



U.S. Department
of Transportation

**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

June 10, 2013

Exemption No. 10786
Regulatory Docket No. FAA-2013-0156

Mr. Richard S. Adler
Wipaire, Inc.
1700 Henry Ave. – Fleming Field
South St. Paul, MN 55075

Dear: Mr. Adler

This letter is to inform you that we have denied your petition for exemption. It transmits our decision and explains its basis.

The Basis for Our Decision

By letter dated February 12, 2013, you petitioned the Federal Aviation Administration (FAA) on behalf of Wipaire, Inc. (Wipaire) for an exemption from § 23.3(a) and § 135.113 of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow Wipaire to maintain normal category type certificated operation of Wipaire modified Cessna Caravans and Cessna Grand Caravans with ten or more (up to thirteen) seats excluding pilot seats.

The FAA published a summary of the petition in the Federal Register and received comments from four individuals. Three of the commenters were in favor of the exemption, but were non-persuasive. The commenters favored granting the exemption but did not present convincing arguments with supporting data that demonstrates how the granting of the exemption would be in the public interest. The fourth commenter submitted non-substantive comments.

The FAA has issued exemption denials in circumstances similar in all material respects to those presented in your petition. Although the petitioner's justification approach is thorough, the requested result is essentially the same as previous petitioners seeking exemption from these rules. The exemption petitioned for the ability to maintain normal category type certificated operation of Wipaire modified Cessna Caravans and Cessna Grand Caravans with ten or more (up to thirteen) seats excluding pilot seats. However, the FAA made a conscious decision to limit (by regulation) the risk exposure to no more than nine persons, excluding

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pilots, unless the airplane meets additional safety requirements. Arguments attempting to justify the exemption based on the airplane being newer and therefore safer than airplanes that were grandfathered when the new rules came into effect, are not persuasive. Arguments attempting to justify the exemption because of public benefit of being able to carry more passengers and thus more convenient and ultimately cost effective to the public are not persuasive. The risk level to the public was chosen to be limited to nine, excluding pilots, without additional safety requirements. In Denial of Exemption Nos. 5451, 5299, and 6715 (enclosed), the FAA found that granting the exemptions would not be in the public interest.

Having reviewed your reasons for requesting an exemption, I find that—

- they do not differ materially from those presented by the petitioners in the enclosed Denials of Exemption Nos. 5451, 5299, and 6715;
- the reasons stated by the FAA for denying the enclosed Denial of Exemption Nos. 5451, 5299, and 6715 also apply to the situation you present; and
- a grant of exemption would not be in the public interest.

Our Decision

Under the authority contained in 49 U.S.C. 40113 and 44701, which the FAA Administrator has delegated to me, I hereby deny your petition [the petition of Wipaire, Inc.] for an exemption from 14 CFR § 23.3(a) and § 135.113.

Sincerely,

//SIGNED//

Earl Lawrence
Manager, Small Airplane Directorate
Aircraft Certification Service

//SIGNED//

Jack M. Swensen
Manager, General Aviation Branch

Enclosure[s]