

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98057-3356

In the matter of the petition of

Viking Air Limited

for an exemption from § 26.11 of Title 14,
Code of Federal Regulations

Regulatory Docket No. FAA-2008-0762

GRANT OF EXEMPTION

By submission to the Department of Transportation's Federal Docket Management System (FDMS) dated June 24, 2008, Mr. Martin Swan of Viking Air Limited, 9574 Hampden Road, Sidney, B.C., Canada, V8L 5V5, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (CFR) 26.11, as they apply to the Viking Model DHC-7-1 airplane, (also known as Bombardier Model DHC-7-1). Section 26.11 requires development of instructions for continued airworthiness (ICA) applicable to an airplane's electrical wiring interconnection systems (EWIS).

The petitioner requests relief from the following regulation:

Section 26.11: Electrical wiring interconnection systems (EWIS) maintenance program.

(a) Except as provided in paragraph (g) of this section, this section applies to transport category, turbine-powered airplanes with a type certificate issued after January 1, 1958, that, as a result of the original certification, or later increase in capacity, have—

- (1) A maximum type-certificated passenger capacity of 30 or more or
- (2) A maximum payload capacity of 7,500 pounds or more.

(b) Holders of, and applicants for, type certificates, as identified in paragraph (d) of this section must develop Instructions for Continued Airworthiness (ICA) for the representative airplane's EWIS in accordance with part 25, Appendix H

paragraphs H25.5(a)(1) and (b) of this subchapter in effect on December 10, 2007, for each affected type design, and submit those ICA for review and approval by the FAA Oversight Office. For purposes of this section, the “representative airplane” is the configuration of each model series airplane that incorporates all variations of EWIS used in production on that series airplane, and all TC-holder- designed modifications mandated by airworthiness directive as of the effective date of this rule. Each person specified in paragraph (d) of this section must also review any fuel tank system ICA developed by that person to comply with SFAR 88 to ensure compatibility with the EWIS ICA, including minimizing redundant requirements.

(c) Applicants for amendments to type certificates and supplemental type certificates, as identified in paragraph (d) of this section, must:

(1) Evaluate whether the design change for which approval is sought necessitates a revision to the ICA required by paragraph (b) of this section to comply with the requirements of Appendix H, paragraphs H25.5(a)(1) and (b). If so, the applicant must develop and submit the necessary revisions for review and approval by the FAA Oversight Office.

(2) Ensure that any revised EWIS ICA remain compatible with any fuel tank system ICA previously developed to comply with SFAR 88 and any redundant requirements between them are minimized.

(d) The following persons must comply with the requirements of paragraph (b) or (c) of this section, as applicable, before the dates specified.

(1) Holders of type certificates (TC): December 10, 2009.

(2) Applicants for TCs, and amendments to TCs (including service bulletins describing design changes), if the date of application was before December 10, 2007, and the certificate was issued on or after December 10, 2007: December 10, 2009 or the date the certificate is issued, whichever occurs later.

(3) Unless compliance with § 25.1729 of this subchapter is required or elected, applicants for amendments to TCs, if the application was filed on or after December 10, 2007: December 10, 2009, or the date of approval of the certificate, whichever occurs later.

(4) Applicants for supplemental type certificates (STC), including changes to existing STCs, if the date of application was before December 10, 2007 and the certificate was issued on or after December 10, 2007: June 7, 2010, or the date of approval of the certificate, whichever occurs later.

(5) Unless compliance with § 25.1729 of this subchapter is required or elected, applicants for STCs, including changes to existing STCs, if the application was filed on or after December 10, 2007, June 7, 2010, or the date of approval of the certificate, whichever occurs later.

(e) Each person identified in paragraphs (d)(1), (d)(2), and (d)(4) of this section must submit to the FAA Oversight Office for approval a compliance plan by March 10, 2008. The compliance plan must include the following information:

(1) A proposed project schedule, identifying all major milestones, for meeting the compliance dates specified in paragraph (d) of this section.

(2) A proposed means of compliance with this section, identifying all required submissions, including all compliance items as mandated in part 25, Appendix H paragraphs H25.5(a)(1) and (b) of this subchapter in effect on December 10, 2007, and all data to be developed to substantiate compliance.

(3) A proposal for submitting a draft of all compliance items required by paragraph (e)(2) of this section for review by the FAA Oversight Office not less than 60 days before the compliance time specified in paragraph (d) of this section.

(4) A proposal for how the approved ICA will be made available to affected persons.

(f) Each person specified in paragraph (e) must implement the compliance plan, or later approved revisions, as approved in compliance with paragraph (e) of this section.

(g) This section does not apply to the following airplane models:

(1) Lockheed L-188

(2) Bombardier CL-44

(3) Mitsubishi YS-11

(4) British Aerospace BAC 1-11

(5) Concorde

(6) deHavilland D.H. 106 Comet 4C

(7) VFW—Vereinigte Flugtechnische Werk VFW-614

(8) Ilyushin Aviation IL 96T

(9) Bristol Aircraft Britannia 305

(10) Handley Page Herald Type 300

(11) Avions Marcel Dassault—Breguet Aviation Mercure 100C

(12) Airbus Caravelle

(13) Lockheed L-300

The petitioner supports its request with the following information:

No Adverse Effect on Public Safety:

“There are no DHC-7-1 airplanes operating under part 121 or part 129. The DHC-7-1 is not operated commercially within the United States, nor is it expected to in the future.”

