

adequacy of the member's compliance and supervisory systems. A proposed interpretive material clarified that the signatories to the certification would incur no additional liability as a consequence of the certification, provided there was a reasonable basis to certify at the time of execution. The previous proposal differed from the current proposal in that it would have required, among other things, that the CCO and CEO have a reasonable basis to certify that a member was in compliance with all applicable laws, rules and regulations at a fixed moment in time. By contrast, the current proposal requires certification to having processes in place to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with those laws, rules and regulations.

NASD received 166 comments to the proposal, including submissions on behalf of members from 65 CCOs and 34 CEOs, as well as nine comments from various trade organizations. The overwhelming majority of commenters disfavored the proposal. Only six commenters favored the proposal.

Broadly, commenters questioned the value of the proposal, whether it was duplicative of existing requirements, the scope of the certification, and the potential liability of the signatories. CCOs expressed concern that the proposal could lead to retaliation by CEOs if a CCO refused to certify. Additionally, questions arose as to whether the goal of better compliance could be achieved only at the expense of increased potential liability on the part of members. Commenters also noted that the dynamic nature of compliance and the need to allocate finite compliance resources on a risk assessment basis did not lend itself to a certification of compliance certainty at any fixed moment. Commenters further expressed concern that the proposal would spawn baseless litigation by opportunistic plaintiffs' attorneys. Small firms also commented that the cost of compliance would outweigh the benefits for their firms and would divert resources from more substantive compliance matters.

NASD disagrees with a number of the comments, including that the previous proposal duplicated existing requirements and added no value to the quality of compliance. On the contrary, both the previous and present proposals would place focus on the obligations of the compliance function in an unprecedented manner by giving an elevated voice to compliance personnel and forcing regular and productive interaction with the CCO by the CEO.

NASD also disagrees that the proposal would have created new liability on CEOs and CCOs who otherwise have no supervisory responsibility—a fact expressly stated in the previously proposed interpretive material. Moreover, NASD does not believe the possibility of meritless litigation should dictate its regulatory actions—abusive litigation should be dealt with by sanctions, not abandoned policy.

Nonetheless, NASD agrees with many of the commenters' other concerns. In particular, NASD recognizes the difficulty in certifying to absolute compliance at any given moment in the face of dynamic regulatory and business environments. At the same time, NASD is committed to the initial proposal's intent: to promote investor protection through improved compliance and supervisory systems and the promotion of regular and meaningful interaction between senior management and compliance personnel. Thus, NASD now is submitting to the Commission a modified proposal that takes a different approach to the issue, one that NASD believes more efficiently and pragmatically achieves the same goal of enhanced compliance. In addition, NASD believes the new proposal effectively focuses senior management attention on compliance matters in a way that allays CCO concerns about incurring additional personal liability and fear of retaliation.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Comments may also be submitted

electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2003-176. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2003-176 and should be submitted by January 21, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03-32131 Filed 12-30-03; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 4578]

Culturally Significant Objects Imported for Exhibition Determinations: "From Fra Angelico to Bonnard: Masterpieces from the Rau Collection"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "From Fra Angelico to Bonnard: Masterpieces from the Rau Collection," imported from

⁶ 17 CFR 200.30-3(a)(12).

abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Portland Art Museum, from on or about January 24, 2004 until on or about September 5, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Damir Arnaut, the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619-6982). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: December 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03-32193 Filed 12-30-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2003-79]

Petitions for Exemption; Summary of Petitions Received; 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 December 23, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA-2002-13273.

Petitioner: Stuart Air Show.

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 the Visiting Nurse Association to conduct local sightseeing flights at the Martin County Airport, Stuart, Florida, for the Stuart Air Show on November 8 and 9, 2003, for compensation or hire, without complying with certain any-drug and alcohol misuse prevention requirements of part 135.

Grant, 10/23/2003, Exemption No. 8159

Docket No.: FAA-2003-16344.

Petitioner: Sky Care.

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

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

Grant, 10/31/2003, Exemption No. 8165

Docket No.: FAA-2001-11025.

Petitioner: Miller Aviation.

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

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

Grant, 10/31/2003, Exemption No. 7663A

Docket No.: FAA-2002-12354.

Petitioner: Keystone Helicopter Corporation.

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

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

Grant, 10/31/2003, Exemption No. 7783A

Docket No.: FAA-2002-11493.

Petitioner: Central Copters, Inc.

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

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

Grant, 10/31/2003, Exemption No. 7724A

Docket No.: FAA-2003-16276.

Petitioner: Federal Express Corporation.

Section of 14 CFR Affected: 14 CFR 121.583(a).

Description of Relief Sought/Disposition: To permit Federal Express Corporation to transport medical personnel assigned to Project Orbis without complying with all the passenger-carrying requirements in §§ 121.291, 121.309(f), 121.310, and 121.391.

Grant, 11/3/2003, Exemption No. 5129F

Docket No.: FAA-2001-10799.

Petitioner: Garrett Aviation Services.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/Disposition: To permit Garrett Aviation Services to place an maintain its inspection procedures manual (IPM) in strategically located areas throughout its facility rather than give a copy of the IPM to each of its supervisory and inspection personnel.

Grant, 11/3/2003, Exemption No. 7089B

Docket No.: FAA-2003-15045.

Petitioner: T.B.M., Inc.

Section of 14 CFR Affected: 14 CFR 36.1581(d).

Description of Relief Sought/Disposition: To permit T.B.M., Inc. to operate its Douglas DC-6 and Douglas DC-7 aircraft in aerial fire suppression operations at landing weights greater than the maximum landing weight.

Grant, 11/3/2003, Exemption No. 2745C

Docket No.: FAA-2003-15716.

Petitioner: Triad International Maintenance Corporation.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/Disposition: To permit Triad International Maintenance Corporation to place and maintain its inspection procedures manual (IPM) in its hangar library and inspection office rather than give a copy to each of its supervisory and inspection personnel.

Grant, 11/4/2003, Exemption No. 8166

Docket No.: FAA-2003-16199.

Petitioner: Pacific Airways, Inc.

Section of 14 CFR Affected: 14 CFR 135.203(a)(1).

Description of Relief Sought/Disposition: To permit Pacific Airways, Inc., to conduct operations under visual flight rules outside controlled airspace, over water, at an altitude below 500 feet above the surface.

Grant, 11/4/2003, Exemption No. 8167