

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

In the matter of the petition of

Airbus S.A.S

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

Regulatory Docket No. FAA-2009-0749

PARTIAL GRANT OF EXEMPTION

By submission to the Department of Transportation's Federal Docket Management System (FDMS) dated August 10, 2009, and later clarifying submission, dated October 23, 2009; Messer. Yves Regis and Erick Van Aelst of Airbus S.A.S, B35-OA7, 1 rond-point Maurice Bellonte, 31707 Blagnac Cedex, France, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (14 CFR) 26.11. This exemption is requested for Airbus Model A300-not-600 airplanes. 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, which requires development of instructions for continued airworthiness (ICA) applicable to an airplane's electrical wiring interconnection systems (EWIS).

The petitioner supports its request with the following information. This information is quoted from Messer. Regis and Van Aelst's August 6, 2009, petition letter. Minor editorial changes have been made for consistency and clarity. The complete petition and subsequent clarifying submission letter may be found in the docket.

Reason the Exemption Would Benefit the Public Interest:

According to Airbus records and information, there will be three A300 B4s (all Freighter Variants) affected by § 26.11 operated under 14 CFR 121 and 129 at the date at which operators must update their

programs to reflect EWIS requirements. All three are expected to be withdrawn from U.S. service during the following 15 months. Since EWIS related tasks (except one) have intervals greater than 15 months, the new maintenance tasks will not be required to be performed on any aircraft prior to its removal from the U.S. fleet.

There are only two U.S. operators that continue to use the A300B4. Tradewinds owns six aircraft, but three are out of service with overdue 8C checks. They are not expected to fly again with TDX [Tradewinds]. The remaining three aircraft are expected to remain in operation until their next 4C checks become due – August 2011 for MSN 100, March 2012 for MSN 211, and May 2012 for MSN 053. The entire fleet is thus expected to be withdrawn from U.S. service by May 2012.

DHL owns six aircraft and plans to continue operations up until June 2010, at which point they will be withdrawn from service or sold outside the U.S.

The remaining three aircraft registered in the U.S. are owned by financial institutions and are in storage. It is not expected that any of them will fly again.

Airbus, therefore, finds that granting this exemption is in the public interest as a whole since it will avoid the DAH [design approval holder] and the FAA from expending efforts on developing EWIS ICA for the representative aircraft that would have no actual safety benefit since no concerned aircraft would be operated under part 121 or 129 at the time of the first EWIS tasks due date of accomplishment. The saved efforts would benefit other safety initiatives with more tangible benefits for the public as a whole.

Reasons Why the Exemption Would Not Adversely Affect Public Safety:

Airbus considers that granting this exemption will not adversely affect safety for the same reason as detailed above, i.e., there will be no airplane affected by § 26.11 operated under part 121 or 129 after the first EWIS tasks due date of accomplishment. According to part 121, operators must update their programs to reflect EWIS tasks no later than March 10, 2011. These tasks will never be required to be performed due to their intervals leading to due dates that fall after the expected date of aircraft withdrawal from U.S. service.

Additional information provided by the petitioner

Airbus understands from publicly available information that the FAA already granted exemptions from other part 26 requirements to other DAHs that have affected aircraft models with a very low likelihood of being operated under part 121 or 129 after the associated operational rule compliance date.

In the unlikely event that a carrier wishes to operate A300-not-600 under part 121 or 129 in the future, Airbus will consult with a FAA Aircraft Certification Office to determine the extent of EWIS ICA that would need to be furnished to support the specific operation.

Federal Register publication

The FAA determined that good cause existed for waiving the requirement for Federal Register publication because the exemption, if granted, would not set a precedent. Additionally, several notices for exemptions requesting relief from the same regulation have been published in the Federal Register and no comments were received.

The FAA's analysis

The FAA has developed criteria to consider when deciding whether to grant or deny a design approval holder's (DAH) petition for exemption from part 26 requirements. These criteria were meant as a general guide to making decisions about such requests and were not 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 illustrated in the following table.

