

of such material factors affecting the advertised fare.

Where an advertised fare is not the full fare, the advertisement should clearly indicate the existence and amount of the excluded charges through a description in reasonably close placement and of a reasonable size in relation to the quoted fare. The description should be easily seen and convey to the consumer the fact that additional taxes and fees apply.

We have also recently seen a proliferation of print, Internet, and billboard advertisements promoting "free" air transportation in conjunction with the purchase of one or more other tickets, but without adequate disclosure of the significant conditions that must be met to obtain the "free" air travel. This is particularly troubling not only because significant restrictions pertain to obtaining and using the "free" ticket, but also because, even after meeting the conditions, in most cases consumers still must pay taxes and fees, which, in the case of an international itinerary, may amount to well over \$100. The existence of conditions related to "free" tickets should be noted prominently and proximately to the offer of a free ticket, at a minimum through the use of an asterisk or other symbol that directs the reader's attention to the information explaining the conditions in easily readable print elsewhere in the advertisement. Some examples of conditions that must be noted are any requirements that the consumer pay the taxes and fees that may properly be separately stated from the fare, or the existence of significant restrictions, either to qualify for the free ticket, or to use the free ticket. Similarly prominent notice of the existence of these kinds of conditions should also be made in television and radio advertising.

By this notice and in accordance with recent Department enforcement case precedent, we are also providing further guidance on how to disclose tax, fee, and restriction information in Internet advertising.³ In order to accommodate the emergence of the Internet in the sale of air transportation, the Department has permitted a full explanation of taxes, fees and conditions to be provided by hyperlinks. Specifically, Internet fare advertisements that quote a fare that is not a full fare or that has significant restrictions should have an explicit statement that additional charges apply immediately adjacent to the fare with a hyperlink to a full explanation. Alternatively, those advertisements should highlight the fact that additional fees, restrictions, or conditions apply to

a specific fare or list of fares, including "free" fares, with an asterisk or other symbol immediately next to the fare or list of fares, together with a concise explanation for the asterisk or symbol (e.g., "taxes, fees, and restrictions apply") in reasonably close placement to the relevant fare or fares. A full explanation of the nature and amount of all additional fees and significant restrictions should appear on the same page as the quoted fare or may be linked to the fare by a single hyperlink. This Internet advertising guidance also applies to banner advertisements and pop-up advertisements placed on either vendor or external sites, and e-mail advertisements, as well as to vendors' own Web sites.⁴

Questions regarding this notice may be addressed to Nicholas Lowry, Senior Attorney, Office of Aviation Enforcement and Proceedings (C-70), 400 7th St., SW., Washington, DC 20590.

Dated: September 4, 2003.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings.

An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov/reports>.

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BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Valdosta Regional Airport, Valdosta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Valdosta Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

⁴ Our June 5, 2002, notice regarding banner advertisements addressed the distinct issue of banner advertisements on external sites offering percentage discounts, which lead a consumer to a general fare quote page on a travel vendor's site with no further information on the relevant discounts.

DATES: Comments must be received on or before October 14, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Federal Aviation Administration, DOT, 1701 Columbia Avenue, Suite 2-260, College Park, Georgia 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert H. Holliway, Executive Director of the Valdosta-Lowndes County Airport Authority at the following address: 1750 Airport Road, Suite 1, Valdosta, Georgia 31601.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Valdosta-Lowndes County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Philip Cannon, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2-260, College Park, Georgia 30337-2747, (404) 305-7152.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Valdosta Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 28, 2003 the FAA determined that the application to the revenue from a PFC submitted by Valdosta-Lowndes County Airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 17, 2003.

The following is a brief overview of the application.

PFC Application No.: 03-06-C-00-VLD.

Level of the proposed PFC: \$4.50.

Proposed charge effective date: November 1, 2003.

Proposed charge expiration date: November 1, 2006.

Total estimated PFC revenue: \$355,100.

Brief description of proposed project(s):

Prepare PFC application 00-04-C-00-VLD
Prepare PFC application 01-05-C-00-VLD
Prepare PFC application 03-06-C-00-VLD
Overlay taxiway "A" and six connecting stubs

³ See, *Icelandair* (Order 2003-4-9).

