Exemption No. 10819

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

In the matter of the petition of **L3 Communications Integrated Systems** for an exemption from §§ 26.11 and 26.47 of Title 14, Code of Federal Regulations	**Regulatory Docket No. FAA-2013-0257**

PARTIAL GRANT OF EXEMPTION

By a submission to the Department of Transportation's Federal Docket Management System (FDMS) posted March 13, 2013, Mr. James Threlfall of L3 Communications Integrated Systems, 10001 Jack Finney Blvd., Greenville, Texas 95402, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (14 CFR) 26.11 and 26.47. This exemption is requested for two supplemental type certificates (STCs) installed on, or to be installed on, two Boeing Model 757-200 airplanes and for future STCs issued for these two serial numbered airplanes.

The petitioner requests relief from the following regulations:

> **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).
>
> **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 section quotes the relevant information from the petitioner's request. The complete petition is available in FDMS docket number FAA-2013-0257 on the Internet at http://regulations.gov.

GENERAL BACKGROUND:

This Petition for Exemption is made for two specific 757-200 airplanes, serial numbers 24487 and 25424. These airplanes are being modified by L-3 Communications for the United States Department of Justice, Federal Bureau of Investigation (FBI) for exclusive use by that organization [ODA-750173-SW Project Number 10336-1]. The FBI purchased these airplanes from American Airlines. At the time of purchase, American Airlines had taken the airplanes out of service. The FBI intends to operate the airplanes under 14 CFR 125 and has no plans to sell the airplanes in the future to an air carrier. The nature of the mission systems installed by this modification is unique to the FBI mission and would not be permitted by the FBI to persist on the airplanes if the airplanes were ever removed from FBI use. Refer to Enclosure 1 for a letter from the FBI to this effect.

L-3 Communications expects the FBI to engage L-3 Communications in future contracts to modify these airplanes for additional FBI mission capabilities. With this in mind, we request that the Exemption grant relief for the project currently being performed [ODA750173-SW Project Number 10336-1], and for future STCs issued to L-3 Communications Integrated Systems for the sole applicability of these two serial numbered airplanes. This request for relief for future STC projects is consistent with past exemptions granted. Refer to FAA Exemption 9935.

L-3 Communications believes that the nature of this STC meets the intent of Option 1 as noted in Table 1 as follows,

1) No airplanes are operating under part 121, and it is unlikely that any will do so in the future.

   As noted in Enclosure 1, the airplanes will be operated by the FBI under 14 CFR 125. The nature of the as-modified configuration of the airplanes with the subject STC is such that this configuration would not be permitted to persist for these airplanes if they should ever be sold to an air carrier. It should be noted that the previous owner of the airplanes (American Airlines) had retired these airplanes from active service and placed them in long term (flyable) storage prior to acquisition for this project.

2) No airplanes are operating under part 129 (N-registered), and it is unlikely that any will do so in the future.

   For the same reasons noted in item 1, the operation of this airplane under part 129 with the subject STC in place is highly unlikely.

3) No airplanes are being operated by a foreign air carrier, and it is unlikely that any will do so in the future.

   For the same reasons noted in item 1, the operation of this airplane under part 129 with the subject STC in place is highly unlikely.

EXEMPTION:

The Petitioner requests the following be applied in lieu of the existing rule. This limitation shall be added to the subject STC and any future STC by adding the following limitation to the STC.

When installed, airplanes with this STC are limited to operations excluding those of an Air Carrier. Specifically, no operations under 14 CFR 121, 14 CFR 129, or any foreign Air Carrier are permitted.

JUSTIFICATION AND SAFETY CONSIDERATIONS:

This Petition for Exemption is consistent with the stated safety goals of Final Rule Docket No. FAA-2004-18379. Specifically, the intent of the Final rule was to invoke the regulations of 14 CFR 26 on Air Carriers. The operators of the airplanes with the subject STCs are not now an Air Carrier and are not reasonably expected to become so. By placing the limitation noted above on this and any future STC to state that operation as an Air Carrier while the STC is installed is prohibited, this limitation must be addressed should the airplane ever be converted to an Air Carrier operational status.

