DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–21]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition 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 part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a petition seeking relief from specified requirements of 14 CFR, and 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. 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 9, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls, (202) 267–8033, 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 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 14, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Exemption

Docket No.: FAA–2001–9034.
Petitioner: Bombardier Aerospace.
Section of 14 CFR Affected: 14 CFR 25.1435(b)(1).
Description of Relief Sought: To provide Bombardier Aerospace relief from the static pressure test requirement of § 25.1435(b)(1), for the hydraulic system on the Bombardier Continental Business Jet Model BD–100–1A10 airplane.

Dispositions of Petitions

Docket No.: FAA–2001–8738.
Petitioner: DHL Airways, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(b)(3).
Description of Relief Sought/Disposition: To allow DHL to operate two Airbus 300B4–200 series airplanes (Registration Nos. N367DH and N366DH) without installing in each airplane, the required digital flight data recorder upgrade for a period of 90 days following approval of the Avitas supplemental type certificate, or August 20, 2001, whichever is earlier. *Grant, 02/22/2001, Exemption No. 7429.*

Docket No.: FAA–2001–8616.
Petitioner: Palm Air Incorporated.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit PAI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 03/06/2001, Exemption No. 7453*

Docket No.: FAA–2001–8615.
Petitioner: Aerolineas Argentinas.
Section of 14 CFR Affected: 14 CFR 145.47(b).
Description of Relief Sought/Disposition: To permit Aerolineas Argentinas to use the calibration standards of the Instituto Nacional de Technologia Industrial in lieu of the calibration standards of the National Institute of Standards and Technology to test its inspection and test equipment. *Grant, 02/26/2001, Exemption No. 6584B.*

Docket No.: FAA–2000–8388.
Petitioner: AirNet Systems, Inc.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/Disposition: To permit AirNet to assign copies of inspection procedures manual (IPM) to key individuals and place copies of the IPM in strategic locations rather than giving a copy of the IPM to each of its supervisory and inspection personnel. *Grant, 02/26/2001, Exemption No.* 7452.

Docket No.: FAA–2001–8938
Petitioner: Central Oregon Coast Air Services, LLC.
Section of 14 CFR Affected: 135.143(c)(2)
Description of Relief Sought/Disposition: To permit COCAS to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 03/06/2001, Exemption No. 7454.*

Docket No.: FAA–2000–8165.
Petitioner: Garret Aviation/The Jet Center.
Section of 14 CFR Affected: 14 CFR 25.813(e).
Description of Relief Sought/Disposition: To permit the installation of interior doors between passenger compartments on the Bombardier Global Express airplane, Model BD–700–1A10. *Grant, 03/07/2001, Exemption No. 7455.*

Docket No.: FAA–2001–8684.
Petitioner: Northwest Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.709(b)(3).
Description of Relief Sought/Disposition: To permit Northwest to use electronic signatures signatures generated by its SCEPTRE electronic recordkeeping system in lieu of a physical signature to satisfy the airworthiness release or aircraft log entry signature requirements. *Grant, 02/26/2001, Exemption No. 6575B.*

[FR Doc. 01–6699 Filed 3–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

[Docket No. FAA–2001–9119]

Federal Aviation Administration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA will convene a two-day public meeting addressing liability and risk-sharing for commercial space launch and reentry activities. Public views obtained at the meeting will be included in a report to Congress. In layman's terms, the report is intended to include a variety of views and comments concerning whether the government should continue to provide the potential for assurance of financial risk-based support beyond insurance

that launch licensees are required to obtain. The report will provide background and information on the appropriateness and effectiveness of current risk-sharing arrangements under law, and the need to continue or modify laws governing liability risk-sharing for commercial launches and reentries beyond December 31, 2004.

DATES: The meeting will take place on April 25–26, 2001, from 9:00 am to 4:30 pm, and will continue thereafter during a two week on-line public forum accessible through the Internet.