Acquire easement off ends of runway 4/22
Mark runway 4/22 for non-precision
approaches
Expand commuter apron
Environmental assessment for runway 17/35
extension
Extend taxiway "M"
Extend runway 17/35
Airfield fencing
Upgrade tower communications
Land acquisition

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled large certified route air carriers filing RSPA form T-100.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person, may upon request, inspect the application, notice and other documents germane to the application in person at the Valdosta-Lowndes County Airport Authority.

Issued in College Park, Georgia on September 3, 2003.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 03-23184 Filed 9-10-03; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-1999-5880]

Hours of Service of Drivers: Exemption Application From Hulcher Services, Inc.

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

ACTION: Denial of application for exemption.

SUMMARY: The FMCSA denies the petition of Hulcher Services, Inc. (Hulcher) for an exemption from the maximum driving time limitations in the Federal Motor Carrier Safety Regulations (FMCSRs). Hulcher argues that an exemption would ensure its ability to respond to railroad accidents and help restore service. The FMCSA disagrees. We deny the exemption because Hulcher did not explain how granting the exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety achieved by complying with FMCSR driving time limitations.

DATES: The denial of this petition is effective on September 11, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Mary M. Moehring, Driver and Carrier

Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, (202) 366-4001, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Waivers and Exemptions

On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107). Section 4007 of TEA-21 amended 49 U.S.C. 31315 and 31136(e) concerning the Secretary of Transportation's authority to grant exemptions from the FMCSRs. An exemption may be granted for no longer than two years from its approval date, and may be renewed upon application to the Secretary. On December 8, 1998, the Federal Highway Administration (FHWA) published an interim final rule implementing section 4007 of TEA-21 (63 FR 67600). The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the procedures used to process them.

Notice of Application

On July 30, 1999 FHWA published a Notice of application from Hulcher requesting an exemption from 49 CFR 395.3 which provides requirements concerning the maximum driving time for drivers of commercial motor vehicles (CMVs) (64 FR 41483). Hulcher further requested that if this exemption was not possible, the agency permit its drivers a 24-hour restart period for the 70 hour rule after 24 consecutive hours off-duty, irrespective of the number of days used to accumulate the previous 70-hours on-duty. In that same Notice, FHWA announced its intent to deny the application for exemption and requested comments.

Hulcher provides assistance in restoring rail service after train accidents. The company responds to emergencies, makes necessary repairs to tracks and switches and lifts locomotives and rail cars back onto the tracks. Its equipment is maintained and staged strategically throughout the United States in order to respond quickly and efficiently to railroad emergencies. The company states that its average movement of equipment and personnel is less than 200 miles.

Preliminary Determination To Deny the Exemption

In the Notice of preliminary determination to deny the exemption,

FHWA stated its intent to deny because there was no scientific or safety-performance data to support it. In particular, FHWA noted:

(1) Hulcher had failed to explain how it would ensure that it could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the hours-of-service (HOS) regulations.

(2) Hulcher failed to describe the impacts it could experience if the exemption was not granted, such as the inability to test new safety management control systems.

(3) Hulcher failed to describe any emergencies that the company has been unable to respond to because of compliance with the hours-of-service regulations.

(4) Hulcher did not explain why the current emergency relief exemption is insufficient for the incidents to which they typically respond.

(5) Hulcher did not provide specific terms or conditions that the agency could evaluate beforehand to ensure that an acceptable level of safety would be achieved, nor did it provide a means to monitor the drivers' safety performance. FHWA stated that Hulcher's safety recognition program was not an acceptable alternative to complying with well-defined terms and conditions that the agency could evaluate during the period of the exemption.

(6) With regard to the request for the 24-hour restart period, FHWA noted that it was unaware of any data that would support granting such an exemption.

Discussion of Comments

The FMCSA received five comments to the notice to propose to deny Hulcher's application for exemption. Three comments supported the intent to deny, one was opposed, and one generally favored a relaxation of the HOS rules.

Hulcher, in its response to the intent to deny, stated:

(1) It had not encountered instances in which the HOS prevented it from responding to an emergency, but was being proactive in addressing what it viewed as a potential problem of being delayed in route;

(2) It has an exceptionally strong and comprehensive company safety culture, including daily safety meetings, as well as safety meetings before and after returning from an incident. Hulcher further stated that it would never consider allowing one of its employees to operate a CMV without adequate rest;

(3) FMCSA's failure to grant the exemption may result in emergency