

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

In the matter of the petition of

**L-3 COMMUNICATIONS
INTEGRATED SYSTEMS**

for an exemption from § 26.11 and
§ 26.47 of Title 14, Code of Federal
Regulations

Regulatory Docket No. FAA-2009-0533

GRANT OF EXEMPTION

By a submission to the Department of Transportation's Federal Docket Management System (FDMS) dated May 20, 2009, Dr. Michael E. Hopper of L-3 Communications Integrated Systems, P.O. Box 6056, Greenville, Texas 75403-6056, petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14, Code of Federal Regulations (14 CFR) 26.11 and 26.47. This exemption is requested for nine airplanes, modified in accordance with all future supplemental type certificates (STCs) installed by L-3 Communications Integrated Systems.

The petitioner requests relief from the following regulations:

§ 26.11 Electrical wiring interconnection systems (EWIS) maintenance program. (Final Rule Docket Number FAA-2004-18379)

§ 26.47 Holders of and applicants for a supplemental type certificate—Alterations and repairs to alterations, which requires developing damage tolerance data for aircraft alterations and repairs.

The petitioner supports his request with the following: The information below is paraphrased from Dr. Hopper's petition letter, dated May 20, 2009. The complete petition letter is found in the docket.

JUSTIFICATION AND SAFETY CONSIDERATIONS: This petition for exemption is consistent with the stated safety goals for Final Rule Docket Nos. FAA-2004-18379 and FAA-2005-21693. Specifically, the intent of the rule was to invoke the regulations of part 26 on design approval holders (DAHs) for

airplanes used by operators under 14 CFR part 121 and part 129. The FAA criteria for granting exemptions to §§ 26.11 and 26.47 are based on the operational usage of the airplane and are not related to the content of an STC. Therefore, expanding this exemption on the basis of an airplane serial number to include future STCs meets the criteria without adversely affecting public safety.

U.S. PUBLIC INTEREST: This petition for exemption is consistent with the stated public interest goals of Final Rule Docket Nos. FAA-2004-18379 and FAA-2005-21693. This exemption would eliminate unnecessary costs and facilitate on-time delivery of airplane modifications to the U.S. Department of Defense (DoD) by avoiding repetitive petitions for amendment in the future for STCs on airplanes whose usage and justification for exemption has been previously established by Exemption No. 9838.

The nine airplanes (that L-3 Communications Integrated Systems requests an exemption for) are not currently operated in commercial service under part 121 or part 129. All of these airplanes are currently owned and operated by the DoD.

Federal Register publication

A summary of the petition was published in the *Federal Register* on July 27, 2009 (74 FR 37090). 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 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 given in Table 1.

**Table 1. Criteria for Considering Eligibility for Exemption
from §§ 26.11, 26.43, 26.45, 26.47, or 26.49**

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

¹ The DAH 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.

² 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.

³ 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 contained in Table 1 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 L-3 Communications Integrated Systems petition 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 notes that all of the airplanes shown in Table 2 have been modified by L-3 Communications Integrated Systems, and that these airplanes will likely continue to be STC-modified in the future by L-3 Communications Integrated Systems. The nine airplanes identified in Table 2 are unique, making it highly unlikely that they will ever be placed in common carriage, part 121 or part 129 service, now or in the future. See rationale below:

- a) These airplanes are heavily modified for DoD government use.
- b) They are old airplanes not suitable for common carriage and part 25.571, Amendment 25-0 (not damage tolerant).
 - 1) Expensive to remove STCs and convert back to common carriage.
 - 2) Not maintained to FAA standards, expensive conversion to common carriage.
- c) The U.S. Government is maintaining these airplanes and could procure the damage tolerance data if it is needed.
- d) The airplane serial numbers were validated for inclusion in the Operations Specifications database, while processing Exemption No. 9838, which exempted these 9 airplanes for 47 associated STCs.

The part 26 exemption granted here applies only to STCs installed in the future by L-3 Communications Integrated Systems, and is not applicable to past installations.

The FAA has reviewed the Operations Specifications database, and none of these airplanes are shown to be operating under part 121 or part 129.

As a result, the airplanes modified by L-3 Communications Integrated Systems meet the baseline exemption criteria for part 26. There are no other factors to be considered regarding the nine airplanes identified in Table 2.

Additional information

This exemption grants relief to L-3 Communications Integrated Systems from having to meet the requirements of § 26.11 for developing EWIS Instructions for Continued Airworthiness and

§ 26.47 for developing damage tolerance data for repairs and alterations, for STCs applicable to the airplane serial numbers listed in Table 2. This exemption grants relief only for those future STCs issued to L-3 Communications Integrated Systems for which the sole applicability is the airplane serial numbers listed in Table 2. This exemption does not apply or grant such relief for any STC that includes applicability beyond the airplane serial numbers listed in Table 2. Further, this exemption does not grant relief from the related operational requirements contained in § 121.1109, § 121.1111, § 129.109, or § 129.111. Should a person choose to operate, under part 121 or part 129, any of the airplanes identified in Table 2 for which exemption is hereby granted, beyond the operational compliance deadlines as stated in § 121.1109, § 121.1111, § 129.109, or § 129.111, that person will be required to comply with those operational requirements.

Table 2. Exemption Applicability

Airplane Model	Serial Number	STC Number
McDonnell Douglas DC-9-32 (VC-9C)	47668	Not applicable
	47670	
	47671	
Boeing 747-2G4B	23824	
	23825	
Boeing 747-E4A	20682	
	20683	
	20684	
Boeing 747-E4B	20949	

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, L-3 Communications Integrated Systems is hereby granted an exemption from §§ 26.11 and 26.47 for future STCs issued to L-3 Communications Integrated Systems for which the sole applicability is the airplane serial numbers listed in Table 2.

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

/s/

Ali Bahrami
Manager, Transport Airplane Directorate
Aircraft Certification Service