ADDRESSES: The meeting will take place in the FAA Auditorium, located at 800 Independence Avenue, SW., 3rd floor, Washington, DC 20591. Further information regarding the on-line public forum will be provided by public notice approximately three weeks before the public meeting. Persons unable to participate in either the public meeting or the on-line public forum may mail or deliver views, in writing and in duplicate, to the U.S. Department of Transportation Dockets, Docket No. FAA–2001–9119, 400 Seventh Street, SW., Washington, DC, 20590, or may do so electronically by sending them to the Documents Management Systems (DMS) at the following Internet address: *http://dms.dot.gov/*, by May 11, 2001. Written views, as well as a transcript of the public meeting, may be examined in Room PL 401 at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590, between 10 am and 5pm weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms Esta M. Rosenberg, Senior Attorney-Advisory, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, U.S. Department of Transportation (202) 366–9320, or Mr. Ronald K. Gress, Manager, Licensing and Safety Division, Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, U.S. Department of Transportation (202) 267–7985.

SUPPLEMENTARY INFORMATION:

Background

Congress has directed the Secretary of Transportation to conduct a comprehensive and multi-faceted study of the liability risk-sharing regime applicable to U.S. commercial space transportation. Under delegated authority, the Federal Aviation Administration (FAA)'s Associate Administrator for Commercial Space Transportation (AST) is responsible for preparing the report required by the Commercial Space Transportation Competitiveness Act of 2000 (referred to in this Notice as the Space Competitiveness Act), Public Law 106–405. The report contents, as prescribed by Congress, are delineated below and must present the views of interested Federal agencies as well as the public. The purpose of the public meeting is to elicit views from interested members of the public regarding the different aspects of risk sharing required to be addressed in the report and to do so in a public forum. There will be other opportunities for the interested public to provide input to the FAA. These include an on-line public forum that will continue for two weeks following the public meeting and future opportunities to submit views, in writing, to the FAA.

The Space Competitiveness Act, enacted in October 2000, extends for an additional 4-year term the existing statutory liability risk-sharing regime for commercial space transportation, popularly referred to as indemnification. Under the statutory program, FAA-licensed operators conducting space launch and reentry activities share with the U.S. Government the risk of liability, chiefly to uninvolved persons, for injury, damage or loss associated with licensed operations. Originally due to expire in 1993, the indemnification provisions of 49 USC Subtitle IX, chapter 701, popularly referred to as the Commercial Space Launch Act or CSLA, were extended in 1993, for an additional six years, followed by a one year extension in 1999. Passage in 2000 of the Space Competitiveness Act ensures that FAA-licensed operators will be eligible for indemnification under statutorily prescribed procedures through the year 2004, and for some time thereafter as long as their substantially complete launch or reentry license application has been submitted to the FAA by the end of 2004. The most recent extension of the indemnification provisions was accompanied by the requirement to prepare a comprehensive report on the need to continue further, beyond the year 2004, the risk-sharing scheme of the CSLA in its present or modified form.

The U.S. commercial launch industry has had an impressive safety record. There has never been a request for indemnification under the statutory program. In fact, the FAA is unaware of any third-party claims having been processed under the statutorily-directed financial responsibility program. Nevertheless, since the statutory risk allocation program was first enacted by Congress in 1988, U.S. launch operators have maintained that indemnification is critical to their ability to conduct launch operations without ''betting the company'' and to compete successfully with foreign launch services providers offering customers government-backed assurances that their liability exposure will be covered without risk or additional cost to the customer. The report mandated by the Space Competitiveness Act is intended to facilitate congressional consideration of a further extension of the existing program, and the need for any changes to the program, when it next expires December 31, 2004.

