



U.S. Department
of Transportation
**Federal Aviation
Administration**

Transport Airplane Directorate
1601 Lind Avenue, S.W.
Renton, Washington 98057-3356

March 20, 2014

Exemption No. 9722B
Regulatory Docket No. FAA-2008-0114

Mr. David McDonald
Vice President
Aeronautical Engineers, Inc.
7765 NW 54th Street
Miami, FL 33166

Dear Mr. McDonald:

This letter is to inform you that we have amended exemption no. 9722. It explains the basis for our decision and describes its effect.

The Basis for Our Decision

By letter dated November 21, 2013, Aeronautical Engineers, Inc. (AEI) petitioned the Federal Aviation Administration (FAA) for an amendment to increase the number of allowed supernumeraries from four to six, for a maximum occupancy of eight persons on Boeing Model 737-300 and -400 series passenger airplanes converted to freighter airplanes. We agree with the AEI public-interest statement regarding carriage of the appropriate number of supernumeraries. We find the increase acceptable provided the limitations and conditions of exemption no. 9722 continue to be followed.

AEI also requests that the amendment include exemption from the requirements of Title 14, Code of Federal Regulations (14 CFR) 25.785(b) at Amendment 25-88, which incorporates by reference § 25.562.

Section 25.562 at Amendment 25-64 requires, among other things, that seats are able to withstand up to a 14G vertical and 16G horizontal load. This requirement exceeds the certification basis for the original flight-attendant seats. To provide additional supernumerary seating, AEI seeks to relocate the aft flight-attendant seat, a dual seat, to the front of the 9G barrier. AEI requests approval to use § 25.785(b) at Amendment 25-32, as AEI sees no appreciable improvement in the safety level provided to the supernumeraries. AEI states that all of the seats in the airplane otherwise remain at Amendment 25-20, which is the certification basis for the unchanged airplane.

AEI's petition also requests relief from the requirements of § 25.562 in the changed-area seating installation. AEI cites exemption no. 9487 as providing similar relief. However, that exemption does not provide any relief from §§ 25.785(b) or 25.562. The certification project related to exemption no. 9487 occurred prior to the issuance of 14 CFR part 21, amendment 21-90, that implemented the Changed Product Rule, § 21.101. The certification basis for that project was established accordingly, and did not include § 25.785(b) at Amendment 25-88. The AEI project was established after the issuance of Amendment 21-90, and because a passenger-to-freighter conversion is a significant product change, the certification basis for the AEI project does include § 25.785(b) at Amendment 25-88. For this reason, the project related to exemption no. 9487 is not a relevant precedent for the AEI project. For the AEI project and for other similar projects subject to the Changed Product Rule, we require that changed areas comply with the latest amendment of §§ 25.785(b) and 25.562. We have found that it is practical to do so, and does contribute materially to the level of safety, so §§ 25.785(b) and 25.562 do not meet the exception criteria of § 21.101(b)(3). Seats installed in existing unchanged areas are required to meet the certification basis of the unchanged product, which may be different from the certification basis in the changed areas.

We do not agree with the AEI's assertion that it is in the public interest to provide a consistent safety standard where the consistency is based on the lowest level of safety in the product. The request for an exemption from § 25.562 for the seat installed in the changed area is hereby denied.

Federal Register Publication

The FAA has determined that good cause exists for not publishing a summary of the petition in the *Federal Register* for public comment because the requested amendment to the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to AEI operations.

Our Decision

The FAA has determined that the justification for the issuance of exemption no. 9722 remains valid with respect to this amendment and is in the public interest.

In consideration of the foregoing, I find that a partial 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, exemption no. 9722 is hereby amended to grant a partial exemption to increase the total number of occupants on Boeing Model 737-300 and -400 series passenger airplanes converted by AEI to freighter airplanes. This amendment requires the following change to Limitation 1 as it appears in exemption no. 9722.

Limitation 1 must be updated in the Limitations section of the Airplane Flight Manual.

1. A maximum of six supernumeraries may occupy the area aft of the flight deck and forward of the 9G bulkhead. The total maximum occupancy of the airplane is limited to eight persons, including the flightcrew (two on-duty flightcrew members, and up to six off-duty flightcrew members, observers, or supernumeraries).

The Effect of Our Decision

All other conditions and limitations of exemption no. 9722 remain the same. This letter must be attached to, and is a part of, exemption no. 9722.

Sincerely,

/s/ Ross Landes

Ross Landes
Acting Manager, Transport Airplane Directorate
Aircraft Certification Service