CORRECTED COPY

This is a correction to Exemption No. 10457, issued February 23, 2012. Mr. Kenneth Conn, of Comlux America, LLC, requested a change on February 28, 2012, to correct an error in the originally submitted exemption. This correction changes Mr. Conn's title in the first paragraph of this exemption. We have made this change in our records as of February 28, 2012. Please file this with the originally signed Grant of Exemption.

Exemption No. 10457

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

In the matter of the petition of **Comlux America, LLC** for an exemption from §§ 25.562 and 25.785(b) of Title 14, Code of Federal Regulations	**Regulatory Docket No. FAA-2011-1389**

GRANT OF EXEMPTION

By letter dated December 16, 2011, Mr. Kenneth Conn, certification project manager, Comlux America, LLC, 6404 Turner Drive, Hangar 2, Indianapolis, IN 46241, petitioned the Federal Aviation Administration (FAA) for an exemption from §§ 25.562 and 25.785(b) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to permit certification of medical-stretcher carriers for transport of persons whose medical condition dictates such accommodation. The exemption is for Boeing Model 737 series airplanes.

The petitioner requests relief from the following regulations:

> **Section 25.562** specifies dynamic-test conditions for qualification of occupant-injury criteria, as well as structural-retention criteria.
>
> **Section 25.785(b)** requires that each seat, berth, safety belt, harness, and adjacent part of the airplane at each station, designated as occupiable during taxi, takeoff, and landing (TT&L), must be designed so that a person making proper use of those facilities will not suffer serious injury in an emergency landing as a result of inertia forces specified in

§§ 25.561 and 25.562. Stretcher carriers are considered “berths” as far as compliance with this section is concerned.

The petitioner supports its request with the following information:

This section quotes the relevant information from the petitioner’s request. 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-2011-1389.

This relief is requested to permit the certification of medical stretchers on Boeing Model 737 series airplanes. The first aircraft is to be completed under ODA-955292-NE project number ODA-GED-P030.

References:

1. ODA-955292-NE Project No. ODA-GED-P030
2. FAA Exemption No. 8832
3. FAA Exemption No. 8602
4. FAA Exemption No. 8601
5. FAA Exemption No. 8600
6. FAA Exemption No. 8599

In accordance with FAR 11 section 63 Comlux America, LLC hereby petitions the Federal Aviation Administration for relief from §§ 25.562 and 25.785(b) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit certification of medical stretchers to facilitate the transport of persons whose medical condition requires these accommodations.

General Background:

Medical stretcher installations were not considered in the context of § 25.562 when the regulation was developed. As a result, criteria were established that are not directly applicable to this type of installation. Comlux could not find a supplier that could produce a stretcher that meets the requirements. A review of this issue with the vendors yielded that the costs associated with the dynamic testing is quite high. Further, no articles that have been tested have met the criteria. With this information, it was determined that the cost of developing a stretcher system that will meet the criteria is prohibitively high.

The result of the high cost is that a person seeking travel for required medical care has only three alternatives. One is to charter an aircraft at a very significantly increased cost. The other is to simply forgo the treatment with possible fatal consequences. The last option is to seek travel on an aircraft with a pre Amendment 25-64 certification basis. Another consequence is that a fleet of aircraft needed for a mass evacuation may not be able to be assembled in a timely manner if only pre Amendment 25-64 aircraft are considered acceptable.

Justification:

The estimated cost of demonstrating compliance of stretcher installations with dynamic test requirements is quite high considering the limited number of units for which the cost could be amortized. Since none have been shown to comply with the dynamic test criteria, stretchers cannot currently be used on airplanes whose type certification basis includes the dynamic requirements. The pass/fail criteria were designed to increase the level of safety for passengers seated in an upright position. We feel that application of the existing pass/fail criteria for dynamic testing to stretcher installations is questionable and that the increase in the level of safety does not warrant the costs when compared with the level of safety afforded by an aircraft that does not include Amendment 25-64 in its certification basis.

Occupant Safety Considerations:

1. Comlux has researched part 23, 25, 27 and 29 aircraft with stretcher installations that have not been shown to meet the dynamic criteria. This review has demonstrated a good service history with no adverse experience. These previous stretcher installations specifically exclude litters from the dynamic criteria.

2. The use of the medical stretcher is limited, and on a case-by-case basis.

3. Occupancy for takeoff and landing is limited to non-ambulatory persons.

4. The medical stretcher will comply with the requirements of § 25.561.

Public Interest:

Granting this relief would be in the public interest for the following reasons:

1. The economic burden on members of the traveling public who are experiencing adversity would be reduced.

2. It would facilitate the evacuation of persons from areas that lack the necessary level of medical skill and equipment to areas that are more skilled and better equipped.

