

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
RENTON, WASHINGTON 98055-4056

In the matter of the petition of

**Dassault Aviation**

for an exemption from §§ 91.613(b) and  
135.170(c) of Title 14, Code of Federal  
Regulations

**Regulatory Docket No. FAA-2005-20679**

**DENIAL OF EXEMPTION**

By letter dated February 24, 2005, Yannick Leleu, Dassault Aviation, Airworthiness Office DFT/NAV, 54, avenue Marcel DASSAULT AVIATION, BP 24, 33701 MERIGNAC Cedex France, petitioned for an exemption from §§ 91.613(b) and 135.170(c) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit relief from the flammability requirements for thermal and acoustic insulation materials installed on Dassault Model Falcon 2000, 2000EX, 900EX, and Mystere-Falcon 50 series airplanes.

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

**Sections 91.613(b) and 135.170(c)**, which require compliance with the flammability requirements of § 25.856, at Amendment 25-111, for airplanes manufactured after September 2, 2005.

**The petitioner's supportive information is as follows:**

1. Summary of the petition for publication

The FAA has adopted upgraded flammability standards for thermal and acoustic insulation materials used in transport category airplanes. These new standards are defined in § 25.856 for which the applicability (established in 14 CFR part 91 and 14 CFR part 135) is defined as of September 2, 2005.

“For aircraft in production, Dassault Aviation has developed some modifications in order to produce aircraft compliant with this new regulation.

“However, considering Dassault Aviation’s production plan, we have determined that eight (8) aircraft, partially compliant with the § 25.856(a), would be ferried under N-registration after September 2, 2005. Those eight aircraft would constitute a transition phase prior to all factory completed aircraft being fully compliant with § 25.856(a).”

Based on those factors, Dassault Aviation is applying for a permanent, partial exemption to the following operating rules: §§ 91.613(b) and 135.170(c). The exemption would be applicable to the following airplanes: Dassault Model Falcon 2000, serial numbers (S/N) 224 and 225; 2000EX, S/N 068, 069, and 070; 900EX, S/N 157 and 158; and Mystere-Falcon 50, S/N 346.

## 2. Background

“The worldwide Falcon fleet is composed of ‘out of production’ aircraft (Falcon 10, Falcon 20, Falcon 200, Falcon 900) and ‘in-production’ aircraft (F900EX series, F2000, F2000EX series and F50 series).

“In the scope of this petition, Dassault Aviation will address the case of the eight aircraft in production that are listed in section 1.”

## 3. Public Interest

Dassault states that, if the FAA denies this exemption, the delivery schedule for eight customers’ aircraft will be affected. The estimated delay will be 4 months. Each affected customer would have to charter a 12-seat aircraft at a cost of US\$ 1,000,000, per customer, over a period of 4 months, for a total cost of US\$ 8,000,000. “(Calculation is made with an average cost of US\$ 6,000 per flight hour, and an average of 500 flight hours per year).”

Based on the above, Dassault Aviation states that the FAA’s granting of this exemption would be in the public interest.”

## 4. Petition for exemption for aircraft in production that do not comply with §§ 91.613 or 135.170.

“With regards to compliance by Falcon aircraft with § 25.856(a), Dassault Aviation has initiated the process for compliance with this regulation. In this framework, the Dassault Design Office has established a new definition through modifications which allows the basic aircraft layout to be fully compliant with § 25.856(a).”

“The process to define the best adapted solutions in order to comply with § 25.856(a) took extensive research.

“As the result of this effort, we have established a definition that complies with the regulation for all parts affected, but due to design lead time, the implementation of this new definition is not quite in line with the September 2, 2005, target date defined by the FAA.

“As a general note, the petition for exemption only deals with aircraft for which the date for customer delivery is after September 2, 2005. For those aircraft, we define several scenarios defined hereafter:”

#### 4.1 New aircraft departing from the factory after September 2, 2005

“Among the aircraft to be ferried to the U.S. after September 2, 2005, eight (8) will not fully comply with § 91.613 or § 135.170. As stated in the introduction of this letter, and in paragraph 1, it is our plan that those eight aircraft will be N-registered prior to ferry flight.

“Compliance by these aircraft with § 25.856(a) will be fully achieved, except for the shell panels that are not compliant. Due to production line flow process and supply chain process, all parts for these aircraft are already ordered, manufactured and delivered. A retrofit with § 25.856(a) compliant parts would be extremely costly and result in late delivery, production line disturbance, and possible contract defaults with our customers.