Table 1

Criteria for Considering Eligibility for Exemption from § 26.11

	If the airworthiness authority for the state of design is	And	And	And	Then
1	The FAA	No airplanes are operating under part 121 and it is unlikely that any will do so in the future ³	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future ³	No airplanes are being operated by a foreign air carrier and it is unlikely that any will do so in the future ³	The DAH may be eligible for an exemption
2	The FAA	Airplanes are operating under part 121 but no airplanes will be operated under part 121 after the operational rule compliance date ¹ and it is unlikely that any will return to such service in the future ³	Airplanes are operating under part 129 (N-registered) but no airplanes will be operated under part 129 (N-registered) after the operational rule compliance date ¹ and it is unlikely that any will return to such service in the future ³	Airplanes are being operated by a foreign air carrier but no airplanes will be operated by a foreign air carrier after the operational rule compliance date ¹ and it is unlikely that any will return to such service in the future ³	The DAH may be eligible for an exemption
3	Not the FAA	No airplanes are operating under part 121 and it is unlikely that any will do so in the future ³	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future ³		The DAH may be eligible for an exemption
4	Not the FAA	Airplanes are operating under part 121 but no airplanes will be operated under part 121 after the operational rule compliance date ² and it is unlikely that any will return to such service in the future ³	Airplanes are operating under part 129 (N-registered) but no airplanes will be operated under part 129 (N-registered) after the operational rule compliance date ² and it is unlikely that any will return to such service in the future ³		The DAH may be eligible for an exemption

¹ The design approval holder must demonstrate that these airplanes will not be operating under part 121 or part 129, or operated by a foreign air carrier, after the operational rule compliance date by obtaining documentation of such from the current owners/operators of the airplanes.

² The design approval holder must demonstrate that these airplanes will not be operating under part 121 or part 129 after the operational rule compliance date by obtaining documentation of such from the current owners/operators of the airplanes.

³ Arguments for the likelihood of an airplane not entering into air carrier service in the future should center on the airplane's age and/or current configuration.

The determination of whether an airplane is operating under part 121 or part 129 is based on whether that particular airplane is listed on an air carrier's Operations Specifications.

The rationale behind the criteria contained in the table above is this: The rules require DAHs to develop data for use by operators. If there are no operators for a particular airplane who are required by the rules to use such data, it would be a poor use of resources for the DAH to develop it. Therefore, it would benefit both the DAH and the public as a whole to spend resources on more important safety issues rather than on developing data that will not be used.

The FAA has reviewed Airbus's request and determined that a full grant of this exemption may have an adverse effect on public safety and would not be in the public interest based on the following information.

The FAA notes that by A300-not-600, Airbus means A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; A300, Model B2-203; and A300, Model B4-203 airplanes, as listed on Type Certificate Data Sheet No. A35EU. The FAA is not the airworthiness authority for the state of design for these model airplanes. Nonetheless, these model airplanes are covered by the applicability of § 26.11.

Airbus has stated, and the FAA has confirmed, that there are no airplanes of models A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; or A300, Model B2-203 in part 121 or N-registered part 129 service. As stated below, this exemption does not grant relief to related operational requirements in parts 121 or 129. Any person who chooses to enter service under those parts would need to comply with those operational requirements. We believe that no person would choose to do so because of the associated costs of modernizing the airplanes and complying with these operational requirements. Therefore, the FAA finds that it is unlikely these model airplanes will return to service under parts 121 or N-registered 129. As a result, Airbus models A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; and A300, Model B2-203, meet the baseline exemption criteria for part 26.

Conversely, two operators of U.S.-registered A300, Model B4-203, airplanes currently operate in accordance with part 121 requirements. Airbus has stated one of the operators plans to remove its six airplanes from service prior to the operational rule compliance date of March 10, 2011. However, the other operator plans to continue operation in accordance with § 121.1111 beyond this date. Airbus stated in its petition that in the unlikely event that a carrier wishes to operate these airplanes under part 121 or 129 in the future, Airbus will consult with the appropriate FAA Aircraft Certification Office to determine the extent of EWIS ICA that would need to be furnished to support the specific operation. However, the operators of these airplanes are required to incorporate the data required by § 26.11 by March 10, 2011, in order to continue operations. Therefore, granting such an exemption would cause operators to be out of compliance to their

operational rule and would leave these operators without access to the approved maintenance instructions that Airbus is required to provide in accordance with § 26.11.