3. Any commercial aircraft could be converted into a mass-emergency-evacuation vehicle in times of natural disaster or other need.

4. The level of safety that would be provided is an acceptable level of safety given the limited usage and exposure of the stretcher.

5. A person whose situation requires this type of travel arrangement can be transported by a commercial airplane instead of a charter airplane.

6. Compliance with § 25.562 is difficult since that section applies to seats and not stretchers. The testing program is expensive to conduct and would yield marginal safety benefit.

Publication of Petition:

Comlux respectfully requests that the petition be processed, and that the publication and the comment procedures are waived, in accordance with 14 CFR 11.29 and 11.87 for the following reasons:

- This type of exemption has been granted before for Boeing Model 737 series airplanes and other Large Transport Category Aircraft

- The issue is non-controversial

- Granting the petition would not set a precedent

- Installations of this type are not new and no adverse service history could be found

Conclusions:

This petition is consistent with the referenced Exemptions, which were granted for litter installations on other Large Transport Category Aircraft.

Federal Register publication

The FAA has determined that good cause exists for waiving the requirement for *Federal Register* publication because the exemption, if granted, would not set a precedent, and any delay in acting on this petition would be detrimental to Comlux America, as well as effectively deny a valuable service to persons with critical medical conditions.

FAA Analysis

Due to humanitarian considerations, the FAA considers the transportation of persons needing medical attention by air to be essential and in the public interest. In many instances, those persons can be transported only on stretchers.

Comlux America has requested relief from § 25.785(b), which currently contains the requirement for berths to provide adequate occupant protection under the inertia loads of §§ 25.561 and 25.562. This requirement was contained in § 25.785(a) prior to Amendment 25-72.

The FAA agrees that the requirement to consider the inertia loads of § 25.562 for other than seats is not altogether obvious. Because § 25.562 refers to "seats," it would be easy to overlook the applicability of that section to berths through its incorporation by reference in § 25.785. In addition, other 14 CFR parts do not treat berths in the same manner as part 25, and this could also lead to confusion. In any event, occupancy of berths during taxi, takeoff, and landing (TT&L) for *ambulatory* persons was not considered feasible under the conditions of § 25.562; occupancy by non-ambulatory persons was not addressed.

The FAA agrees that demonstrating compliance with the requirements of § 25.562 would be very difficult, and that applicability, in this case, of the existing pass/fail criteria is questionable.

The FAA has also considered the cost implications and overall benefits resulting from the use of stretcher carriers. One possible alternative, in the absence of the relief Comlux America requested, would be to seek a less-desirable airline routing or schedule utilizing an airplane that is not required to comply with the dynamic-test requirements. That alternative, if available, would not offer any safety benefit because the stretcher-carrier installation would still not be required to meet the dynamic-test criteria. Should that alternative not be available, a person would be forced to either charter an airplane at a cost likely to be prohibitive, or forego expedient air transport altogether, with potentially fatal consequences.

Any safety benefit from requiring a stretcher-carrier installation to meet the dynamic-test requirements would certainly be moot if the necessary medical attention were unavailable due to prohibitive costs.

The need for stretcher carriers in transport-category airplanes is very infrequent. The accident exposure of persons occupying stretchers is, therefore, considerably less than that for airline passengers in general. Because only those persons whose medical condition dictates travel on a stretcher can occupy the stretcher carrier during TT&L, granting the requested relief would not set a precedent for the traveling public in general.

The Grant of Exemption

In consideration of the foregoing, I find that a grant of exemption is in the public interest, and will not significantly affect the overall level of safety provided by the regulations. Therefore,

pursuant to the authority contained in 49 USC 40113 and 44701, formerly §§ 313(a) and 601(c), of the Federal Aviation Act of 1958 as amended, delegated to me by the Administrator (14 CFR 11.53), the petition of Comlux America for exemption from the requirements of § 25.785(b), as amended by Amendment 25-72, as applicable to the particular airplane model involved, and from

the requirements of § 25.562, is hereby granted for the installation of stretcher carriers on Boeing Model 737 series airplanes, provided that occupancy during TT&L is limited to non-ambulatory persons. The following operating limitation must be added to the limitations section of the airplane flight manual supplement and stated on a conspicuously located placard:

Occupancy is limited to non-ambulatory persons.

Issued in Renton, Washington, on February 23, 2012.

/s/ Ali Bahrami

Ali Bahrami
Manager, Transport Airplane Directorate
Aircraft Certification Service