800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–2132.

FOR FURTHER INFORMATION CONTACT: Brenda Eichelberger (202) 267–7470 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 2, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 27396.

Petitioner: Northwest Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.401(d), 121.433(c)(1)(iii), 121.440(a), and 121.441(a)(1) and (b)(1); appendix F.

Description of Relief Sought/Disposition: To permit Northwest Airlines (NWA) to combine recurrent flight and ground training and proficiency checks for NWA's flight crewmembers in a single annual training and proficiency evaluation program and meet the line check requirements of 121.440(a) and SFAR No. 58 through and FAA-approved alternative line check program.

Grant: November 3, 1998, Exemption No. 5815C.

Docket No.: 23940.

Petitioner: Eagle Canyon Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.345(c)(2).

Description of Relief Sought/Disposition: To permit Eagle Canyon Airlines to operate certain aircraft under the provisions of part 121 without a TSO–C112 (Mode S) transponder installed on each of those aircraft.

Grant, November 3, 1998, Exemption No. 6839.

Docket No.: 010NM.

Petitioner: Boeing Commercial Airplane Group.

Sections of the FAR Affected: 14 CFR 121.583(c).

Description of Relief Sought/Disposition: To permit the initial and recurrent training mandated for flightcrew by operational regulatory requirements (e.g., subpart N of part 121) shall include the use of inertia reels and harnesses, including for the evacuation of incapacitated occupants.

Grant: November 5, 1998, Exemption No. 4808B.

[FR Doc. 98–32409 Filed 12–4–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RIN 2120–AF 04

Policy on the Use for Enforcement Purposes of Information Obtained from an Air Carrier Flight Operational Quality Assurance (FOQA) Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General Statement of Policy.

SUMMARY: This document states the FAA policy concerning the use for enforcement purposes of information obtained from an air carrier voluntary Flight Operational Quality Assurance (FOQA) program, and sets forth what the FAA considers to be a FOQA program for purposes of this policy.

EFFECTIVE DATE: December 7, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas M. Longridge, Air Transportation Division, Flight Standards Service, telephone (703) 661–0260, facsimile (703) 661–0274, email: Thomas.Longridge@faa.fov, mailing address: AFS–230, P.O. Box 20027, Washington, D.C. 20041, or Peter J. Lynch, Enforcement Division, Office of the Chief Counsel, telephone (202) 267–3137, facsimile (202) 267–7257, email: Peter.Lynch@faa.gov, mailing address: AGC–300, 800 Independence Avenue, SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

Since the mid-1940's the civil air transport accident rate has significantly decreased. This decrease is due in part to the air transport industry's practice of discovering, understanding, and eliminating factors that lead to accidents and incidents. For many years, industry, the FAA, and the National Transportation Safety Board (NTSB) have used information from flight data recorders (FDRs) and digital flight data recorders (DFDRs) to identify the causes of accidents and to attempt to eliminate those causes systematically.

Airplanes used in operation as conducted under 14 CFR part 121 and certain types of aircraft used in operations conducted under parts 91, 125, and 125 are required to have flight data recorders. Any operator who has installed approved flight recorders is required to keep the recorded information for at least 60 days after an accident or incident requiring immediate notification to the NTSB (14 §§ CFR 91.609(G), 121.343(I), 125.225(G), AND 135.152(E)). The flight data recorder information can thus be analyzed to determine causes of an accident or incident.

In the past 20 years, technological advances in digital flight data recording and on-board storage media have increased the potential for obtaining and analyzing information on the flight characteristics of an aircraft during its operation. This information can be analyzed on a routine basis in order to identify trends which, if uncorrected, could lead to an unsafe situation. The key potential safety benefit of this strategy is that it would enable the FAA and aircraft operators to take early action to prevent accidents. This benefit would be in addition to current sources of safety information on which the agency and industry rely for after-the-fact accident- or incident-driven data extraction and analysis which may then be used to develop safety fixes to prevent later accidents, and information from operator self-disclosure programs. Because of its capacity to provide early objective identification of safety shortcoming, the routine analysis of digital flight data offers significant additional potential for accident avoidance.

In January 1995 the Department of Transportation sponsored an Aviation Safety Conference in cooperation with key representatives from industry and government. A major concern of the conference was a projection that even if the currently low accident rate remains constant, the number of accidents per year could nevertheless continue to increase due simply to the increase in traffic volume expected in the future. The conference focused therefore on the development of additional measures that the FAA and industry might pursue in the interest of precluding this possibility. It was observed that while enforcement will remain a useful tool for the protection of public safety, enforcement alone is unlikely to achieve the further reductions in the accident rate that are needed. Industry must play an active role in better identifying potential threats to safety and in self-initiating the necessary corrective actions before they lead to accidents. Among the recommendations from the conference, the voluntary implementation of FOQA programs was identified as one of the most promising industry initiatives with realistic potential to reduce accidents.

