

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

In the matter of the petition of

Alenia Aeronautica S.p.A.

for an exemption from § 26.37 (b) of Title 14,
Code of Federal Regulations

Regulatory Docket No. FAA-2008-1283

GRANT OF EXEMPTION

By letter dated October 31, 2008 (Alenia Ref. No. 04/LT/0400/N310C/080102), Mr. Antonio Gandolfo, Alenia Airworthiness Manager, Alenia Aeronautica S.p.A., Strada Malanghero n.17, 10072-Caselle Torinese-Torino, Italy, petitioned to partially exempt the Model C-27J airplane from the requirements of 14 Code of Federal Regulations (14 CFR) 26.37 (b), as amended by Amendment 26-2. This exemption, if granted, would permit relief from the ignition-source-prevention requirements included in 14 CFR 25.981(a) and (d) at Amendment 25-125, and would require compliance with Special Federal Aviation Regulation (SFAR) 88 requirements.

The petitioner requests relief from the following regulation:

§ 26.37, Amendment 26-2: Pending type certification projects: Fuel tank flammability, which requires development of a compliance plan for § 25.981.

The petitioner supports their request with the following information:

This summarizes the petitioner's request. Their complete petition is available at the Department of Transportation's Federal Docket Management System, on the Internet at <http://regulations.gov>, in Docket No. FAA-2008-1283.

When the FAA certification basis was established for the Alenia C-27J, the fuel-tank safety requirements included SFAR 88, which requires a fuel-system analysis, in accordance with 14 CFR 25.981(a) at Amendment 25-102, within 18 months after TC; in this context, only findings that constitute unsafe conditions must be corrected (reference FAA policy memorandum

number 2003-112-15, "SFAR 88 - Mandatory Action Decision Criteria," dated February 25, 2003).

On July 21, 2008, the FAA issued new part 26 requirements for fuel-tank safety, including 14 CFR 26.37, "Pending type certification projects: Fuel Tank Flammability," applicable to C-27J. On the basis of the content of 14 CFR 26.37(b), 14 CFR 25.981 at Amendment 25-125 applies to the C-27J.

Alenia believes that the FAA should consider the following mitigating factors in granting the petition:

Alenia understands that 14 CFR 26.37 does not intend to affect ignition-source-prevention requirements and it is expected that all pending TC projects include Amendment 25-102 in the certification basis. Alenia further understands that the FAA did not envision a pending TC project for an in-series validation program like the C-27J with a certification basis laid down before 2001. Based on this information, Alenia requests a partial exemption from 14 CFR 26.37(b). Alenia proposes to comply with SFAR 88 within 18 months after TC to address the ignition-prevention requirements of 14 CFR 25.981 at Amendment 25-102, with confirmation that the C-27J will meet flammability-reduction requirements of 14 CFR 25.981 at Amendment 25-125 at Type Certification date.

Alenia also states that granting this exemption:

- enables the C-27J to compete fairly with other existing aircraft that are not subject to the same requirements, without causing any adverse effects to passenger safety.
- provides for more economical operation of C-27J aircraft, reducing the cost to U.S. cargo operators.
- provides the public with benefits from a new family of airplanes that incorporate new technology and lessons learned from previous- and current-production airplanes to provide a safer, more efficient transportation option for cargo airlines.
- does not adversely affect safety because the FAA did not intend for the new ignition-source-prevention requirements of 14 CFR 25.981 at Amendment 25-125 to apply to the C-27J validation program.

Federal Register Publication

A Notice of Petition for Exemption was published in the *Federal Register* on December 19, 2008. No comments were received.

The FAA's analysis

The petitioner is asking for relief from current regulations that, under 14 CFR 26.37, “[apply] to any new TC for a transport-category airplane, if the application was made before September 19, 2008, and if the certificate was not issued September 19, 2008.” Specifically, these applicants are required to comply with § 25.981 at Amendment 25-125. While the primary objective of that rulemaking was to require fuel-tank flammability reduction, § 25.981 also includes ignition-source-prevention requirements that were otherwise unchanged by that rulemaking.

The intent of § 26.37 is to address fuel-tank flammability. We did not intend for this rule to affect ignition-source-prevention requirements. The 2001 application date noted in § 26.37(b) coincides with issuance of Amendment 25-102, which introduced the new ignition-source-prevention requirements of § 25.981. When drafting § 26.37, we expected that all pending TC projects included Amendment 25-102 in the certification basis. We did not envision that a pending TC project for an in-series validation program such as C-27J would have a certification basis established before 2001.

Because a condition of this exemption is compliance with SFAR 88, which requires that potential ignition sources be identified and addressed, this exemption would not have an adverse effect on public safety. For the reasons stated by the petitioner, we find that granting this exemption is in the public interest. Therefore, we have determined that sufficient justification exists for a grant of exemption from the ignition-source-prevention requirements of 14 CFR 26.37(b). The petitioner must ensure that the C-27J complies with the requirements of SFAR 88 within 18 months after the issuance of the FAA Type Certificate.

This grant of exemption does not relieve compliance to any part or subsection of 14 CFR 26.37(b) other than those indicated in this exemption. The requirements of 14 CFR 26.37(b) related to flammability reduction still apply to the C-27J validation program. This grant of exemption does not relieve compliance to any part or subsection of 14 CFR part 121, 125, or 129.

The FAA's Decision

In consideration of the foregoing, I find that a grant of exemption is in the public interest regarding 14 CFR 26.37(b). Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, Alenia Aeronautica S.p.A is hereby granted an exemption from a portion of the requirement of 14 CFR 26.37(b) to comply with the requirements of 14 CFR 25.981 in effect on September 19, 2008. Specifically, Alenia is exempted from showing compliance with § 25.981(a) at Amendment 25-125. In addition, Alenia is exempted from showing compliance with the related requirement of § 25.981(d) to establish critical design configuration control limitations (CDCCL), inspections, or other procedures to prevent development of ignition sources within the fuel-tank system pursuant to paragraph (a) of that section.

This grant of exemption is subject to the condition that the petitioner complies with the requirements of SFAR 88 within 18 months after the issuance of the FAA Type Certificate.

Issued in Renton, Washington, on April 1, 2009.

/s/

Ali Bahrami
Manager
Transport Airplane Directorate
Aircraft Certification Service