

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
KANSAS CITY, MISSOURI 64106

In the matter of the petition of	*	
The Red Baron Stearman Squadron	*	
for exemption from CAR 4a.532(j) of the	*	Regulatory Docket No. CE157
Civil Air Regulations and	*	
§ 23.851 of 14 CFR Part 23	*	

DENIAL OF EXEMPTION

By letter dated June 2, 1999, Mr. Jim Carlson, Director of Maintenance, Schwans Sales Enterprises, 115 West College Drive, Marshall, MN 56258, petitioned for an exemption from compliance with 4a.532(j) of the Civil Air Regulations (CAR) and § 23.851 of 14 CFR Part 23 to permit the removal of fire extinguishers from six Boeing Stearman airplanes, which does not comply with the requirements of the CAR and Part 23.

The petitioner requires relief from the following regulation(s):

CAR 4a.532(j) provides, in pertinent part, that for airplanes type certificated to CAR 4a, a fire extinguisher of an approved type shall be installed in accordance with CAR 4a.566.

The petitioner supports its request with the following information:

The original certificated version of the Boeing Stearman has a fire extinguisher mounted. However, the acrobatic use of these airplanes makes possible a dislodged extinguisher, which could become entangled with the control system.

This could cause interference beyond the pilot's ability to counter. The extinguisher must be readily identifiable and easy to access. If a provision for a special security attachment is specified, the unit would be unusable because of the

passenger's inability to retrieve and use it. Another concern is the practicality and effectiveness of discharging an extinguisher in an open cockpit aircraft at 130 MPH.

The petitioner contends that granting of this exemption would be in the public interest since an uncontrollable aircraft from a dislodged fire extinguisher is a greater risk to the public, both onboard and on the ground, than a controllable on-fire aircraft. The petitioner offers two compensating factors: a preflight briefing emphasizes the importance of ground egress in the event of a fire after landing or landing with a fire in progress, and the importance of air egress by required parachutes in an uncontrollable fire in the air. They contend these factors are present to establish a level of safety commensurate with that of the original Boeing Stearman certification.

Comments on published petition summary:

A summary of this petition for exemption was published in the FEDERAL REGISTER (65 FR 10592, February 28, 2000), and no comments were received.

The Federal Aviation Administration's (FAA) analysis is as follows:

To obtain this exemption, the petitioner must show, as required by § 11.25(b)(5) of 14 CFR Part 11, that: (1) granting the request is in the public interest, and (2) the exemption will not adversely affect safety, or that a level of safety will be provided that is equal to that provided by the rules from which the exemption is sought.

The FAA has carefully reviewed the information contained in the petitioner's request for exemption. The possibility of a fire extinguisher coming loose and interfering with control of an airplane is a valid concern that should be addressed by a structurally adequate design for the maximum "g" load of the airplane to retain the fire extinguisher in place. The preflight briefing should also address the means for removing the fire extinguisher from its holder. The petition does not address the possibility of a controllable fire being extinguished before it becomes uncontrollable which is the intent of the CAR. The inability to extinguish or even retard the growth of a fire does not provide a level of safety commensurate with the requirement to protect persons onboard the airplane or on the ground.

In consideration of the foregoing, I find that a grant of exemption, as requested, is not in the public interest nor maintains the level of safety required by the rule from which the exemption is sought. Therefore, pursuant to the authority of Sections 313(a) and 601(c)

of the Federal Aviation Act of 1958, as amended, delegated to me by the Administrator (14 CFR 11.53), the petition of Schwans Sales Enterprises for an exemption from CAR 4a.532(j) and 14 CFR Part 23, § 23.851 is hereby denied.

Issued in Kansas City, Missouri on April 13, 2000.

S/

Michael Gallagher
Manager, Small Airplane Directorate
Aircraft Certification Service