“Considering the high level of safety already achieved and proven through fleet feedback, with material used for compliance with §§ 25.853(a) and 25.855(d) in the shell panels manufacturing, we believe Dassault Aviation’s petition for an exemption to §§91.613 and 135.170 for these eight aircraft is warranted and would not result in a compromise with respect to the safe operation of these aircraft.”

#### 4.2 New aircraft departing from the factory before September 2, 2005, and delivered to U.S. customers after September 2, 2005

“As these aircraft are considered manufactured before September 1, 2005, (date of manufacture = date of the signature of aircraft logbook, at the time that the green aircraft leaves the factory), and since these aircraft will be in a part 145 completion center for a time, and subsequently delivered to the owner/operator on a date after September 2, 2005, we believe that the rule does not apply, therefore an exemption would not be requested.”

## 5. Effect on safety

“Concerning flammability of materials installed in airplane compartment interiors, Falcon aircraft are already compliant with § 25.853(a) as well as § 25.855(d).

“These rules focus on materials located in occupied compartments and cargo or baggage compartments. For all designated areas where risk of fire exists, Dassault’s design and manufacturing standards have proven their efficiency and reliability over the course of many years. In fact, no reportable incident or accident resulting from severe fire has ever been reported on these models.

“The Falcon fleet has experienced more than 11,173,200 flight hours, with all types of missions and operations, for more than 1,538 aircraft, all over the world, since 1965.

“We consider this extensive experience with no significant incident as evidence of Dassault Aviation’s quality and safety of design.

“Aircraft for which Dassault Aviation is applying for an exemption partially comply with § 25.856(a), and benefit from a qualification and industrialization process currently being completed. Thus, those aircraft that already comply with §§ 25.853(a) and 25.855(d) will present a safety level which is higher than previously delivered Falcons.”

## 6. Operations outside the U.S.

“The eight aircraft will also operate in accordance with 14 CFR part 91 and part 135 outside the U.S.”

A summary of the petitioner’s request for exemption was published in the Federal Register on April 27, 2005 (70 FR 21837). No comments were received.

### **The FAA’s analysis/summary is as follows:**

The FAA has carefully considered the petitioner’s supporting information. The FAA has determined that the circumstances presented by the petitioner do not justify a grant of exemption. The FAA finds that the petitioner has not shown that a grant of exemption would be in the public interest.

The petitioner bases its justification for the exemption primarily on the assertion that eight of its customers will have to charter a 12-seat business jet for an average of four months (125 flight hours) until the production line can incorporate the changes necessary to comply with Amendments 91-279 and 135-90.

The FAA commends the petitioner for its efforts to make the new production airplanes mostly compliant by the September 2, 2005, deadline. The final rule for

Amendments 91-279 and 135-90 was published on July 31, 2003, and became effective on September 2, 2003. The final rule states that materials are available that meet the new standards. The final rule also states that an implementation period of two years is sufficient, albeit aggressive, to allow for the development of material production capacity. Dassault has not shown why it was unable to obtain parts that are in compliance. Since all other manufacturers of transport category aircraft are expected to meet the deadline with fully compliant airplanes, the FAA considers the two-year implementation period as adequate, and finds that granting this petition is not in the public interest.

The final rule states that the standards as of July 2003 did not realistically address situations in which thermal or acoustic insulation materials may contribute to the propagation of a fire, thus the new flammability standards were adopted.

The petitioner notes that the non-compliant parts meet the existing requirements of §§ 25.853(a) and 25.855(d), and have extensive time-in-service with no reports of severe fire incidents or accidents. The new rules are intended to raise the level of safety, so compliance with the existing rules is not compensating and thus none of the reasons listed justify issuing an exemption. The fact that the service history does not show any problems with the existing design is positive, but indicates an absence of service history rather than a favorable service history. Relevant service data would include data which demonstrate that the existing thermal or acoustic insulation materials would not contribute to the propagation of a fire. The FAA notes that Dassault may be associating a ferry flight with date of manufacture. In fact, as defined in the preamble to the regulation, date of manufacture is no later than the airplane's first flight, and as early as when the airplane records indicate it is safe for flight. Therefore, the number of airplanes actually covered by the rule may actually be less than the eight airplanes in question.

In consideration of the foregoing, I find that a grant of exemption would not be in the public interest, and would significantly affect the overall level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, the petition of Dassault Aviation for an exemption from the flammability requirements of §§ 91.613(b) and 135.170(c) is denied.

Issued in Renton, Washington, on June 20, 2005.

/S/  
Ali Bahrami  
Manager  
Transport Airplane Directorate  
Aircraft Certification Service