

Exemption No. 9869

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

MR. DALE J. MORROW

for an exemption from § 23.562
of Title 14, Code of
Federal Regulations

Regulatory Docket No. FAA-2009-0036

GRANT OF EXEMPTION

By letter dated January 12, 2009, Mr. Dale J. Morrow, 4625 Piedmont Row Drive, Suite 606 Charlotte, NC 28210, petitioned the Federal Aviation Administration (FAA) for an exemption from §§ 23.562 "Emergency Landing and Dynamic Conditions" of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would allow the installation of a passenger seat that would accommodate an occupant with a unique medical condition that does not allow them to sit comfortably in a regular seat for extended periods. The alternative installation would mitigate the exempted rule's requirements by installing an airbag system at the seat location.

The petitioner [requires/requests] relief from the following regulation[s]:

Section § 23.562, Code of Federal Regulations. This section pertains to the application of emergency landing and dynamic conditions at an aircraft occupant seat location. This petition, permits this airplane to be modified without the requirement of the aforementioned rule. In lieu of Section § 23.562, this seat location would have an airbag installation that would mitigate the emergency landing and dynamic conditions that would be experienced by the occupant in a severe accident.

The petitioner supports its request with the following information:

A paraphrased version of the petitioner's request states that:

ACE-09-133-E

“Dale J. Morrow seeks an exemption to Title 14 Code of Federal Regulations, section 23.562, ‘Emergency landing dynamic conditions’ for the seat that can be occupied by a passenger on a Pilatus PC-12 aircraft. The modified seat installation will accommodate a passenger with certain medical conditions who cannot be comfortably seated in a standard FAA approved aircraft passenger seat. The proposed exemption would mitigate the impact threats for the occupant in a modified seat with the use of alternative technologies.”

The reasons why the exemption would not adversely affect safety or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek an exemption:

“Mr. Morrow will utilize a custom built ‘20-g’ seat meeting ANSI/RESNA standard WC 19, ‘Wheelchairs Used as Seats in Motor Vehicles.’ This seat, when combined with an inflatable restraint system will provide a safe and pain free alternative to the existing regulatory requirement. This passenger seat installation will be shown to comply with the requirements of 14 CFR 23.785. The seat will be removed or otherwise disabled to insure that only Mr. Morrow can occupy the seat. The aircraft will be flown under the rules of 14 CFR, part 91; and as such, may not be operated for compensation or hire.”

Public Interest:

“While it's impossible for us to estimate the exact number, we've come to understand that there are thousands of people in the same situation as Mr. Morrow. They'd like to fly on commercial airlines, but they're unable to tolerate sitting in a standard passenger seat. As a result, they're unable to fly, which severely restricts their ability to travel. By approving this exemption, you'll be providing a great deal of additional mobility to this class of people, allowing them to travel by air despite their disabilities.”

The specific reasons why you need exercise the privileges of your exemption outside the United States:

“Mr. Morrow would like to travel outside the United States, both for business and pleasure, as would many other people affected by this exemption. In fact, you might say the exemption becomes even more critical. Since international flights tend to be longer, both in time and distance, they become even more intolerable to people that are unable to sit in a standard passenger seat for extended lengths of time.”

Comments on published petition summary:

A summary of this petition for exemption was published in the FEDERAL REGISTER for public comment on March 26, 2009. The comment period closed on April 15, 2009, and no comments were received.

The FAA's analysis is as follows:

To obtain this exemption, the petitioner must show, as required by §§ 11.81(d) and (e), respectively, that granting the request is in the public interest and will not adversely affect safety.

The FAA has carefully reviewed the information contained in the petitioner's request for exemption. The use of a 20G seat, in combination with an approved inflatable restraint, would provide an equivalent level of safety when compared to seating this occupant in a certified seat.

It was never the intent of the FAA to mandate the use of a general aviation seat that would prove to be unusable to those with certain medical conditions. As regulators, we have discretionary authority that allows us to issue exemptions to the rules. Given this particular situation, the agency believes that safety is not adversely affected, and we believe a grant of exemption is appropriate.

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, Mr. Dale J. Morrow is granted an exemption from 14 CFR § 23.562 to the extent necessary to allow Mr. Morrow to install one ANSI/RESNA standard WC 19-compliant passenger seat in a Pilatus PC-12 aircraft, and follow the conditions and limitations below:

Conditions and Limitations:

1. This exemption is limited to one Pilatus PC-12 aircraft owned by Mr. Dale J. Morrow at one passenger location only.
2. The seat installation must meet requirements of § 23.561.
3. The seat installation must not obstruct egress from the aircraft.
4. The seat installation must meet weight and balance requirements of the type certificate.
5. This aircraft with this seat installation can not be operated for compensation or hire.
6. The applicant is reminded that a Supplemental Type Certificate is required for the installation of an inflatable restraint.

Issued in Kansas City, Missouri on May 13, 2009.



Scott Horn
Acting Manager, Small Airplane Directorate
Aircraft Certification Service