



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

Issued by the Department of Transportation
on the 12th day of February 2010

**Emergency exemption under 49 U.S.C. § 40109
from the provisions of 49 U.S.C. § 41101**

Docket DOT-OST-2010-0011

ORDER EXTENDING EMERGENCY EXEMPTION

Summary

By this order, we are extending for an additional 30 days the emergency exemption authority from the provisions of 49 U.S.C. § 41101 granted to carriers with authority under 14 CFR Part 125 in connection with Haiti relief efforts. That exemption, first granted by Order 2010-1-10, issued January 14, 2010, will expire on February 14, 2010. This 30-day extension of that emergency exemption will allow those carriers to continue 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 have been 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, including air services provided under the exemption authority granted by Order 2010-1-10, have been critical to this relief process and we have learned that at least one Part 125 carrier has been requested to provide air services for a period of time beyond the authority granted under Order 2010-1-10. We therefore find that the resources of U.S. carriers holding

¹ In a separate but related matter, the Department has issued Order 2010-2-10 extending the emergency exemption granted by Order 2010-1-9 (Jan. 14, 2010) 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.

authority under 14 CFR Part 125 may continue to 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 by the Federal Aviation Administration may not engage in common carriage operations and, therefore, absent our action here, would not be available to continue to satisfy this emergency need.

Decision

In light of the situation in Haiti, we recognize that there is a need for continued 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 such air transportation needs in a timely fashion, we find it in the public interest to extend our earlier 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 those carriers to continue to operate emergency flights in air transportation so that they can fully support the Haiti earthquake relief efforts.²

This authority shall be effective immediately and will be effective for a period of 30 days from the issue date of this order. We will require that each carrier providing air transportation under this order to continue to notify the Office of Aviation Analysis of each contract into which it has entered and all flights performed.³ We will evaluate the continuing need for this authority. In this regard, we invite interested parties, including carriers licensed by the FAA with authority under 14 CFR Parts 121, 125, and 135 as well as relief organizations, to comment on the need for and availability of airlift for relief operation and the continued need for the exemption granted by this order.

ACCORDINGLY,

1. We extend the 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 ordering paragraph 3, below.
2. The authority granted in ordering paragraph 1 is effective February 14, 2010, and will remain in effect for a period of 30 days from that date, or through March 15, 2010.
3. 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.

² Similar authority was granted in the aftermath of Hurricane Katrina. Order 2005-9-2 (Sep. 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.

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.

BY:

SUSAN L. KURLAND
Assistant Secretary for Aviation
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