

Order 2010-1-10
Served: January 14, 2010



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 14th day of January 2010

Emergency exemption pursuant to 49 U.S.C. § 40109
from the provisions of 49 U.S.C. § 41101 (Part 125
Operators)

**DOCKET DOT-OST-2010-
0011**

ORDER GRANTING EMERGENCY EXEMPTION

Summary

By this order, we grant carriers with authority under 14 CFR Part 125 emergency exemption authority from the provisions of 49 U.S.C. § 41101. This exemption will allow those carriers to provide assistance in the carriage of freight and people affected by the January 12, 2010, Haiti earthquake, and the transport into the affected areas of relief personnel and supplies.¹

Background

The destruction caused to Haiti by the earthquake has been unprecedented in its scope. The disaster and its aftermath have imperiled thousands of people. Massive relief efforts are underway to move in relief personnel and supplies and to provide emergency transportation of people in connection with this disaster (e.g., relocate them to places where food, shelter, or medical assistance is available.) Air services are critical to this relief process, and we find that the resources of U.S. carriers holding authority under 14 CFR Part 125 may be needed, on an immediate basis, to ensure the success of the rescue and relief efforts being made by the U.S. Government and by private relief agencies. Carriers licensed under 14 CFR Part 125 may not engage in common carriage operations and, therefore, absent our action here, they would not be available to satisfy this emergency need.

¹ A separate order granting an emergency exemption has been issued to air charter brokers that do not have the appropriate economic authority as indirect air carriers to permit them to act as a principal in their contracts with the United States Government to arrange air transportation services for the purpose of carrying freight and people to support relief efforts necessitated in the aftermath of the earthquake in Haiti.

Decision

In light of the situation in Haiti, we recognize that there is an immediate need for airlift to carry freight and people on a massive scale to support rescue and relief efforts necessitated in the aftermath of Haiti earthquake. In further recognition that air carriers certificated under 49 U.S.C. § 41101 may not be able to meet fully emergency air transportation needs in a timely fashion, we find it is in the public interest to grant an emergency exemption under 49 U.S.C. § 40109 from the provisions of 49 U.S.C. § 41101 and the Department's regulations to carriers with authority under 14 CFR Part 125 from the Federal Aviation Administration to the extent necessary for those carriers to operate emergency flights in air transportation so that they can fully support the Haiti earthquake relief efforts.²

The authority shall be effective immediately and will be effective for a period of 30 days from the issue date of this order. We will evaluate the continuing need for this authority, and will, if warranted, extend it at a later date. We will require that each carrier providing air transportation under this order notify the Office of Aviation Analysis of each contract into which it has entered and all flights performed.³

ACCORDINGLY:

1. We grant an emergency exemption under 49 U.S.C. § 40109 from the provisions of 49 U.S.C. § 41101 and the Department's regulations to carriers with authority under 14 CFR Part 125 to the extent necessary for them to assist persons from the areas affected by the Haiti earthquake, and for the carriage of personnel and relief supplies in support of the relief effort to address the aftermath of the earthquake, subject to the security condition discussed in footnote 3.
2. The authority granted in ordering paragraph 1 is effective immediately, and will remain in effect for a period of 30 days from the issue date of this order.
3. We require that each Part 125 carrier providing air transportation pursuant to this order shall notify the Office of Aviation Analysis of any contracts into which it has entered and all flights performed.
4. All services being provided for compensation or hire under the authority granted in this order shall be provided on reasonable terms.
5. We reserve the right to amend, modify, or revoke this authority at any time, if in the public interest, without notice or hearing.

² Similar authority was granted in the aftermath of Hurricane Katrina that occurred during 2005. Order 2005-9-2, issued September 7, 2005.

³ Where time does not permit it, this notification need not be provided before the flight operates. In addition, in conducting operations under this authority, a Part 125 carrier must comply with all applicable requirements concerning security.

By:

SUSAN L. KURLAND
Assistant Secretary for Aviation
and International Affairs

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