



U.S. Department  
of Transportation

**Federal Aviation  
Administration**

Aviation Safety

800 Independence Ave  
Washington, DC 20591

Exemption No. 18510D  
Regulatory Docket No. FAA-2020-0292

Mr. John McGraw  
Vice President of Regulatory Affairs  
National Air Transportation Association  
818 Connecticut Ave., N.W.  
Washington, DC 20006

Dear Mr. McGraw:

This letter is to inform you that the Federal Aviation Administration (FAA) has granted your petition to extend Exemption No. 18510C. The discussion below reviews the petition, states the decision, lists the conditions and limitations, and describes the decision's effect.

### **The Petition**

By letter dated December 7, 2020, you petitioned the FAA on behalf of the National Air Transportation Association (NATA) and its members for an extension of Exemption No. 18510C. That exemption from §§ 61.57(e)(3), 135.245(c), 135.247(a), 135.301(a), 135.323(b), 135.337(g), 135.338(g), 135.339(b), 135.340(b), and 135.505(d) of Title 14, Code of Federal Regulations (CFR) provides limited relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers<sup>1</sup> due through December 31, 2020.

In your petition, you indicate that there has been no change in the conditions and reasons relative to public interest and safety that were the basis for granting the Exemption 18510C. You request that the exemption be extended to provide relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers due through March 31, 2021.<sup>2</sup>

The FAA has not published a summary of the petition in the Federal Register because, under 14 CFR § 11.87, the FAA determined that good cause exists for not delaying action on the petition.

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<sup>1</sup> For purposes of this exemption, crewmember refers to pilots and flight attendants.

<sup>2</sup> The provision of relief for training and qualification requirements for crewmembers due through March 31, 2021, would necessarily require an extension of the exemption through June 30, 2021 to accommodate the allowance of two additional grace months for training requirements that already include a grace month. *See* Exemption No. 18510, footnote 5.

## The FAA's Decision

The FAA has determined that an extension of Exemption No. 18510C is justified and is in the public interest. The FAA has assessed all aspects of the relief provided by this exemption as the coronavirus disease 2019 (COVID-19) public health emergency continues to evolve and impact the U.S. air transportation system. The FAA finds that current circumstances justify continued relief as aircraft operations increase and the need to maintain a sufficient number of qualified crewmembers remains critical to the continuity of operations. Certificate holders continue to cope with intermittent training facility closures and operational disruptions due to COVID-19 contamination and positivity spikes in certain geographic areas. At the same time, as noted by the petitioner, certificate holders are reducing class sizes and increasing disinfection protocols in order to protect the health of their personnel, which reduces training capacity. The demand to accommodate training, testing, and checking exceeds the capacity in many locations, which sustains a backlog and is likely to cause crewmember qualifications to lapse unnecessarily. The relief in this exemption provides additional time and flexibility for part 119 certificate holders conducting operations under part 135 to meet certain training and qualification requirements.

The FAA is granting relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers due through March 31, 2021.<sup>3</sup>

The FAA emphasizes that this extension does not expand upon the relief already provided to ground personnel and crewmembers with training and qualification requirements due through December 31, 2020. Rather, it provides relief to a new cohort of ground personnel and crewmembers with training and qualification requirements due in January, February, and March 2021. Personnel who complete recurrent training, testing, checking, evaluation, recency, or observation in accordance with this exemption will be considered to have taken or completed the training, testing, checking, evaluation, recency, or observation in the calendar month in which it was required. *See* Condition and Limitation Nos. 4 and 5.

While the current circumstances warrant an extension of the relief provided by Exemption No. 18510C, the FAA notes that, by the expiration date of this extension, 12 calendar months will

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<sup>3</sup> The inclusion of training due through March 31, 2021 means that, for a crewmember who was due to complete recurrent training in March for a requirement that already allowed for one grace month by regulation, the original regulatory grace month is April. With the two-month extension provided by this exemption, the crewmember's grace months are April, May, and June 2021. If the crewmember completes the training in April through June 2021, the crewmember will be considered to have completed it in March 2021. However, the FAA notes that, unlike the other regulatory sections included in the relief provided by this exemption, 14 CFR §§ 135.245(c) and 135.247(a) do not already permit a regulatory grace month. Furthermore, the exemption provides only one grace month to complete the requirements of §§ 135.245(c) and 135.247(a). Thus, for a crewmember who is due to meet the requirements of §§ 135.245(c) and 135.247(a) in March, the crewmember's grace month provided in this exemption is April, but not May or June. This exemption also includes relief from § 61.57(e)(3), which provides an exception for a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 135 when the pilot is engaged in a flight operation under part 91 or 135 for that certificate holder if the pilot in command complies with the recent flight experience requirements of part 135 (§ 135.247). Pilots of certificate holders authorized use of Exemption No. 18510, as amended, may not be in compliance with § 135.247 because the certificate holder has been granted limited relief from its requirements. As such, the FAA extended relief to § 61.57(c).