In addition to the above information, Airbus states that development of EWIS ICA would have no actual safety benefit since no concerned aircraft would be operated under part 121 or N-registered part 129 at the time of the first EWIS task due date of accomplishment. The FAA understands the logic that Airbus used to make this conclusion. Although Airbus has not yet performed the required analysis, assuming that after the analysis is completed it results in EWIS inspection intervals that are similar to other models; FAA understands that EWIS ICA tasks may not be accomplished if these airplanes are retired as stated. However, the scheduled inspections are just one part of the approved EWIS ICA that are required to be developed in accordance with § 26.11. Section 26.11 also requires that DAHs develop instructions for protections and caution information in accordance with part 25, appendix H, § H25.5(a)(1)(vi), that will minimize contamination and accidental damage to EWIS during performance of maintenance, alteration, or repairs. This part of the required EWIS ICA data is also necessary for maintaining these airplanes safely. It does not have a time-interval associated with it and, therefore, will be in effect immediately upon placement into an operator's maintenance program.

Airbus states that each customer receives "EWIS" maintenance practices via the Electrical Standard Practices Manual. The FAA recognizes Airbus' efforts to supply this information to its operators. However, § 26.11 requires DAHs to develop ICA in accordance with part 25, appendix H, §§ H25.5(a)(1) & (b); and submit this data for review and approval by the FAA Oversight Office. Because Airbus has not submitted this information to the FAA Oversight Office, it has not been reviewed or approved by the FAA. Therefore, we cannot validate whether the referenced information is adequate to obtain the safety objectives of § 26.11.

Further, Airbus states that, ". . . FAA has already granted exemptions from other 14 CFR 26 requirements to other DAHs that have affected aircraft models with a very low likelihood of being operated under 14 CFR 121 or 129 after the associated operational rule compliance date." This is not the case. Consistent with the criteria shown in Table 1, the FAA has granted exemptions to DAHs of airplanes that are currently in service. In all of those cases, the DAHs supplied letters from affected operators stating that those airplanes would not be operated in part 121 or 129 after the operational rule compliance date. These letters are critical because they document the operators' understanding that they will no longer be able to fly these airplanes after the operational rule compliance date as a result of not having the information required by the associated part 26 rule. In this way, the FAA ensures that no airplanes will be inadvertently grounded due to a lack of supporting data from the respective DAH.

Based on the information above, Airbus A300, Model B4-203, airplanes do not meet the requirements necessary to receive an exemption. There are no other factors to be considered regarding Airbus's petition for exemption.

Additional information

This exemption grants relief to Airbus from having to meet the requirements of § 26.11 for development of EWIS ICA for models A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; and A300, Model B2-203. This exemption does not grant relief from the related operational requirements contained in §§ 121.1111 and 129.111. Should a person choose to operate a model A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; or A300, Model B2-203, airplane under part 121 or part 129 beyond the operational compliance deadlines as stated in §§ 121.1111 and 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 (TC) 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. In this case it would be Airbus applying for an amended TC and Airbus would be exempt from the requirements of § 26.11(c). However, if the FAA grants Airbus' petition, applicable STC holders and applicants will not be able to comply with the requirements of § 26.11. So the FAA considered the impact on these entities of whether a grant should be issued, and, if so, whether it should be expanded to the applicable STC holders and applicants.

The FAA's decision

In consideration of the foregoing, I find that a partial grant of exemption that grants relief to Airbus from having to meet the requirements of § 26.11 for the development of EWIS ICA for the Airbus models A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; and A300, Model B2-203, is in the public interest. However, I do not find that a grant or partial grant of exemption is in the public interest for the Airbus A300, Model B4-203. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Airbus is hereby granted an exemption from § 26.11 for only models A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; and A300, Model B2-203 airplanes.

In addition, since the FAA does not intend for these rules to apply to a STC holder or applicant if they do not apply to the TC holder for the airplane model being modified, this partial grant is extended to those STC holders and applicants that have modified or will modify Airbus model A300, Model B2-1A; A300, Model B2-1C; A300, Model B4-2C; A300, Model B2K-3C; A300, Model B4-103; and A300, Model B2-203 airplanes.

Issued in Renton, Washington, on November 27, 2009.

Signed by Ali Bahrami

Ali Bahrami
Manager, Transport Airplane Directorate
Aircraft Certification Service