Liability Risk-Sharing for U.S. Commercial Space Transportation

Activities

Indemnification is one element of a comprehensive risk allocation program detailed in the CSLA and explained in final rules issued by the FAA to implement the statute. (*See* ''Financial Responsibility Requirements for Licensed Launch Activities; Final Rule,'' 63 FR 45592–45625, issued August 26, 1998, and ''Financial Responsibility Requirements for Licensed Reentry Activities; Final Rule,'' 65 FR 56670–56705, issued September 19, 2000. Both rulemaking documents are available by accessing AST's Internet home page: http://ast.faa.gov.) The FAA's financial responsibility regulations for commercial space transportation are codified at 14 CFR parts 440 and 450.

Under a three-tiered approach to risk allocation, launch and reentry licensees are effectively relieved of the risk of potentially catastrophic and unlimited liability associated with hazardous launch or reentry operations. The first tier of liability risk is that having the greatest likelihood of occurrence. It is managed through an FAA requirement for a demonstration of financial responsibility, typically private liability insurance purchased by a licensee authorized to conduct a launch or reentry. The liability to third parties of all participants, including the U.S. Government, involved in a licensed launch or reentry must be covered by the licensee's insurance. The amount of coverage is prescribed by the FAA based on an assessment of risk, known as a maximum probable loss analysis, to third parties and third-party or uninvolved property, up to a statutory limit of $500 million.

The second tier of liability risk is for losses to third parties and third-party or uninvolved property in excess of required insurance. Under the current statutory scheme, responsibility for covering excess claims is allocated to the Government under a procedure,

known as indemnification, whereby Congress may appropriate up to $1.5 billion, as adjusted for post-January 1, 1989 inflation, to cover successful third-party claims under a compensation plan prepared by the FAA and submitted by the President.

This arrangement benefits all participants in licensed launch and reentry activities, including the Government at no cost to the Government. Coverage of the Government's responsibility for damage or loss to third parties is significant because of its liability exposure as a participant in supporting launches and reentries at federal ranges and as a signatory to the Outer Space Treaties. Specifically, under the Convention on International Liability for Damage Caused by Space Objects (Liability Convention), the United States is absolutely liable for damage caused on Earth or to aircraft in flight, outside of U.S. territory, when the United States is a launching State under the terms of the Outer Space Treaties. The current statutory liability risk-sharing regime ensures that the Government's treaty-based financial responsibility for commercial launch and reentry activities will, in all probability, be satisfied by private insurance and without cost to the U.S. taxpayer.

Above the combined amount of insurance plus congressionally authorized payment, or indemnification, responsibility for covering third-party liability returns to the licensee or other liable party. As a general matter, managing the third tier of liability risk is therefore the responsibility of commercial entities involved in licensed activity.

Indemnification under the CSLA ensures that relief will be available to compensate injured persons not involved in space activity but who suffer damage or loss as a result of a launch or reentry accident, as well as Government personnel as defined by FAA regulations, who suffer loss or injury in supporting a commercial launch or reentry. Only successful claims for third-party injury, damage or loss may be eligible for Government indemnification. Indemnification does not cover claims for damage or loss to a launch vehicle or reentry vehicle, or to a satellite or other payload. Nor is it intended to cover losses sustained by employees of commercial entities involved in licensed activity. As explained in the above-referenced rulemaking documents, private entities involved in a licensed launch or reentry are responsible for managing their own damage or loss and that of their employees. To ensure this result, the CSLA directs certain contractual arrangements among the various launch or reentry participants to address the risk of damage or loss to their property and personnel involved in launch or reentry activities. FAA regulations include a contractual agreement, known as an ''Agreement for Waiver of Claims and Assumption of Responsibility,'' documenting this arrangement among the various participants. (See appendix B to 14 CFR parts 440 and 450, respectively.) The statutory risk-sharing program does not dictate risk management decisions for private entities involved in space activities beyond the required waiver of claims agreement just described. An owner of a launch or reentry vehicle or payload may choose to insure its property through private insurance, or not.

