13, 2004); SportsJet, LLC, Violations of 49 U.S.C. 41101 and 41712, Order 2003-12-23 (Dec. 29, 2003). In addition, 14 CFR 125.11(b) provides that “[n]o certificate holder may conduct any operation which results directly or indirectly from any person’s holding out to the public to furnish transportation.”

transportation of cargo for the major auto manufacturers, as well as scores of other customers,¹⁰ who may be the actual shippers of goods or air freight forwarders. These charter managers conduct business through an Internet bid-quote solicitation system that allows subscribing air carriers and Part 125 operators to see and bid on the transportation needed. With respect to such computerized bidding processes, a Part 125 carrier could contract with customers through the charter manager, with the charter manager being an agent for the customers to be served, so long as either (1) the charter manager represents only a few customers or (2) the contracts signed by the Part 125 carrier with the charter manager as agent are specific as to only a small number of delineated customers with whom the Part 125 carrier is dedicated to contracting.¹¹ The Enforcement Office would likely investigate for unlawful common carriage any situation where the number of different customers whose trips the Part 125 carrier bid on, or with whom the Part 125 carrier contracted through the charter manager, exceeded three.¹²

If there are any questions regarding this notice, please contact Dayton Lehman, Deputy Assistant General Counsel, or Jonathan Dols, Senior Attorney, Office of Aviation Enforcement and Proceedings (C-70),

¹⁰ We understand that some charter managers may manage air services for up to 200 separate customers.

¹¹ A Part 125 carrier may only contract to transport goods through a charter manager if the charter manager is acting legally as the agent of the customer. A Part 125 carrier may not enter into a contract with a charter manager in which the Part 125 carrier’s obligation is to the charter manager (not the customer) to perform the transportation and the charter manager has a separate agreement to provide the customer air transportation. This is the case because, if the charter manager is not acting as the lawful agent of the customer in its contract with an air carrier, it would be acting either as a direct air carrier, in effect sub-servicing the operation (some charter managers do, in fact, hold authority as direct air carriers), or as an indirect air carrier, i.e., freight forwarder, pursuant to 14 CFR Part 296. A Part 125 carrier can never lawfully carry the traffic of an air carrier (Part 135 or 121) or a freight forwarder since such transportation clearly would be in common carriage. Indeed, we would view seriously the actions of any charter manager acting as a direct or indirect air carrier that contracted in such a manner with a Part 125 carrier. Such actions could, at a minimum, constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. 41712.

¹² Presuming the Part 125 carrier signs a contract with a charter manager/agent representing three customers, the carrier should not participate in any other bid quote solicitation system operated by another charter manager/agent unless doing so involved only bidding on and operating trips for the same three customers. To do so would likely trigger an investigation by the Enforcement Office to determine whether the carrier is engaging in common carriage.

400 7th Street, SW., Washington, DC 20590, (202) 366-9349.

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

Dated: October 8, 2004.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 04-23268 Filed 10-15-04; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2004-78]

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 October 12, 2004.

Anthony F. Fazio,
Director, Office of Rulemaking.

Dispositions of Petitions

Docket No.: FAA-2002-13180.

Petitioner: Ryan International Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 91.203(a) and (b).

Description of Relief Sought/

Disposition: To permit Ryan International Airlines, Inc., to operate temporarily its U.S.-registered aircraft following the incidental loss or mutilation of that aircraft’s airworthiness certificate or registration certificate, or both.

Grant, 10/1/2004, Exemption No. 6571D.

Docket No.: FAA-2003-14252.

Petitioner: Mr. Jack Oliphant.
Section of 14 CFR Affected: 14 CFR 91.109(a).

Description of Relief Sought/Disposition: To permit Mr. Jack Oliphant to conduct certain flight instruction in Beechcraft Bonanza aircraft equipped with a functioning throwover control wheel instead of functioning dual controls.

Grant, 10/1/2004, Exemption No. 7991A.

Docket No.: FAA-2002-13712.

Petitioner: Mr. Kerrick R. Philleo.

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

Description of Relief Sought/Disposition: To permit Mr. Kerrick R. Philleo to conduct certain flight instruction in Beechcraft Bonanza and Beechcraft Debonair airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

Grant, 10/1/2004, Exemption No. 7930A.

Docket No.: FAA-2004-19150.

Petitioner: Mr. Walter B. Atkinson.

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

Description of Relief Sought/Disposition: To permit Mr. Walter B. Atkinson to conduct certain flight training in certain Beechcraft Bonanza/Debonair/Baron airplanes that are equipped with a functioning throwover control wheel.

Grant, 10/1/2004, Exemption No. 8416.

Docket No.: FAA-2004-19178.

Petitioner: Verticare.

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

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

Grant, 10/4/2004, Exemption No. 8418.

Docket No.: FAA-2003-14366.

Petitioner: Baby B'Air, Inc.

Section of 14 CFR Affected: 14 CFR 91.107(a)(3)(iii)(B) and (C); 121.311(b)(2)(ii), (iii), and (c)(1); 125.211(b)(2)(ii), (iii), and (c)(1); and 135.128(a)(2)(ii), (iii), and (b)(1).

