

Exemption No. 9978

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

In the matter of the petition of

**Bizjet International Sales and Support,
Inc.**

for an exemption from §§ 25.785(d) and
25.813(e) of Title 14, Code of Federal
Regulations

Regulatory Docket No. FAA-2009-0835

DENIAL OF EXEMPTION

By letter dated September 2, 2009, Mr. Sam Tyree, SJT Aerospace Corporation, P.O. Box 2010, Owasso, OK 74055, petitioned the FAA on behalf of Bizjet International Sales and Support, Inc., 3515 North Sheridan Road, Tulsa, OK 74115. The petitioner requested an exemption from Title 14, Code of Federal Regulations (14 CFR) 25.785(d) and 25.813(e), as they apply to the Airbus Model A318-112 airplane, when the airplane is to be operated for “private use, not for hire, not for common carriage.” The proposed exemption, if granted, would permit relief from the requirements of firm handholds in the passenger compartment and the installation of a lockable interior door between passenger compartments.

The petitioner also requested an exemption from § 25.785(d), when the airplane is to be operated for hire or common carriage under 14 CFR part 135. The proposed exemption, if granted, would permit relief from the requirements of firm handholds in the passenger compartment.

The petitioner requests relief from the following regulations:

Section 25.785(d), Amendment 25-51 - Requires a firm handhold along each aisle.

Section 25.813(e), Amendment 25-32¹ - No door may be installed in any partition between passenger compartments.

¹ Partial Grant Requested – For 14 CFR part 135 operations, there shall be instructions within the Airplane Flight Manual Supplement (AFMS) and Instructions for Continued Airworthiness (ICA) to provide a procedure to lock the door in the open position and install a cover preventing the use of the door during flight.

The petitioner supports its request with the following information:

This section quotes the relevant information from the petitioner's request. Minor editorial changes were made 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-2009-0835.

General Information to Support Grant of Exemption

Title 14 CFR part 25 governs design certification of transport category airplanes. The primary intent of these regulations, as written, is to assure airplane manufacturers provide the appropriate design features in their airplane that meet the standards necessary to protect the traveling public.

Clearly, there is a requirement in the interest of safety to provide appropriately stringent regulatory standards for certification. However, it is also clear these regulations are intended to regulate the certification of "commercial" airplanes, which are for the general public.

While the majority of these regulations represent common sense inclusion for any airplane regardless of its intended use, a few are obviously intended to regulate situations specific to an airline or for the general flying public.

When a transport category airplane is operated under 14 CFR part 91 or 14 CFR part 125, some of the part 25 rules have acceptance criteria inappropriate, or not compatible, with this type of operation or intended use of the airplane.

Transport category aircraft originally designed for public transportation operated as a personal/corporate aircraft with a VIP interior arrangement represent significant operational differences from the typical 14 CFR part 121 operation.

The differences represented can best be described as follows:

1. Operation is limited to the private use of an individual(s), corporation, or government and does not include the general public.
2. Passenger capacity of the aircraft is significantly less than an equivalent aircraft in commercial operations. Typically, the capacity is less than 30% of that found in an airline configuration.
3. Flight and cabin crews are typically highly trained, and far more familiar with the aircraft they are operating due to the fact it is normally the primary aircraft for which they always perform their duties.
4. Security is extremely high in terms of access to the aircraft while on the ground and with respect to individuals boarding the aircraft.

5. Passengers on these aircraft are typically repeat passengers, and represent corporate employees, individual owners, or family members. As a result, the passengers are far more familiar with the layout of the individual aircraft and the associated emergency equipment and exits.

6. Custom interior layouts, furnishings, fixtures, furniture, cabinets, galleys, etc. are more representative of “board room” type furnishings, than airline style interiors. Seat pitch and aisle widths are typically substantially more spacious than an airline interior. The airplane subject of this petition is typically privately owned and operated with a VIP executive interior. The FAA has previously granted exemptions, for transport category airplanes operated in private use, that are similar to those requested in this petition for exemption.

The seating configuration provides a maximum seating configuration of 19 passengers. The certified passenger capacity for this airplane is 136. The passenger count of the subject airplane therefore represents less than 14 % of the capacity allowed for this airplane.

Information to Support Grant of Exemptions Specific to 14 CFR 25.813(e)

Private areas, such as bedrooms and conference rooms, are essential to the owner/operator of private, not-for-hire airplanes. For such arrangements, privacy can only be provided by means of doors, and, therefore, an exemption is needed to allow full use of airplane capabilities without compromising safety for those onboard. All passengers are equally important, wherever they are located. The proposed interior configuration installs an interior door between passenger compartments along the egress path at the following location:

- Private Office / Executive Lounge – Opening located between approximately Sta. 21640. This is a “pocket” type door across the main cabin longitudinal aisle that translates laterally to open and close.

The risk for occupants due to the interior door separating these passenger compartments should be considered acceptable for the following reasons.

- The door between passenger compartments will be frangible.
- The door between passenger compartments will provide remote indication of door position to the flight crew. Appropriate procedures and limitations will be provided to ensure that the doors are in the proper position for taxi, takeoff and landing.
- The door between passenger compartments will have dual means to retain it in the open position for taxi, takeoff and landing, each of which will be capable of withstanding the inertia loads specified in 14 CFR 25.561.

- The airplane operated under 14 CFR part 91 or 14 CFR part 125 and will not be operated for hire or offered for common carriage.
- For aircraft operated under 14 CFR part 135 and will be operated for hire, there will be instructions in the AFM [airplane flight manual] and Instructions for Continued Airworthiness to lock the door into the open position and a plate installed over the door opening mechanism to prevent door usage when the aircraft is operated “for hire”.

