

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

In the matter of the petition of

The Boeing Company, Wichita Division

for an exemption from § 26.47 of Title 14,
Code of Federal Regulations

Regulatory Docket No. FAA-2008-0874

GRANT OF EXEMPTION

By a submission to the Department of Transportation's Federal Docket Management System (FDMS) dated July 29, 2008, Mr. David J. Horn of The Boeing Company – Wichita Division, Wichita, Kansas, 67210, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (CFR) 26.47. This exemption is requested for 27 Supplemental Type Certificates (STC) installed on 59 airplanes manufactured by The Boeing Company.

The petitioner requests relief from the following regulations:

Section 26.47 Holders of and applicants for a supplemental type certificate – Alterations and repairs to alterations, which requires developing damage tolerance data for aircraft alterations and repairs.

The petitioner supports its request with the following. This information is quoted from Mr. David J. Horn's petition letter, dated July 28, 2008. The complete petition may be found in the docket.

Reasons Why the Exemption Would Not Adversely Affect Public Safety

During the investigate stage to plan for and satisfy the requirements of the referenced FAA regulation, The Boeing Company - Wichita Division has determined a total of 27 STCs that are now inactive. The inactive status is defined as all aircraft the STC is incorporated on have been permanently removed from service and will never return to service. The removal from service is a result of aircraft age or un-repairable or non-economical repair condition.

The "removed from service" status for the aircraft was verified through the industry service identified by the name "AirClaims". This service is support by the complete airline and aviation industry and provides history of an aircraft by Model and Serial Number. The aircraft were determined as removed from service when two terms are applied to a specific aircraft serial number. The two terms used are "permanently removed from service" or "complete loss". The service is updated approximately every month. Since the aircraft associated with each STC listed below is no longer in service, no Continued Operational Safety activity is expected.

The 27 STCs listed in the petition are shown below in Table 1:

**Table 1,
STCs Listed in Boeing's Petition**

STC Number	Aircraft Model	Aircraft S/N
SA1843CE-D	747-124	19734
SA1848CE-D	747-100/ 200	19729
		19731
SA1849CE-D	747-124	20520
		19734
SA2116CE-D	747-100/ 200	19729
		19731
		20520
SA2117CE-D	727-2J4	20764
SA1238CE-D	727-225	20379
		20380
		20381
		18849
SA1239CE-D	727-22	18798
SA1440CE-D	727-51 / 214	18799
		20678
		19527
SA1441CE-D	727-24C / 116C	19814
		20399
SA1442CE-D	747-206B	20427
		19923
		19922
		19924
		20398
		20767
SA1443CE-D	747-133	20881
		20015
		20014
SA1444CE-D	747-237B	19960
		20459
SA1447CE-D	747-2B5B	20558
SA1698CE-D	747-143	20770
SA1699CE-D	747-143	20771
SA1700CE-D	747-100 /200	19729
		19730
		19732
SA1701CE-D	747-256B	19730
SA1702CE-D	747-124	20137
SA1840CE-D	747-143	19734
SA1841CE-D	747-243B	19729
		19731
SA1950CE-D	747-100 / 200	19730
		19732
SA1952CE-D	727-212	21946
SA1953CE-D	727-30	18362
SA1956CE-D	747-123	19730
SA1957CE-D	747-238B	20011
		20012
		20534
SA847CE-D	727-46	18877
		18878
		18879
		19279
SA856CE-D	737-214	19281
		20155
		20157
		20159
		20160

Reason the Exemption Would Benefit the Public Interest

Exclusion of these airplanes from the requirements of section 14 CFR 26.47 would permit Boeing Wichita to apply more resources to the development of the damage tolerance data for alterations for those remaining STCs to which the rule is applicable.

Federal Register publication

A summary of the petition was published in the *Federal Register* on September 23, 2008 (73 FR 54882). 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 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 Table 2 below.

**Table 2, Criteria for Considering Eligibility for Exemption
from §§ 26.11, 26.43, 26.45, 26.47, or 26.49**

	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 that if there are no operators who will be required by the part 121 or 129 rules, or (for U.S. manufacturers) the rules of foreign authorities who have harmonized with us, to use the data these regulations require to be developed, then it would be a poor use of resources to develop that data. 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. In addition, 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 The Boeing Company – Wichita Division petition and determined 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 notes that these are older model Boeing airplanes, with the STCs installed that are listed above in Table 1, and shown by the petitioner as "aircraft that are no longer in service and will never be returned to service." We agree with the petitioner's methodology for determining that these airplanes will not be returned to service. Therefore, the FAA finds that it is unlikely the 59 airplanes will ever be used in service under parts 121 or 129 (U.S.-registered).

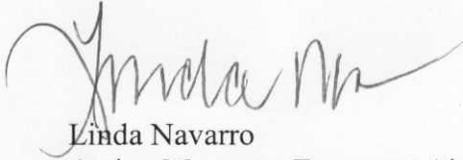
As a result, the 59 airplanes manufactured by Boeing, identified in Table 1, meet the baseline exemption criteria for part 26. There are no other factors to be considered regarding The Boeing Company's – Wichita Division petition for exemption.

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, The Boeing Company – Wichita Division, is hereby granted an exemption from § 26.47 for the 27 STCs installed on the 59 airplanes as listed in Table 1 above.

Issued in Renton, Washington, on

DEC 31 2008

A handwritten signature in black ink, appearing to read "Linda Navarro", with a stylized flourish at the end.

Linda Navarro
Acting Manager, Transport Airplane Directorate
Aircraft Certification Service