Description of Relief Sought/Disposition: To permit Baby B'Air Inc., to use the Baby B'Air Flight Vest, a vest-type, lap-held child restraint system during takeoff, landing, and movement on surface.

Denial, 10/1/2004, Exemption No. 8417.

Docket No.: FAA-2004-19145.

Petitioner: Big Sioux Aviation, Inc.

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

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

Grant, 9/29/2004, Exemption No. 8412.

Docket No.: FAA-2001-10509.

Petitioner: Eagle Air Corporation.

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

Description of Relief Sought/Disposition: To permit Eagle Air Corporation to operate certain aircraft under part 135 without a TSO-C112 (Mode S) installed on those aircraft.

Grant, 9/21/2004, Exemption No. 8410.

Docket No.: FAA-2002-11575.

Petitioner: Rhinelander Flying Service.

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

Description of Relief Sought/Disposition: To permit Rhinelander Flying Service to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on their Piper PA31-310 N9149Z Serial No. 8112007 aircraft.

Grant, 9/29/2004, Exemption No. 7793B.

Docket No.: FAA-2004-19238.

Petitioner: Air West, Inc.

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

Description of Relief Sought/Disposition: To permit Air West, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 8414.

Docket No.: FAA-2004-19213.

Petitioner: Helicopter Experts, Inc.

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

Description of Relief Sought/Disposition: To permit Helicopter Experts, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 8415.

Docket No.: FAA-2003-15969.

Petitioner: Northern Air Cargo, Inc.

Section of 14 CFR Affected: 14 CFR 121.345(c)(2).

Description of Relief Sought/Disposition: To permit Northern Air Cargo, Inc., to operate certain aircraft under part 121 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 8121B.

Docket No.: FAA-2002-17147.

Petitioner: Helicorp, Inc.

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

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

Grant, 10/1/2004, Exemption No. 7947A.

Docket No.: FAA-2003-14251.

Petitioner: Frontline Aviation, Inc.

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

Description of Relief Sought/Disposition: To permit Frontline Aviation, Inc., to operate certain aircraft, listed in the exemption, under part 135 with a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 7987A.

Docket No.: FAA-2001-10414.

Petitioner: Air Cargo Carriers, Inc.

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

Description of Relief Sought/Disposition: To permit Air Cargo Carriers, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 7124C.

Docket No.: FAA-2003-14545.

Petitioner: Temsco Helicopters, Inc.

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

Description of Relief Sought/Disposition: To permit Temsco Helicopters, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 7993A.

Docket No.: FAA-2000-8143.

Petitioner: Peninsula Airways, Inc., d.b.a. PenAir.

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

Description of Relief Sought/Disposition: To permit Peninsula Airways, Inc., d.b.a. PenAir to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft.

Grant, 10/1/2004, Exemption No. 7402B.

Docket No.: FAA-2002-12892.

Petitioner: Central Air Flight Training, LLC.

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 Central Air

Flight Training, LLC, to conduct local sightseeing flights at the Columbiana County Airport, Liverpool, Ohio, for the Wings-N-Wheels airlift on or about September 19, 2004, with a rain date on or about September 26, 2004, for compensation or hire, complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to the conditions and limitations.

Grant, 9/17/2004, Exemption No. 8411.

[FR Doc. 04-23256 Filed 10-15-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2004-18665]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before December 17, 2004.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION ON THIS COLLECTION OF INFORMATION: Dennis Flemons at the National Highway Traffic Safety Administration, National Center for Statistics and Analysis (NPO-103), 202-366-5389, 400 Seventh Street, SW., Room 6213, Washington, DC

20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) **Title:** Fatal Accident Reporting System (FARS).

OMB Control Number: 2127-0006.

Affected Public: State, Local, or Tribal Government.

Abstract: Under both the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, the National Highway Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatal Accident Reporting System (FARS) is a major system that acquires national fatality information directly from existing State files and documents. Since FARS is an on-going data acquisition system, reviews are conducted yearly to determine whether the data acquired are responsive to the

total user population needs. The total user population includes Federal and State agencies and the private sector. Annual changes in the forms are minor in terms of operation and method of data acquisition, and do not affect the reporting burden of the respondent (State employees utilize existing State accident files). The changes usually involve clarification adjustments to aid statisticians in conducting more precise analyses and to remove potential ambiguity for the respondents.

Estimated Annual Burden: 82,364 hours.

Number of Respondents: 52.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: July 20, 2004.

Joseph Carra,

National Center for Statistics and Analysis.

[FR Doc. 04-23253 Filed 10-15-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Ex Parte No. 333]

Sunshine Act Meeting

TIME AND DATE: 10 a.m., October 20, 2004.

PLACE: The Board's Hearing Room, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

STATUS: The Board will meet to discuss among themselves the following agenda items. Although the conference is open for public observation, no public participation is permitted.

MATTERS TO BE CONSIDERED: STB Docket No. 42069, *Duke Energy Corporation v. Norfolk Southern Railway Company*.

STB Docket No. 42070, *Duke Energy Corporation v. CSX Transportation, Inc.*

STB Docket No. 42072, *Carolina Power & Light Company v. Norfolk Southern Railway Company*.

STB Finance Docket No. 33388 (Sub-No. 91), *CSX Corporation and CSX Transportation, Inc., Norfolk Southern*