The current statutory liability risk-sharing regime has been credited with reducing launch costs by virtue of requirements for comprehensive insurance covering all participants, and by significantly limiting the threat of litigation and its associated costs among participants in licensed activity. It has also been cited as a critical component in building the international competitiveness of the U.S. space transportation industry by placing U.S. launch services providers on a more equal footing with their competition. For example, Arianespace, still the primary competitor of the U.S. launch industry, continues to offer customers full indemnification by the French Government for third-party liability that exceeds required insurance of 400 million French francs (currently, approximately $80 million).

Recently, the statutory risk-sharing regime was extended to reentry vehicles, including reusable launch vehicles (RLVs), through enactment of the Commercial Space Act of 1998. Although no commercial RLV concept is sufficiently mature for FAA licensing consideration, extension of the risk-sharing program to licensed reentry activities has been regarded as critical to RLV development and ability to operate commercially, just as it was to the ability of U.S. industry to offer commercial expendable launch vehicle services beginning in the late 1980s through the present.

Report Requirements

Seven specific areas of study and analysis are identified in the Space Competitiveness Act and the FAA seeks public views on each of them. Although recommendations on appropriate modifications to existing law are required as part of the report, the FAA is advised that the principal purpose of the report is to provide an understanding of the factual and legal bases for continuing or modifying the indemnification and statutory risk-sharing program, as opposed to formulation of policy that may involve statutory changes.

The seven areas of study are listed below along with some associated issues preliminarily identified by the FAA to stimulate, but not limit or direct, consideration of the issues by the public. The report mandated by the Space Competitiveness Act is broad in its required scope and coverage and the interested public is urged to explore the issues in depth. For this reason, the FAA is providing weeks of advance notice of the public meeting. The report shall:

1. Analyze the adequacy, propriety, and effectiveness of, and the need for, the current liability risk-sharing regime in the United States for commercial space transportation.

2. Examine the current liability and liability risk-sharing regimes in other countries with space transportation capabilities.

As previously noted, Arianespace offers customers government-backed relief from liability risk exposure arising out of a launch accident. Other governments offer varying forms of financial support to address potential liability of launch providers and their customers. The FAA seeks information and public views on the ability of U.S. launch services providers to compete effectively with foreign providers in the context of the current risk-sharing regime and their ability to continue to do so if the regime were absent or modified. Specifically, the FAA is interested in the impact indemnification has on the ability of U.S. providers to attract and retain customers, both foreign and domestic, under the present scheme and the potential effects ending or changing the current scheme could have on sustaining and enhancing the international competitiveness of the U.S. space transportation industry.

3. Examine the appropriateness of deeming all space transportation activities to be ''ultrahazardous activities'' for which a strict liability standard may be applied and which liability regime should attach to space transportation activities, whether ultrahazardous activities or not.

Government indemnification has been made available to industries that have been deemed ultrahazardous in nature, such as nuclear energy generation, and subject by courts to a strict liability standard. Similarly, under special provisions, such as Public Law 85–804, government contractors engaging in

unusually hazardous activities for the government may receive assurances of government indemnification above the limit of insurance that is available at reasonable cost. Where a strict liability standard applies, liability is not based upon a lack of care on the part of the entity conducting the activity. Rather, liability is found because of the dangerous and risky nature of the activity. Indemnification under such circumstances is desirable to an operator to address the potentially unlimited or open-ended liability that would attach in the event of injury, damage or loss to third parties.

In the context of a licensed launch in the United States, consisting of certain pre-flight ground operations as well as ignition and flight of a launch vehicle, is the current liability risk-sharing regime necessary and appropriate for all licensed launches and launch activities? The FAA is interested in information and public views as to whether it is reasonable and appropriate to separate licensed activities that may be deemed ultrahazardous and therefore subject to a strict liability standard by a court from those that would not be so considered.

4. Examine the effect of relevant international treaties on the Federal Government's liability for commercial space launches and how the current domestic liability risk-sharing regime meets or exceeds the requirements of those treaties.

