

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

In the matter of the petition of

National Aircraft Service, Inc.

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

Regulatory Docket No. FAA-2009-0871

GRANT OF EXEMPTION

By a submission to the Department of Transportation's Federal Docket Management System (FDMS) dated September 2, 2009, Mr. Paul Hedding of National Aircraft Service, Inc., 9133 Tecumseh-Clinton Rd., Tecumseh, MI 49286, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (14 CFR), section 26.47. This exemption is requested for supplemental type certificate (STC) SA421NW, which is no longer installed on any aircraft.

The petitioner requests relief from the following regulations:

Section 26.47 which, for holders of and applicants for a supplemental type certificate, requires development of damage-tolerance data for alterations and repairs to alterations.

The petitioner supports its request with the following information:

This section quotes the relevant information from Mr. Paul Hedding's petition letter, dated September 2, 2009. This section summarizes the petitioner's request. The complete petition is available at the Department of Transportation's Federal Docket Management System, on the Internet, at <http://www.regulations.gov>, in docket No. FAA-2009-0711.

Reasons Why the Exemption Would Not Adversely Affect Public Safety

As required by 14 CFR 11.81(d), granting this exemption will have no adverse effect on the level of safety. The FAA's stated intent was to upgrade the regulations to improve the overall level of safety in the areas of Damage Tolerance Design of Supplemental Type Certificates (STC). Since STC SA421NW is no longer installed on any aircraft and National Aircraft Service, Inc. has no intention of selling the STC or authorizing its installation, there is no impact on safety by granting the STC's exemption from § 26.47.

Reason the Exemption Would Benefit the Public Interest

As required by § 11.81(e), granting this exemption is in the public interest. There's no adverse effect on safety by granting the exemption. This will allow National Aircraft Service, Inc. to retain the STC and its data and preventing the surrendering of the STC and its data into the public domain. This will limit National Aircraft Service, Inc.'s liability and prevent the data's misuse in the public domain.

Federal Register publication

A summary of this petition was not published in the Federal Register. This petition for exemption does not set a precedent, as it is similar to those resulting in previously granted FAA exemptions.

The FAA's analysis

The FAA has developed criteria to consider when deciding whether to grant or deny a design approval holder's (DAH) petition for exemption from part 26 requirements. 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 1**.

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 after the operational-rule compliance date under part 121 or part 129, nor by a foreign air carrier, by obtaining documentation of such from the current owners/operators of the airplanes.

² The DAH must demonstrate that these airplanes will not be operating after the operational-rule compliance date, under part 121 or part 129, 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 this: The rule(s) require(s) 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 the National Aircraft Services, Inc., petition and has 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 is the airworthiness authority for the state of design for National Aircraft Services, Inc., STC SA421NW. The FAA notes that STC SA421NW is no longer installed on any aircraft and National Aircraft Service, Inc., has no intention of selling the STC or authorizing its installation. STC SA421NW provides for removal of passenger configuration interior items and installation of a cargo door. This STC also specifically lists, by airplane serial number, airplanes to which the STC applies.

Table 2: Airplane serial numbers for STC SA421NW

Airplane Model	Serial Number
DC-8-51	45648
DC-8-21	45422-45427, 45429-45431, 45433-45437

As stated below, this exemption does not grant relief to related operational requirements in parts 121 and 129. Any person who chooses to enter service under those parts would need to comply with those operational requirements. Because National Aircraft Service, Inc., has stated its intention of not selling STC SA421NW or authorizing its installation, the FAA finds that it is unlikely the STC SA421NW will be installed on airplanes to be used in service under parts 121 or 129 (US-registered).

Additional information

This exemption grants relief to National Aircraft Services, Inc. from having to meet the requirements of § 26.47 for development of damage-tolerance data for alterations and repairs to alterations. This exemption does not grant relief from the related operational requirements contained in § 121.1109 or § 129.109. Should a person choose to operate an airplane with STC SA421NW under parts 121 or 129, beyond the operational-compliance deadlines as stated in § 121.1109 or § 129.109, that person will be required to comply with those operational requirements.

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, National Aircraft Services, Inc., is hereby granted an exemption from § 26.47 for STC SA421NW.

Issued in Renton, Washington on December 31, 2009.

/s/

Ali Bahrami
Manager, Transport Airplane Directorate
Aircraft Certification Service