

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

In the matter of the petition of

**Delta Air Lines, Inc.**

for an exemption from § 121.317(a) of  
Title 14, Code of Federal Regulations

**Regulatory Docket No. FAA-2016-7243**

**GRANT OF EXEMPTION**

By letter dated April 27, 2016, Mr. David Stape, Regulatory Compliance Manager, Delta Air Lines Inc. (Delta), 1030 Delta Boulevard, Atlanta, Georgia, 30354-1989, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of § 121.317(a) of Title 14, Code of Federal Regulations (14 CFR). This exemption, if granted, would permit Delta to operate its McDonnell Douglas Model MD-90 airplanes with the “No Smoking” signs hard-wired in the “ON” position.

**The petitioner requests relief from the following regulation:**

**Section 121.317(a)** states that no person may operate an airplane unless it is equipped with passenger information signs that meet the requirements of 14 CFR 25.791. The signs must be constructed so that the crewmembers can turn them on and off.

**Related section of 14 CFR:**

**Section 25.791(a)** states if smoking is to be prohibited, there must be at least one placard so stating that is legible to each person seated in the cabin. If smoking is to be allowed, and if the crew compartment is separated from the passenger compartment, there must be at least one sign notifying when smoking is prohibited. Signs which notify when smoking is prohibited must be operable by a member of the flightcrew and, when illuminated, must be legible under all probable conditions of cabin illumination to each person seated in the cabin.

## **The petitioner supports its request with the following information:**

This section quotes the relevant information from the petitioner's request with minor edits for clarity. The 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-2016-7243.

### **Requested Relief**

On multiple Delta aircraft, the lighted "No Smoking" passenger information signs are hard-wired to stay illuminated at all times. This supports 14 CFR 121.317(c), which states in pertinent part, that when smoking is prohibited by 14 CFR part 252, "No Smoking" signs must be illuminated during the entire flight.

Delta is seeking relief from § 121.317(a) which requires flight crew ability to turn passenger information signs on and off. Specifically, Delta is seeking allowance to operate aircraft without flight crew ability to turn "No Smoking" passenger information signs on and off.

### **Background**

Delta has been operating the McDonnell Douglas MD90 aircraft in excess of 20 years with a similar exemption to § 121.317(a). The FAA granted Delta's petition for exemption via Exemption No. 6034 on March 1, 1995. This exemption is still in effect but set to expire on February 28, 2017.

On July 7, 2003, the FAA issued an equivalent level of safety memo regarding § 25.791, a corresponding rule that also requires "No Smoking" passenger information signs to be operable by a member of the flight crew. The memo states, in pertinent part, that the FAA finds an equivalent level of safety to the requirement of § 25.791 is provided when "No Smoking" passenger information signs are automatically and continuously illuminated. This is accomplished through hard-wiring or software programming, depending on aircraft configuration.

### **Request for Expedited Consideration**

Delta is also requesting that, as part of this petition for exemption, the public comment phase be waived per 14 CFR 11.87(a). Delta states that in granting the same relief as previously granted to Delta via Exemption 6034, the FAA would not be setting a precedent.

### **No Adverse Effect on Public Safety**

The conditions and circumstances, in regard to public interest and equivalent levels of safety, which warranted the original grant and amendments of Exemption 6034, continue to exist. Exemption 6034 has been in use by Delta for several years with no known compromise of safety. In accordance with 14 CFR 252.4, smoking is prohibited on all scheduled passenger flights. Delta's configuration of "No Smoking" signs being

continuously illuminated without flight crew ability to turn them on and off is in the best interest of the flying public because it increases the level of safety by preventing a “No Smoking” sign from being inadvertently turned off.

### **Federal Register publication**

The FAA has determined that good cause exists for waiving the requirement for *Federal Register* publication for public comment because the request is identical in all material respects to previously granted exemptions; the exemption, if granted, would not set a precedent; and any delay in acting on this petition would be detrimental to Delta.

### **The FAA’s Analysis**

The FAA finds that this proposed exemption is in the public interest for the reasons presented by Delta and that it will provide a level of safety that is equivalent to the regulation. The purpose of “No Smoking” signs is to advise the occupants of an airplane when smoking is or is not permitted. The requirement to have these signs is based on a scenario where smoking may be permitted but only at certain times. Delta has decided to operate its airplanes in such a manner that smoking is prohibited at all times. The FAA finds that “No Smoking” signs that are always illuminated are as safe as “No Smoking” signs that may be illuminated only at certain times; provided Delta continues to operate its airplanes in such a manner that smoking is prohibited at all times. Protection against potential electrical problems with the “No Smoking” signs is provided by circuit breakers.

### **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, I grant Delta Air Lines, Inc., an exemption from 14 CFR 121.317(a) to the extent necessary to operate McDonnell Douglas MD-90 airplanes with the “No Smoking” signs hard-wired in the ON position.

Issued in Renton, Washington, on August 8, 2016.

/s/

Michael Kaszycki  
Assistant Manager, Transport Airplane Directorate  
Aircraft Certification Service