As stated above, the United States accepts liability for certain damage when it is a launching State under the Outer Space Treaties, that is, when it launches or procures the launch of a space object or when the launch takes place from U.S. territory or a U.S. facility. (Liability Convention, Article I.) A ''space object'' includes component parts of a space object as well as its launch vehicle and parts thereof. *Id.* Liability for damage on the ground or to aircraft in flight outside of U.S. territory is absolute, but is fault-based when damage occurs elsewhere, such as in outer space. In the latter instance, the government is liable if the damage is due to the fault of the government or persons for whom the government is responsible. Under Article VI of the ''Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,'' a State Party to the treaty bears international responsibility for activities in outer space carried on by non-governmental entities. Such activities require authorization and *continuing supervision* by the appropriate State Party to the treaty. (Emphasis added.)

By regulation, the FAA requires launch insurance for a term of 30 days following a licensed launch; however, the Government's liability as a signatory to the Outer Space Treaties may extend beyond the event of conducting a launch or reentry. The FAA seeks information and public views on the adequacy of the existing statutory and regulatory program in light of treaty obligations undertaken by the United States. The Outer Space Treaties are available by accessing the United Nations Internet site.

5. Examine the appropriateness, as commercial reusable launch vehicles enter service and demonstrate improved safety and reliability, of evolving the commercial space transportation liability regime towards the approach of the airline liability regime.

The airline liability regime differs from that applicable to commercial space transportation in several ways. Unlike its acceptance of an international liability regime applicable to damage on the ground or to aircraft resulting from certain space activities when the United States is a launching State under the Liability Convention as explained in item 4, above, the United States has not accepted a comparable regime for airline liability and is not party to a multilateral agreement under which the U.S. Government accepts financial responsibility for covering damage on the ground arising out of civil aircraft operation. Department of Transportation economic regulations require U.S. and foreign air carriers to have liability insurance coverage in certain minimum amounts, on a per person and per occurrence basis, to cover injury, loss or damage to the traveling public and persons on the ground. *See* 14 CFR parts 205 and 298. There is no provision for government indemnification of commercially operated civil aircraft for third-party liability above required insurance. The FAA seeks information and views from the public on the appropriateness and adequacy of transitioning management of liability for space launch and reentry vehicle operations to a program resembling that used to address airline liability. What factors should be considered in determining whether and when it would be appropriate to do so?

6. Examine the need for changes to the Federal Government's indemnification policy to accommodate the risks associated with commercial spaceport operations.

Licensed launch site and reentry site operators, popularly referred to as spaceports, currently participate in the liability risk-sharing regime as a contractor to the launch or reentry licensee when their site is used to support a licensed launch or reentry. If a launch accident occurred, for example, insurance obtained by the launch licensee would cover claims of third parties against the licensed launch site operator and that operator would be eligible for government payment of excess claims, or indemnification, if third-party claims exceeded the required amount of insurance. At other times, such as when there is no launch vehicle present, the CSLA does not provide statutory authority for payment by the Government of third-party claims resulting from operation of a launch or reentry site separate from licensed launch or reentry activities. Those risks are managed in the same manner as other industrial risks, that is, as part of an operator's business plan for managing the risk of liability through insurance or other financial protection. The FAA seeks information and public views on the adequacy of the existing statutory scheme as it affects licensed launch site and reentry site operators.

7. Recommend appropriate modifications to the commercial space transportation liability regime and the actions required to accomplish those modifications.

Public Meeting Format

Interested members of the public are invited to participate in the public meeting by offering views on any or all of the areas of study identified above. In order to assure all participants an opportunity to present views, persons interested in participating in the meeting should reserve time for their presentations by contacting AST directly at (202) 267–7793.

Additional information regarding the on-line public forum, as well as additional details concerning the public meeting, will be made available in the weeks preceding the public meeting through notice in the **Federal Register** and on the AST Internet home page: *http://ast.faa.gov.*

Issued in Washington, DC on March 12, 2001.

Joseph A. Hawkins,

Acting Associate Administrator for Commercial Space Transportation.

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