

require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. The Commission notes that the proposed rule change clarifies the list of Exchange rule violations that are subject to disciplinary fines pursuant to NYSE Rule 476A. In addition, because existing NYSE Rule 476A provides procedural rights to a person fined for any violation of an Exchange rule that is determined to be minor in nature to contest the fine and permits disciplinary proceedings on the matter, the Commission believes NYSE Rule 476A, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.<sup>7</sup>

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act<sup>8</sup> which governs minor rule violation plans. The Commission believes that the proposed change to NYSE Rule 476A will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE rules and all other rules subject to the imposition of fines under the minor rule violation plan of the Exchange. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the Exchange's minor rule violation plan under NYSE Rule 476A provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the minor rule violation plan or whether a violation requires formal disciplinary action under NYSE Rule 476.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>9</sup> and Rule 19d-1(c)(2) under the Act,<sup>10</sup> that the proposed rule change (SR-NYSE-2005-86), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Nancy M. Morris**,  
Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending March 17, 2006

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2006-24193.

*Date Filed:* March 14, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC12 Mid Atlantic-Middle East, Geneva & Teleconference, 16 February-17 February 2006 (Memo 0248).

*Minutes:* TC12 North/Mid/South Atlantic-Middle East, Geneva & Teleconference, 16-17 February 2006, (Memo 0252).

*Fares:* TC12 North/Mid/South Atlantic-Middle East, Geneva & Teleconference, 16-17 February 2006 (Memo 0136).

*Intended effective date:* April 1, 2006.

*Docket Number:* OST-2006-24205.

*Date Filed:* March 14, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:* TC12 South Atlantic-Middle East, Geneva & Teleconference, 16-17 February 2006 (Memo 0250).

*Minutes:* TC12 North/Mid/South Atlantic-Middle East, Geneva & Teleconference, 16-17 February 2006 (Memo 0252).

*Fares:* TC12 North/Mid/South Atlantic-Middle East, Geneva & Teleconference, 16-17 February 2006 (Memo 0137).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 240.19d-1(c)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

*Intended effective date:* 1 April 2006.

*Docket Number:* OST-2006-24206.

*Date Filed:* March 15, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 476, TC12 Passenger Tariff Coordination Conference, North Atlantic-Middle East between USA and Jordan

*Intended effective date:* April 1, 2006.

*Docket Number:* OST-2006-24211.

*Date Filed:* March 15, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 481—Resolution 010h, TC3 Japan, Korea-South East Asia, Special Passenger Amending Resolution between Japan and China (excluding Hong Kong SAR and Macao SAR).

*Intended effective date:* March 26, 2006.

**Renee V. Wright**,

*Program Manager, Docket Operations, Federal Register Liaison.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 17, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST-2006-24190.

*Date Filed:* March 14, 2006.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 4, 2006.

*Description:* Application of ACM AIR CHARTER Luftfahrtgesellschaft ("ACM AIR CHARTER"), requesting a foreign air carrier permit authorizing it to provide charter foreign air transportation of persons, property and

<sup>7</sup> 15 U.S.C. 78f(b)(7) and 78f(d)(1).

<sup>8</sup> 17 CFR 240.19d-1(c)(2).

mail between any point or points in Germany and any point or points in the United States; and between any point or points in the United States and any point or points in a third country or countries, provided that, except with cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes air service to Germany for the purpose of carrying local traffic between Germany and the United States; and other charter between third countries and the United States. ACM AIR CHARTER requests that its application be decided on the basis of written submissions and the Streamlined Licensing Procedures Notice.

*Docket Number:* OST-2006-24223.

*Date Filed:* March 16, 2006.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 6, 2006.

*Description:* Application of Partner Aviation Enterprises d/b/a Empire Airways requesting authority to engage in scheduled passenger operations as a commuter air carrier and proposes to operate casino charter flights between Republic Airport in Farmingdale, NY and Atlantic City International Airport in Atlantic City, NJ, using BAE Jetstream 31 type aircraft.

**Renee V. Wright,**

*Program Manager, Docket Operations,  
Federal Register Liaison.*

[FR Doc. E6-4839 Filed 4-3-06; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Denial of Motor Vehicle Defect Petition

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for a defect investigation.

**SUMMARY:** This notice sets forth the reasons for the denial of a petition submitted by Mr. Brad Lamb, Executive Director, North Carolina Consumers Council (NCCC) to NHTSA's Office of Defects Investigation (ODI). The petition was received on December 2, 2005. The petitioner requests, pursuant to 49 U.S.C. 30162, that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety with respect to the performance of the head lamp assemblies on model year (MY) 2004 Pontiac Grand Prix vehicles. After a review of the petition and other information, NHTSA has

concluded that further expenditure of the agency's resources on the issue raised by the petition does not appear to be warranted. The agency has accordingly denied the petition. The petition is herein after identified as DP05-010.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leamon H. Strickland, Vehicle Integrity Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5201.

**SUPPLEMENTARY INFORMATION:** On December 2, 2005, ODI received a petition submitted by Mr. Brad Lamb, Executive Director of the North Carolina Consumers Council, requesting an investigation of an alleged defect evidenced by shake or bounce of the head lamps installed on MY 2004 Pontiac Grand Prix vehicles (subject vehicles), a condition that may potentially distract the operators of other motor vehicles being approached or followed by the subject vehicles. The petition alleges that this condition may be exhibited when the subject vehicles are being driven on smooth as well as rough road surfaces. The petition states that as a result of this problem, the manufacturer redesigned the head lamp bracket and issued a procedure to dealers for retrofit of the revised bracket on early models of the subject vehicles to correct this problem. The petition also identifies and lists 33 non-duplicative reports regarding the alleged defect in the subject vehicles that are contained in the ODI consumer complaint database.

In October 2003, ODI discovered that its consumer letter database contained six consumer complaints regarding this matter, and initiated a routine screening review of the matter. The review included road tests of six randomly selected subject vehicles in order to qualitatively assess the potential safety implications of the condition. The evaluation concluded that the problem appeared to be more apparent on those subject vehicle models equipped with the "sport" suspension system, designed with more rigidity than the standard suspension system. The review also found that the condition was more noticeable when the subject vehicles were driven on rough road surfaces. The details of this initial review were presented to and evaluated by a panel of ODI engineers and managers, who decided that the issue did not rise to the level of a potential safety-related matter that should be formally investigated.

The current petition prompted an additional and contemporary ODI review of the matter. ODI has confirmed

that its consumer complaint database now contains the 33 consumer complaints cited by the petition, plus an additional three complaints, *i.e.*, a total of 36 complaints. These complaints, however, contain no allegations or reports of accidents or compromise to control of the subject vehicles, or of compromise to driver control of other vehicles resulting from head lamp bounce or shake in the subject vehicles. It is noted, however, that in one instance a driver being followed by a subject vehicle reported thinking that he was being signaled, and stopped alongside the roadway with no additional consequence. ODI estimates that approximately 180,000 of the subject vehicles were sold for use in the United States.

ODI has also reviewed Early Warning Reports submitted by the manufacturer for any evidence of additional reports of this problem through field reports or other documentation generated by the manufacturer's evaluations. Some relevant product evaluation reports were identified but in each case the concern was reported to be limited to operation of the subject vehicles on rough road surfaces, and none of these reports noted compromise to safe operation to the subject vehicles or to any other vehicles.

On November 23, 2004, the manufacturer issued a Technical Service Bulletin (TSB) on this condition to authorized dealers of the subject vehicles. The TSB prescribed a procedure for the installation of revised bracket and associated hardware to improve securement of the headlamp assembly to the vehicle.

The subject MY 2004 vehicles were first sold to the public beginning approximately in September 2003, and carried a standard 36-month/36,000-mile warranty. All of the subject vehicles are still within the 36 month limit of the original warranty, and that coverage continues unless the mileage limits have been exceeded. Therefore, any vehicle that developed the headlight shake condition has been eligible for repair at no cost to the owner by simply returning it to an authorized dealer; this eligibility is still in effect for those vehicles for which the mileage limits have not been surpassed. The repairs covered under the provisions of the warranty would typically involve installation of the revised headlamp bracket using the procedures outlined in the TSB issued in November 2004.

ODI's review disclosed that the first of the 36 consumer complaints was dated October 2003, and that the vehicle involved has been eligible for repair under the warranty provisions for