

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* August 27, 2004.

*Description:* Application of Scott Aviation, Inc. requesting a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property, and mail.

**Andrea M. Jenkins,**  
Program Manager, Docket Operations,  
Federal Register Liaison.  
[FR Doc. 04-18901 Filed 8-17-04; 8:45 am]  
BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Cancellation of Lease and Quitclaim Agreement Between the City of Fernandina Beach and the Federal Aviation Administration for the Fernandina Beach Municipal Airport, Fernandina Beach, FL**

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

**ACTION:** Request for public comment.

**SUMMARY:** The FAA hereby provides notice of intent to release certain airport properties (approximately 4.9 acres) at the Fernandina Beach Municipal Airport, Fernandina Beach, FL from the condition, reservations, and restrictions as contained in a Cancellation of Lease and Quitclaim agreement between the FAA and the City of Fernandina Beach, dated July 9, 1947. The release of property will allow the City of Fernandina Beach to dispose of the property for other than aeronautical purposes. The property is located in the northwest corner of the airport in proximity to the approach of Runways 18 and 31. The parcel is currently designated as runway protection zone property. The property will be disposed of for the construction of a public-use access road to Crane Island. The fair market value of the property has been determined by appraisal to be \$747,000. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the City Manager's office and the FAA Airports District Office.

**SUPPLEMENTARY INFORMATION:** Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st

Century (AIR-21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

**DATES:** September 17, 2004.

**ADDRESSES:** Documents are available for review at the City Manager's office, City of Fernandina Beach, 204 Ash Street, Fernandina Beach, FL 32034 and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Richard M. Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

**W. Dean Stringer,**  
Manager, Orlando Airports District Office,  
Southern Region.  
[FR Doc. 04-18951 Filed 8-17-04; 8:45 am]  
BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **PS-ACE100-2002-007, Policy Statement on Pitot Heat Indication Systems for 14 CFR Part 23, § 23.1326(b)(1)**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of issuance of policy

**SUMMARY:** This notice announces the issuance of PS-ACE100-2002-007. This Policy Statement clarifies AC 23-17A and provides guidance pertaining to an Equivalent Level of Safety (ELOS) for 14 CFR, part 23, § 23.1326(b)(1), Pitot Heat Indication Systems. This was issued for Public Comment on October 28, 2003. No comments were received.

**DATES:** PS-ACE100-2002-007 was issued by the Manager, Small Airplane Directorate on August 5, 2004.

*How to Obtain Copies:* A paper copy of PS-ACE100-2002-007 may be obtained by contacting Mr. Leslie B. Taylor, Standards Office, Small Airplane Directorate, Aircraft Certification Service, Kansas City, Missouri 64106, telephone (816) 329-4134, fax (816) 329-4090. The policy will also be available on the Internet at <http://www.airweb.faa.gov/policy>.

Issued in Kansas City, Missouri on August 5, 2004.

**Dorenda D. Baker,**  
Manager, Small Airplane Directorate, Aircraft  
Certification Service.  
[FR Doc. 04-18952 Filed 8-17-04; 8:45 am]  
BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-99-5748, FMCSA-99-6480, FMCSA-2001-11426, FMCSA-2002-11714, FMCSA-2002-12294]

#### **Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemption; request for comments.

**SUMMARY:** This notice publishes the FMCSA decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 26 individuals. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective September 9, 2004. Comments from interested persons should be submitted by September 17, 2004.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Numbers FMCSA-99-5748, FMCSA-99-6480, FMCSA-2001-11426, FMCSA-2002-11714, and FMCSA-2002-12294 by any of the following methods:

- *Web Site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket numbers for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366-2990, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION: Public Participation:** The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

#### Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a 2-

year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR Part 381. This notice addresses 26 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 26 applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period. They are:

Ronald M. Aure, William J. Bell, Frank R. Berritto, Robert B. Brewer, Jack D. Clodfelter, James W. Collins, Tommy J. Cross, Jr., Daniel K. Davis, III, Timothy J. Droeger, Robert A. Fogg, Dan M. Francis, Jack L. Henson, Gary T. Hicks, Oskia D. Johnson, Walter R. Morris, Richard W. O'Neill, Larry A. Priewe, Gary L. Reveal, Billy L. Riddle, Randolph L. Rosewicz, Robert L. Savage, Kenneth D. Sisk, Patrick D. Talley, John C. Vantaggi, Loren R. Walker, Timothy J. Wilson.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

#### Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each

of the 26 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 40404, 64 FR 66962, 67 FR 10475, 67 FR 17102, 64 FR 68195, 65 FR 20251, 67 FR 38311, 67 FR 10471, 67 FR 19798, 67 FR 15662, 67 FR 37907, 67 FR 46016, 67 FR 57267). Each of these 26 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

#### Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by September 17, 2004.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver. The issues raised by Advocates were addressed at length in 66 FR 17994 (April 4, 2001) and are repeated below for the reader's convenience.

The FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequently comments submitted by interested parties. As indicated above, the agency previously published notices

of final disposition announcing its decision to exempt these 26 individuals from the vision requirement in 49 CFR 391.41(b)(10). That final decision to grant exemptions to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. Those notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Each of these 26 individuals identified in today's publication has successfully driven with an exception from the vision requirements for the past 2 years. Each driver has received physical examinations during the past 2-year period, in accordance with the program requirements. Either an ophthalmologist or optometrist has attested that each continued to meet the standard in 49 CFR 391.41(b)(10) in the better eye. Upon filing a renewal application, each of the 26 applicants has presented proof of continued qualification. Their vision impairment is stable. The driving record of all 26 renewal applicants continues to highlight their safe driving. These individuals have, and are continuing to, achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption.

Nonetheless, interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify the FMCSA. The FMCSA will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e), the FMCSA will take immediate steps to revoke the exemption of a driver.

The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: August 12, 2004.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 04-18900 Filed 8-17-04; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### Pipeline Safety: Unauthorized Excavations and the Installation of Third-Party Data Acquisition Devices on Underground Pipeline Facilities

**AGENCY:** Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice; issuance of advisory bulletin.

**SUMMARY:** RSPA/OPS is issuing this advisory bulletin to owners and operators of gas and hazardous liquid pipeline systems on the potential for unauthorized excavations and the unauthorized installation of acoustic monitoring devices or other data acquisition devices on pipeline facilities. These devices are used by entities that hope to obtain market data on hazardous liquid and gas movement within the pipelines. Recent events have disclosed that devices were physically installed on pipelines without the owners permission. Operators must control construction on pipeline right-of-ways and ensure that they are carefully monitored to keep pipelines safe. This is in line with our efforts to prevent third-party damage as reflected by our support of the Common Ground Alliance, which is a nonprofit organization dedicated to shared responsibility in damage prevention and promotion of the damage prevention Best Practices. This advisory bulletin emphasizes the need to ensure that only authorized and supervised excavations are undertaken along the nation's pipeline systems.

**FOR FURTHER INFORMATION CONTACT:** John Pepper by phone at (713) 270-9376, by fax at (713) 270-9515, or by e-mail at [john.pepper@rspa.dot.gov](mailto:john.pepper@rspa.dot.gov), regarding the subject matter of this advisory bulletin. General information about the Research and Special Programs Administration, Office of Pipeline Safety (RSPA/OPS) programs may be obtained by accessing OPS' home page at <http://ops.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

RSPA/OPS has been advised of the unauthorized installation of devices on an operator's pipeline for the purpose of obtaining flow data for marketing purposes. The pipeline safety regulations require pipeline operators to carry out a written damage prevention program for buried pipelines. RSPA/OPS is encouraging operators to carefully review their damage

prevention programs and to survey their right-of-ways to ensure the discovery of similar inappropriate actions. RSPA/OPS also reminds owners and operators of pipelines and the public of the critical importance of accurately locating underground piping and ensuring the qualifications of personnel performing this work. RSPA/OPS believes that this Advisory Bulletin is necessary to make operators aware of a potential threat to their pipelines and to ensure that they take appropriate action to detect and correct any damage associated with these unauthorized installations.

#### Advisory Bulletin (ADB-04-03)

**To:** Owners and operators of gas transmission and hazardous liquid pipelines.

**Subject:** Potential for unauthorized excavations and the installation of acoustic monitoring devices or other data acquisition devices on pipeline facilities.

**Purpose:** To ensure that pipeline owners and operators are aware of and take actions to prevent or mitigate the dangers associated with unauthorized excavations and the attendant installation of devices by entities seeking to exploit the pipelines for other purposes, and to remind operators and the public of the need to ensure that underground pipeline facilities are adequately located and protected from inadvertent damage prior to excavations.

**Advisory:** RSPA/OPS urges all owners and operators of gas and hazardous liquid pipelines to vigilantly monitor their right-of-ways for unauthorized excavation and the installation of data acquisition devices by third parties seeking to extract product movement information from the pipelines. This activity can impact pipeline integrity either through damage to the pipeline caused by the excavation activities or damage to the pipe coating caused by the attachment of the devices to the pipeline. The installation of pipeline monitoring devices should only be performed with the express knowledge, consent, and support of the pipeline operators.

Damage to underground facilities caused by unauthorized excavation can occur without any immediate indication to the operator. Sometimes a damaged underground pipeline facility will not fail for years after the completion of excavation activities. Excavation equipment does not need to fully rupture a pipeline facility to create a hazardous situation. Damage to coatings and other corrosion prevention systems can increase the risk of a delayed