Information to Support Grant of Exemptions Specific to 14 CFR 25.785(d)

The VIP interior installation per the referenced modification provides a wide open cabin with a significant less seating capacity than the original certified aircraft. Therefore, the requirement for a firm handhold along the aisles cannot be met. On an aircraft operating under 14 CFR 121, this requirement is met by the individual seat backs which provide a natural and adequate handhold for a passenger to stabilize himself in the aisle during turbulence.

Due to the spaciousness of the interior arrangement, there is no readily identifiable “aisle” in the passenger compartments. Any construction hanging from the ceiling would ruin the appearance of the high-quality interior. It is not acceptable to the customer, and may add additional safety concerns.

The risk for occupants due to the lack of readily accessible firm handholds in certain areas is acceptable for the following reasons:

1. All furniture in the passenger cabin has rounded corners and edges to avoid serious injuries to occupants.
2. The seats, divans, and bed are heavily upholstered and will not cause serious injury when contacted by occupants.
3. Passageways and doorframes integrated into the cabin layout will provide means for occupants to stabilize themselves during turbulence.
4. In the Entourage Area, Executive Lounge, and Private Office seat backs, tables, bulkheads, divan arms are readily within reach with one or two steps.
5. There will be instructions for occupants to remain seated with their seat belts fastened in case of turbulence during flight.
6. Occupants are intimately familiar with the interior arrangement.
7. All other occupied areas comply with existing guidance for firm handholds.

Evaluation of Public Interest

The approval of this Petition for Exemption would demonstrate the FAA's willingness to deal with the issues involved with this Exemption, and would be in the public interest for the following reasons:

- Given the proliferation of executive configured transport category airplanes currently taking place, and anticipated in the near future, this type of exemption will enable U.S. manufacturers of transport category airplanes greater flexibility to effectively compete in this expanding market.
- Additional sales of U.S. manufactured airplanes outside of the traditional airline market, and completion of many of them at U.S. owned and operated aircraft completion centers, will serve to increase the profitability of these manufacturers and their supplying/supporting companies.
- Stability and improved financial performance of these U.S. companies gives greater job stability to the workers employed by the companies, causing a stabilizing influence to the greater U.S. economy, due to the consumer spending activities associated with stable workers.
- Improved financial performance of U.S. owned and operated corporations, and increased workforce stability, translates into continued and improved local, state, and federal tax revenues, which in turn adds to the stability of the total U.S. economy.
- Improved financial performance allows U.S. corporations to continue to invest in research and development allowing the U.S. to maintain or improve its competitive position in the world economy.
- A large number of these types of airplanes will probably be sold to "offshore" clients, improving the U.S. balance of trade.
- There is no degradation of safety involved with this request and therefore no detrimental impact to the public at large."

***Federal Register* publication**

A summary of the petition was published in the *Federal Register* on September 22, 2009 (74 FR 48337). No comments were received.

The FAA's analysis

On May 8, 2009, the FAA amended 14 CFR part 25 by adding Special Federal Aviation Regulation (SFAR) 109. This SFAR amended the airworthiness standards for transport category airplanes by adding criteria for equipment, furnishings, or features (hereafter referred to as "cabin elements") frequently found in airplanes operated in "private use" (i.e., not for hire, not for common carriage). These criteria have been used in the granting of petitions for exemption for one or more of these cabin elements. Typically, a restriction in these grants has limited the operation of the affected airplanes to private use. The SFAR does, however, also include some criteria that have been established in the development of findings of equivalent level of safety (ELOS) for some of the cabin elements. In these cases the use of the cabin elements has not necessarily been restricted to private use. Table 1 in the preamble of the SFAR lists all the cabin elements discussed in the SFAR and indicates which elements have been limited to private use operations only based on the previous exemptions, ELOS findings, or special conditions. Nonetheless, the FAA determined that when the SFAR was utilized to establish acceptable criteria for installing any of these cabin elements, the airplane must be restricted to private use. Therefore, the airplane would not be eligible for operations under part 135.

Of the cabin elements that the petitioner seeks relief for, paragraph 4 in SFAR 109 addresses the handhold criteria, and paragraph 10 discusses the criteria pertaining to interior doors. While the airplane is being operated in private use, the petitioner should adhere to the requirements in the SFAR.

The applicant, however, also intends to use the airplane in part 135 operations. When the airplane is operated under this part it must be in full compliance with 14 CFR parts 25, 91, and 135.

As indicated in Table 1 in the preamble of the SFAR, both interior doors and insufficient handholds have not been found eligible under part 135 operations. The petitioner proposed to lock the door in the open position when the airplane is operated under part 135. This is acceptable as long as the means to restrain the door is an appropriate mechanical feature and does not give the appearance that a door is installed, e.g., a substantial close-out panel across the door opening. This would put the airplane design in compliance with part 25. With respect to the lack of appropriate handholds, the petitioner does not offer any proposal to bring the airplane back to compliance with part 25. Exemptions from § 25.785(d) have been granted, but they have been limited to airplanes operated in private use. The petitioner has not offered a compelling argument to extend the exemption to operations under part 135. Therefore, the applicant must provide handholds, in accordance with § 25.785(d), to support operation under part 135.

The FAA's decision

In consideration of the foregoing, I find that a grant of exemption is not 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 deny the petition of Bizjet International Sales & Support, Inc. for an exemption from §§ 25.785(d) and 25.813(e) to the extent necessary to allow installation of an executive interior on Airbus Model A318-112 airplanes.

Issued in Renton, Washington, on December 16, 2009.

/s/

Stephen P. Boyd
Acting Manager, Transport Airplane Directorate
Aircraft Certification Service