PUBLIC INTEREST:

This Petition for Exemption is consistent with the stated public interest goals of final Rule Docket No. FAA-2004-18379. In addition to the intent to invoke the rule on Air Carriers as noted above, the Final Rule acknowledges the right of the DAH to be fairly compensated by the 14 CFR 121 and 129 operators of the airplanes for the products produced by the DAH. In the absence of this Exemption, L-3 communication is faced with producing costly data which will never be used by the airplane operator.

***Federal Register* publication**

A summary of the petition was published in the *Federal Register* on April 11, 2013 (78 FR 21701). 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's) petition for exemption from part 26 requirements. These criteria are 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 table that follows:

Table 1. 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 DAH 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 the 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. 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 L3 Communications Integrated Systems' request and has determined that granting an exemption for § 26.11(c) would not have an adverse effect on public safety and would be in the public interest based on the following information:

Two Model 757 airplanes are being modified by L-3 Communications for the United States Department of Justice, Federal Bureau of Investigation (FBI) for exclusive use by that organization. The petitioner has stated that the subject aircraft will never be returned to part 121 or 129 common carriage. The Model 757 airplanes will have had extensive modifications that will make their use in future commercial service unfeasible. The FAA finds that this request meets the criteria outlined in Table 1 for the STCs for which the exemption was requested for § 26.11. The FAA considers that, rather than developing data that will not be used, it will benefit both the DAH and the public as a whole for the DAH to spend resources on more important safety issues.

Regarding § 26.47, the FAA also considers whether to grant or deny a DAH's petition for exemption based on the certification basis of the airplane relative to § 25.571 along with the approval status of the STC. Airplanes with a type certification basis of Amendment 25-45 or later for § 25.571 are required to perform an evaluation of the structure to show that catastrophic failure due to fatigue will be avoided throughout the operational life of the airplane. Based on that evaluation, the applicant must identify fatigue critical structure and establish inspections or other procedures. The damage tolerance (DT) requirements of § 26.47 are required by § 25.571 (Amendment 25-45 or later). As a result, the compliance requirements are the same for any pending or future approval of an STC on an airplane with a type certification basis of Amendment 25-45 or later for § 25.571.

For the two requested STCs, which are pending approval, an exemption would not be in the public interest. These new STCs will require compliance with § 25.571, Amendment 25-45 or later, which requires DT analysis, critical structure identification, and inspections or other procedures. Therefore, since the DT data required for compliance with § 25.571 supports compliance with § 26.47, no exemption will be needed as the work to comply with § 26.47 is negligible.

Additional information

This exemption grants relief to L3 Communications Integrated Systems from having to meet the requirements of 14 CFR 26.11(c) to evaluate whether the design changes necessitate a revision to the EWIS ICA developed by the type certificate (TC) holder and submit any required revisions

to the FAA Oversight Office for review and approval. This exemption does not grant relief from the related operational requirements contained in 14 CFR 121.1111 or 129.111. Should a person choose to operate either of the airplanes included in this exemption under part 121 or part 129, that person will be required to comply with those operational requirements.

The FAA's decision

In consideration of the foregoing, I find that a partial grant of exemption is in the public interest. I find that a grant of the exemption for § 26.11(c) is in the public interest. However, I do not find that a grant of exemption is in the public interest for § 26.47. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701 delegated to me by the Administrator, L3 Communications Integrated Systems is hereby granted an exemption from 14 CFR 26.11(c) for the two requested STCs and all future STCs issued to L3 Communications Integrated Systems for the sole applicability to two Boeing Model 757-200 airplanes, serial numbers 24487 and 25424.

Issued in Renton, Washington, on July 12, 2013.

/s/ by John Piccola

John Piccola
Acting Manager, Transport Airplane Directorate
Aircraft Certification Service