Conference participants further recommended that the FAA sponsor a FOQA Demonstration Study in cooperation with industry in order to permit both government and industry to develop hands-on experience with FOQA technology in a U.S. environment, document the cost-

benefits of voluntary implementation, and initiate the development of organizational strategies for FOQA information management and use. In the interest of encouraging participation in such a study, and in response to industry expressions of concern over the enforcement ramifications of participating in it, the FAA committed itself at the conference to issuing an interim policy statement concerning the use of FOQA information by the FAA.

In February 1995, the FAA Administrator issued a statement of policy on the use of FOQA information for enforcement purposes. In letters to the President of the Air Line Pilots Association (ALPA) and the President of the Air Transport Association (ATA), the Administrator committed to limitations on the use of FOQA information for enforcement purposes. The letters also stated that, ''The FAA will use information from the demonstration study as well as experience gained as a basis for determining appropriate future action regarding the need for and appropriateness of rulemaking to codify the limitations on the FAA's use of FOQA information.''

The FOQA Demonstration Study has been conducted over the past 3 years in cooperation with major airlines in the U.S. Analysis of the flight data information, which is deidentified at the time of collection, has provided substantial documentation of the benefits of FOQA. The Demonstration Study's findings are very similar to the results obtained by foreign air carriers, many of whom have long experience in the use of this technology. These include documenting unusual autopilot disconnects, GPWS warnings, excessive rotation rates on take-off, unstabilized approaches, hard landings, and compliance with standard operating procedures. They also include use of FOQA data for monitoring fuel efficiency, identifying out-of-trim airframe configurations, enhanced engine condition monitoring, noise abatement compliance, rough runway surfaces and aircraft structural fatigue. These results clearly validate the value of FOQA for safety enhancement.

Based on the results of the Demonstration Study, the FAA has concluded that FOQA can provide a source of objective information on which to identify needed improvements in flight crew performance, air carrier training programs, operating procedures, air traffic control procedures, airport maintenance and design, and aircraft operations and design. The acquisition and use of such information to achieve improvements in these areas clearly enhances safety. The FAA therefore finds that encouraging the voluntary implementation of FOQA programs by U.S. operators is in the public interest.

Policy Statement

The FAA encourages voluntary airline collection of deidentified digital flight data recorder data to monitor line operations on a routine basis, along with the establishment of procedures for taking corrective action that analysis of such data indicates is necessary in the interest of safety. The FAA also recognizes the industry's concerns regarding the use of deidentified FOQA information to undertake enforcement actions. The FAA therefore has determined that the appropriate policy is to refrain from using deidentified FOQA information to undertake enforcement actions except in egregious cases, i.e., those that do not meet the conditions listed in section 9, paragraph c of Advisory Circular 00–46D governing the Aviation Safety Reporting Program. This policy applies only to information collected specifically in a FOQA program that is FAA-approved.

For purposes of this policy, the term ''FOQA program'' means an FAA-approved program for the routine collection and analysis of in-flight operational data by means of a DFDR. The program would include a description of the operator's plan for collecting and analyzing the data, procedures for taking corrective action that analysis of the data indicates is necessary in the interest of safety, procedures for providing the FAA access at the carrier's offices to deidentified aggregate FOQA information, and procedures for informing the FAA as to any corrective action being undertaken. The FAA will be able to monitor safety trends evident in the FOQA data and the operator's effectiveness in correcting adverse safety trends.

Issued in Washington, DC on December 2, 1998.

Jane F. Garvey,

Administrator.

[FR Doc. 98–32483 Filed 12–3–98; 11:27 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Preemption Determination No. PD–14(R) (Docket No. PDA–15(R))

Houston, Texas, Fire Code Requirements on the Storage, Transportation, and Handling of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of administrative determination of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

APPLICANT: Association of Waste Hazardous Materials Transporters (AWHMT).

LOCAL LAWS AFFECTED: Houston, Texas, Ordinance No. 96–1249 adopting the 1994 Uniform Fire Code with certain modifications.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 40 CFR Parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: The Houston Fire Code contains express exceptions for flammable and combustible liquids and other hazardous materials when being transported ''in accordance with'' DOT's regulations. For that reason, the following requirements in the Houston Fire Code do not apply, and are not preempted by Federal hazardous material transportation law, when the transportation of flammable and combustible liquids is subject to the requirements in the HMR: (1) permits for the storage, handling, transportation, dispensing, mixing, blending or using hazardous materials, including the definition of ''hazardous materials'' as part of these permit requirements; (2) the design, construction, or operation of tank vehicles used for flammable or combustible liquids; (3) physical bonding during loading of the vehicle; (4) unattended parking of the vehicle; and (5) the service rating of the fire extinguisher required to be carried on the vehicle.

RSPA denies the request in AWHMT's May 1997 comments to consider a provision limiting the time for unloading flammable or combustible liquids from rail tank cars after delivery, because that requirement is unrelated to the issues raised in AWHMT's application.

FOR FURTHER INFORMATION CONTACT: