

comments is desired, include a self-addressed stamped postcard showing the special permit number.

*For Further Information:* Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue,

Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for modification of special permit is published in accordance with part 107 of the Federal hazardous materials

transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 12, 2010.

**Delmer F. Billings,**  
*Director, Office of Hazardous Materials, Special Permits and Approvals.*

MODIFICATION SPECIAL PERMITS

Application & Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
13424-M .....	Taminco Higher Amines, Inc., St. Gabriel, LA.	49 CFR 177.834 (i)(3) .....	To modify the special permit to authorize additional Class 3; 8 and Division 2.1; 5.1; 6.1 hazardous materials.
13598-M .....	Jadoo Power Systems, Inc., Folsom, CA.	49 CFR 173.301(a)(1), (d) and (f).	To modify the special permit to authorize DOT approved 100% ultrasonic examination method of DOT-Specification 3AL cylinders every five years in lieu of internal vision inspection and hydrostatic testing and remove the "No periodic retest is required" in paragraph 7b.
14741-M .....	Weatherford International, Fort Worth, TX.	49 CFR 173.304 .....	To modify the special permit to authorize rail freight as an additional mode of transportation.

[FR Doc. 2010-1454 Filed 1-26-10; 8:45 am]

BILLING CODE 4909-60-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

**Public Meeting on Future Policy and Rulemaking for Normal, Utility, Acrobatic, and Commuter Category Small Airplanes**

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting to discuss a review of the requirements for small airplanes. This discussion focuses on the future of small airplane regulation; however, we are asking for feedback concerning maintenance and operations, and not just certification.

**DATES:** The meeting will be held February 23 and 24 from 8 a.m. to 5 p.m. each day.

**ADDRESSES:** The meeting will be held at the Marriott, 9100 Corporate Hills Drive, Wichita, Kansas 67207.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lowell Foster, Regulations and Policy, ACE-111, Federal Aviation Administration, 901 Locust St., Kansas City, MO 64106; telephone: (816) 329-4125; facsimile (816) 329-4090; e-mail: [lowell.foster@faa.gov](mailto:lowell.foster@faa.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a public meeting to initiate the review of 14 CFR part 23 regulations. The last thorough review of part 23 requirements occurred more than 25 years ago. Due to this long interval, this regulatory review goes

beyond the traditional regulatory reviews.

We are attempting to determine the adequacy of the current airworthiness standards throughout a small airplane's service life while anticipating future requirements. We encourage the public's participation and feedback in developing or amending new and existing policy, guidance, and rulemaking. These efforts will affect the next 20 years of small airplane design, certification, and operations. Specifically, we would like feedback from manufacturers, pilots, owners, mechanics, instructors and anyone else with an interest in the small airplane industry.

The FAA's Small Airplane Directorate plans to host at least three, two-day meetings, depending on public interest. There may be a meeting in the southeast and southwest regions of the United States. The meetings will not follow a fixed agenda, but the discussions will generally follow the findings from a recent two-year study. That study, the "Part 23 Small Airplane Certification Process Study," addressed the following areas:

- Structure and Process of Part 23
- Design Certification
- Continued Airworthiness
- Data Management
- Pilot Interface

The report is available on-line at: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/air/directorates\\_field/small\\_airplanes/](http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/air/directorates_field/small_airplanes/).

Included in the study are recommendations associated with certification, maintenance, modifications, and pilot training. Also included in the report is the recommendation to revise part 23 such

that requirements are based on airplane performance and complexity. Since the beginning, small airplane certification requirements have been based on propulsion and weight. Many previous assumptions for small airplanes are no longer accurate. This is discussed in detail in the Certification Process Report.

The FAA plans to open each meeting with a detailed presentation from the Certification Process Study findings followed by opening the floor for discussions. There will be an official recorder participating at each meeting. The meeting minutes, as well as any comments, feedback, recommendations or action items will become public record.

Attendance is open to the interested public but limited to space availability. Since seating is limited, we ask anyone interested in attending to notify Lowell Foster at the phone or e-mail address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Kansas City, Missouri on January 20, 2010.

**James E. Jackson,**  
*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2010-1523 Filed 1-26-10; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

**Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors**

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

**TIME AND DATE:** February 11, 2010, 12 noon to 3 p.m., Eastern Standard Time.

**PLACE:** This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827-4565 to receive the toll free number and pass code needed to participate in these meetings by telephone.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

**FOR FURTHER INFORMATION CONTACT:** Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827-4565.

Issued on: January 12, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-1770 Filed 1-25-10; 4:15 pm]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0106]

#### Petition for Declaratory Order by Fullington Trailways, LLC

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

**ACTION:** Declaratory order.

**SUMMARY:** In accordance with an order from the Pennsylvania Public Utilities Commission (PPUC), Fullington Trailways, LLC (Fullington) filed a petition for a declaratory order (Petition) seeking a determination from FMCSA on the following three issues with respect to its State College/Harrisburg and Lewistown/Harrisburg passenger bus routes: (1) Whether Fullington's operations are within the scope of its Federal operating authority; (2) whether PPUC regulation as to rates and schedules is preempted; and (3) whether its operations qualify as a "special operation" under 49 U.S.C. 13902 or "intrastate commuter bus operation" under 49 U.S.C. 14501. The Agency grants Fullington's petition, finding that the passenger bus service in question is within the scope of Fullington's Federal operating authority, that PPUC regulation as to rates and schedules is preempted and that Fullington's operations do not qualify as a "special

operation" or an "intrastate commuter bus operation."

**FOR FURTHER INFORMATION CONTACT:** Genevieve D. Sapir, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-7056.

#### SUPPLEMENTARY INFORMATION:

##### Background

Fullington currently provides passenger bus service along various routes in Pennsylvania. Along two such routes, Lewistown to Harrisburg and State College to Harrisburg, Fullington held intrastate authority from the Pennsylvania Public Utilities Commission (PPUC). Fullington obtained Federal authority to provide service along the Lewistown—Harrisburg route in 1983 and subsequently obtained Federal authority for the State College—Lewistown—Harrisburg route in December 2006. In January 2007, Fullington announced plans to discontinue early morning service on the State College/Harrisburg route and raise rates for early morning service on the Lewistown—Harrisburg route. Two regular passengers on Fullington's routes filed complaints with the PPUC opposing these changes. The PPUC entered an emergency order on January 31, 2007, requiring Fullington to continue to provide service on the early morning State College—Harrisburg run. In order to comply with this order, and in response to low passenger demand for this service, Fullington consolidated its routes to a single State College—Lewistown—Harrisburg route with multiple morning and afternoon runs.

An initial order of an administrative law judge, subsequently adopted by the PPUC on June 24, 2008, concluded that, to the extent the State College—Harrisburg and Lewistown—Harrisburg routes were properly characterized as operations in interstate commerce under federal law, it did not have jurisdiction over the complaint. However, the PPUC further concluded that it lacked jurisdiction to determine whether the operations were properly characterized as in interstate commerce and that FMCSA had primary jurisdiction to make the determination whether Fullington's operations were within the scope of the carrier's Federal operating authority. The PPUC instructed Fullington to seek a determination from FMCSA on the following three issues with respect to its State College—Harrisburg and Lewistown—Harrisburg routes: (1) Whether Fullington's operations are within the scope of its

Federal operating authority; (2) whether PPUC regulation over rates and schedules is preempted; and (3) whether the operations in question qualify as a "special operation" or "intrastate commuter bus operation" under 49 U.S.C. 13902.

On September 17, 2008, Fullington submitted the Petition for Declaratory Order to FMCSA seeking a determination on these issues. Before making its determination on the matters raised in the Petition, the Agency invited the public to submit initial and reply comments. [74 FR 26917] We address those comments below.

#### Analysis and Conclusions

Agencies have the discretion to issue declaratory orders to terminate controversies or resolve uncertainties. 5 U.S.C. 554(e). Prior to its termination, the Interstate Commerce Commission (ICC) regularly exercised this discretionary authority to resolve disputes. However, in transferring several ICC functions to the Department of Transportation (DOT) (first to the Federal Highway Administration (FHWA) and then to FMCSA), Congress envisioned that DOT would generally not become involved in resolving disputes between private parties. To effectuate this congressional intent, FHWA stated that although it reserved the right to issue declaratory orders to resolve controversies between third parties in appropriate circumstances, it would do so only in cases having industry-wide significance that raise issues not adequately addressed by existing legal precedent. *Petition for Declaratory Order Regarding Application of Federal Motor Carrier Truth In-Leasing Regulations*, 63 FR 31827 (Jun. 10, 1998).

In general, FMCSA does not consider the question of whether a carrier is operating in interstate commerce to be the type of controversy rising to the level of industry-wide significance or for which there is not existing legal precedent. However, in its petition, Fullington raises an issue—whether the service in question constitutes a commuter service or special operations—for which there is little recent legal precedent and of which resolution may have industry-wide significance.

#### Jurisdiction

The PPUC, in its order directing Fullington to petition FMCSA for a declaratory order, correctly concluded that it lacked jurisdiction to determine whether Fullington's operations were within the scope of its interstate operating authority. *Goertz v. Fullington*