

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

In the matter of the petition of

Aero Union Corporation

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

**Regulatory Docket No. FAA-2010-0288**

**GRANT OF EXEMPTION**

By a submission to the Department of Transportation's Federal Docket Management System (FDMS) dated March 8, 2010, Mr. Joe Mueller of Aero Union Corporation, Lakewood, California, 90712, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (CFR) 26.47. Section 26.47 requires development of damage tolerance data for alterations and repairs to alterations. This exemption is requested for supplemental type certificates (STC) ST00353LA and SA8009NM installed on Lockheed 188A and 188C airplanes.

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

**§ 26.47 Holders of and applicants for a supplemental type certificate – Alterations and repairs to alterations**, which requires development of damage tolerance data for alterations and repairs to alterations.

**The petitioner supports its request with the following.** This information is quoted from Mr. Joe Mueller's petition letter dated March 8, 2010. The complete petition may be found in the docket.

**Reasons Why the Exemption Would Not Adversely Affect Public Safety**

Granting this exemption would not adversely affect safety as the two subject STCs are for aerial dispensing of liquids. As part of the certification, we obtained an exemption to the noise requirements in accordance with 14 CFR part 21.93(b)(3)(ii), which specifically exempts propeller driven transport airplanes designated for dispensing of fire fighting materials from the noise requirements. Therefore, these aircraft can not be operated under 14 CFR part 121 or 129 without a further showing of compliance to the noise regulations.

The exemption to 14 CFR part 21.93(b)(3)(ii) is specifically documented on the subject STCs. As the aircraft modified by these STCs can not operate under 14 CFR parts 121 or 129, without further showings of compliance, a damage tolerance based inspection program for 14 CFR part 121 or 129 operators would not add any benefit to the public. In addition, because these aircraft have been modified specifically for the purpose of aerial dispensing of liquids it is unlikely that they would be utilized for 14 CFR part 121 or 129 operations in the future.

The FAA in its published final rule excluded a number of different transport category aircraft types from the Design Approval Holder, Electrical Wiring Interconnection Systems, and Aging Aircraft Safety Rule Damage Tolerance operating requirements. These aircraft types were excluded on the basis that no examples were currently operating under 14 CFR parts 121 or 129. The reasons presented above are consistent with the FAA's approach and, therefore, Aero Union Corporation should not be required to develop the data required by 14 CFR part 26, Subpart E, 26.47 requirements to support compliance with the operating rules for STCs ST00353LA and SA8009NM.

### **Reason the Exemption Would Benefit the Public Interest**

Aero Union Corporation considers that grant of this exemption would negate the need for FAA to evaluate the large quantity of data required to support compliance with these regulations; none of these aircraft currently operate in the United States under Part 121 or Part 129 and as discussed above are unlikely to do so in the future. Therefore, grant of this exemption would in turn reduce the burden on FAA resources and consequently public expenditure.

### **Federal Register publication**

A summary of the petition was published in the *Federal Register* on April 15, 2010 (75 FR 19672). No comments were received regarding the exemption request.

### **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 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 the table that follows.

**Table 1**

**Criteria for Considering Eligibility for Exemption  
from § 26.47**

	<b>If the airworthiness authority for the state of design is</b>	<b>And</b>	<b>And</b>	<b>And</b>	<b>Then</b>
1	The FAA	No airplanes are operating under part 121 and it is unlikely that any will do so in the future <sup>3</sup>	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future <sup>3</sup>	No airplanes are being operated by a foreign air carrier and it is unlikely that any will do so in the future <sup>3</sup>	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 <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	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 <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	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 <sup>1</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	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 <sup>3</sup>	No airplanes are operating under part 129 (N-registered) and it is unlikely that any will do so in the future <sup>3</sup>		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 <sup>2</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>	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 <sup>2</sup> and it is unlikely that any will return to such service in the future <sup>3</sup>		The DAH may be eligible for an exemption

<sup>1</sup> The design approval holder 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.

<sup>2</sup> 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.

<sup>3</sup> 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 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 Aero Union Corporation's request 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 Aero Union Corporation's STCs ST00353LA and SA8009NM. The FAA notes that STCs ST00353LA and SA8009NM are installed on Lockheed 188A and 188C airplanes that are operated for the purpose of dispensing fire fighting materials. These airplanes cannot be operated under parts 121 or 129 as currently configured. The FAA finds that it is unlikely that STCs ST00353LA and SA8009NM will be installed on airplanes to be used in service under parts 121 or 129 (US-registered). In addition, these airplanes are not operated by a foreign air carrier and are unlikely to do so in the future.

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.

### **Additional information**

This exemption grants relief to Aero Union Corporation 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 STCs ST00353LA and SA8009NM under part 121 or part 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, Aero Union Corporation is hereby granted an exemption from § 26.47 for STCs ST00353LA and SA8009NM.

Issued in Renton, Washington on June 24, 2010.

/s/Ali Bahrami  
Ali Bahrami  
Manager, Transport Airplane Directorate  
Aircraft Certification Service