Public Interest:

“The DHC-7-1 is not operated commercially within the United States, nor is it expected to in the future. There were only two (2) DHC-7-1 aircraft manufactured. Serial number 1 resides permanently on static display at the Canada Aviation Museum. Serial number 2 has been dismantled and the fuselage is used as a Dash 8 Cabin Crew training aid.”

Federal Register publication

A summary of the petition was published in the Federal Register on July 17, 2008 (73 FR 41164). No comments were received regarding the exemption request.

The FAA's analysis

The FAA has developed criteria to consider when deciding whether to grant or deny a part 26 exemption request. These criteria were developed to aid the FAA in making a decision for part 26 exemption requests and were not specifically developed for any specific request. The FAA uses these criteria as a starting point for making its decision. However other factors may also be considered before a final decision is made on any particular exemption request.

The criteria are as follow:

1. Airplanes Not Operating as Air Carriers. There are no airplanes operating under part 121, part 129 (N-registered), or operated by a foreign air carrier. The one exception would be a certificate holder where the FAA is not the airworthiness authority for the state of design (i.e., a foreign manufacturer). In this case, airplanes could be operated by a foreign air carrier and such operation would not be considered when deciding to grant or deny the exemption. The determination as to whether an airplane is operating under part 121 or part 129 is based on whether the particular airplanes are listed on an air carrier's Operations Specifications.

If there are airplanes operating under part 121, part 129 (N-registered), or operated by a foreign air carrier, but none of the airplanes will be operated after the operational rule compliance date, an exemption may still be considered. The design approval holder must demonstrate that these airplanes will not be operating

under part 121, part 129, or operated by a foreign air carrier, by obtaining documentation of such from the current owners/operators of the airplanes. For certificates where the FAA is not the airworthiness authority for the state of design, the design approval holder does not need to provide documentation on airplanes operated by a foreign carrier.

and

2. Airplanes Unlikely to Return to Air Carrier Service. The airplanes are unlikely to return to part 121, part 129 (N-registered) service, or begin being operated by a foreign air carrier. Again, the same exception noted above applies in that where the FAA is not the airworthiness authority for the state of design, the FAA would not address foreign air carrier operation. The arguments for likelihood of an aircraft to not return to air carrier service should center on the aircraft's age and/or current configuration.

The rationale behind these two criteria is that if there are no operators who will be required by the 121/129 rules, or (for U.S. manufacturers) the rules of foreign authorities that have harmonized with us, to utilize the data that is required to be developed, then it would be a poor use of resources to develop it. Therefore, it would benefit both the DAH and the public as a whole to *not* waste resources to develop data that will not be utilized. Further, granting such an exemption would not adversely affect safety because there are no airplanes that would be required to incorporate the data, nor is it likely that there will be any in the future.

The FAA has reviewed Viking's request and has made the determination that granting this exemption would not have an adverse effect on public safety and would be in the public interest based on the following information:

The FAA is not the airworthiness authority for the state of design for the DHC-7-1, and there are currently no US-registered Model DHC-7-1 airplanes. The two Model DHC-7-1 airplanes that were manufactured, serial numbers 1 and 2, are not currently operating under part 121 or part 129 and it is unlikely they will ever be used in service under these parts.

The two Model DHC-7-1 airplanes meet the baseline exemption criteria for part 26 and there are no other factors to be considered regarding Viking's petition for exemption.

Additional Information

This exemption grants relief to Viking Air Limited from having to meet the requirements of § 26.11 for development of EWIS ICA. This exemption does not grant relief to the related operational requirements contained in § 121.1111 or § 129.111. Should a person choose to operate a DHC-7-1 under part 121 or part 129 beyond the operational compliance deadlines as stated in § 121.1111 or §

129.111, that person will be required to comply with those operational requirements.

Supplemental Type Certificate (STC) Holders and Applicants.

Section 26.11 requires an applicant for an amended type certificate or STC to evaluate whether the design change necessitates a revision to the EWIS ICA developed by the TC holder and approved by the FAA Oversight Office. Since it would be Viking applying for an amended TC, they would be exempt from the requirements of § 26.11(c) as this section is part of their exemption petition. However, if the FAA grants Viking's petition, applicable STC applicants will not be able to comply with the requirements of § 26.11. As such, the FAA considered the impact on these entities on whether a grant should be issued, and if so, whether it should be expanded to the applicable STC applicants.

The FAA's decision

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Viking Air Limited, is hereby granted an exemption from § 26.11, for Model DHC-7-1.

In addition, since the FAA does not intend for these rules to apply to a STC applicant if they do not apply to the type certificate holder for the airplane model being modified, this grant is extended to those STC applicants that may modify Model DHC-7-1.

Issued in Renton Washington on November 6, 2008.

/s/

Stephen P. Boyd
Acting Manager
Transport Airplane Directorate
Aircraft Certification Service