have passed since the FAA first granted relief.<sup>4</sup> The FAA expects that this timeframe is sufficient for certificate holders to have implemented appropriate plans, processes, and procedures to allow ground personnel and crewmembers to complete recurrent training and qualification requirements in the timeframes required by the applicable regulations. There are several agencies providing guidance, resources, and scientific-based evidence on mitigating the risk of COVID-19 exposure. The FAA recommends certificate holders use these resources in the development of their plans, processes, and procedures to schedule and complete the recurrent training and qualification requirements. Additionally, on December 22, 2020, the FAA granted Exemption No. 18685 to part 119 certificate holders conducting part 135 operations, which extended the timeframe from 24 months to 36 months for a check airman to be observed in accordance with § 135.339(a)(2). The FAA expects the relief provided in Exemption No. 18685 to contribute to reducing the backlog of pilot testing and checking because more check airman will be available to conduct pilot testing and checking and because it will enable certificate holders and FAA inspectors to focus on conducting pilot testing and checking instead of check airman observations.<sup>5</sup> Based on the relief provided in Exemption No. 18685, the FAA has determined that relief from § 135.339(b) to provide three grace months to complete the check airman observation requirement is no longer necessary in this Exemption 18510D.<sup>6</sup>

The FAA has amended Condition and Limitation No. 7 to ensure that certificate holders using this exemption provide a revised plan to mitigate any potential risk introduced by extending the relief to additional ground personnel and crewmembers with training and qualification requirements due in January, February, and March 2021. See Condition and Limitation Nos. 6 and 7.

In accordance with § 11.83, if an exemption would not be in compliance with the Standards of the International Civil Aviation Organization (ICAO), the FAA may only grant use of the exemption outside the United States if FAA files a difference with ICAO. When the FAA issued the original Exemption No. 18510 in March 2020, FAA filed a temporary difference with ICAO. However, that temporary difference will be withdrawn on March 31, 2021. Therefore, in accordance with § 11.83, beginning April 1, 2021, the FAA will no longer grant use of Exemption 18510D outside the United States. The FAA has amended Condition and Limitation No. 8 to prohibit use of this exemption outside the United States beginning April 1, 2021. Certificate holders may use the exemption within the United States until the expiration date stated below.

Pursuant to the authority contained in 49 USC §§ 106(f), 40113, and 44701, delegated to me by the Administrator, part 119 certificate holders conducting part 135 operations are granted an exemption from 14 CFR §§ 61.57(e)(3), 135.245(c), 135.247(a), 135.301(a), 135.323(b),

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<sup>4</sup> The FAA issued Exemption No. 18510 on March 25, 2020.

<sup>5</sup> In issuing Exemption No. 18685, the FAA found that extending the timeframe for certain check airman observations from 24 to 36 months would have no adverse impact on safety based on the low failure rate of check airman observations conducted by the FAA, coupled with the additional mitigations imposed by the conditions and limitations of the exemption. (Docket FAA-2020-0694)

<sup>6</sup> Certificate holders who want to continue to exercise relief from check airman observation requirements after December 31, 2020, must file a letter of intent consistent with the conditions and limitations in Exemption No. 18685.

135.337(g), 135.338(g), 135.340(b), and 135.505(d). This exemption is subject to the conditions and limitations listed below.

### Conditions and Limitations

1. This exemption applies only to part 119 certificate holders who have submitted a Letter of Intent to the FAA at the following address: 9-AVS-AFS200-COVID-Exemptions@faa.gov. The Letter of Intent must state the certificate holder's intention to exercise the relief granted in this exemption and affirm the intention to act consistently with the conditions and limitations herein.
  - a. A certificate holder that submitted a Letter of Intent prior to December 22, 2020, in accordance with the previous issuances of this exemption has met the requirement of Condition and Limitation No. 1 and does not have to submit another letter.
2. This exemption applies only to part 119 certificate holders who have been granted authorization by their assigned principal operations inspector in operations specification A005.
3. This exemption applies only to crewmembers or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation through March 31, 2021.
4. Personnel who complete recurrent training, testing, checking, evaluation, or observation up to or three<sup>7</sup> calendar months after the calendar month in which the training, testing, checking, evaluation, or observation is required will be considered to have taken or completed the training, testing, checking, evaluation, or observation in the calendar month in which it was required.<sup>8</sup>
5. Pilots who are due to complete recency under §§ 135.245(c) or 135.247(a) through March 31, 2021, may complete the requirements of §§ 135.245(c) and 135.247(a) up to one calendar month after the calendar month in which the recency was required.
6. Any part 119 certificate holder requesting to use this exemption must provide a plan to its assigned principal operations inspector with the following information.
  - a. For certificate holders with an accepted SMS, a safety risk assessment.
  - b. For certificate holders without an accepted SMS, a safety analysis and corresponding risk mitigations to be implemented by the certificate holder.
  - c. The method(s) the certificate holder will use in accordance with § 135.329(e)(1) to ensure that each crewmember using relief under Conditions and Limitations Nos. 3, 4, and 5 above remains adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

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<sup>7</sup> With this exemption, a total of three grace months are available to complete the requirements of 14 CFR §§ 135.293(a) and (b) 135.295, 135.297(a) and (b), 135.299(a), 135.337(f), 135.338(f), 135.340(a)(2), 135.343, and 135.505(a).

<sup>8</sup> The three grace months may only be used once for each training, testing, checking, evaluation, or observation requirement for each person. For example, if a pilot competency check under § 135.293(b) was due in September 2020, under Exemption No. 18510C, the pilot could complete the check in October, November, or December and still be considered to have completed the check in September. If the pilot does not complete the check within the three grace months (by the end of December), the pilot must complete requalification training in accordance with § 135.321(b)(8) and the certificate holder's approved training and qualification program.

7. A certificate holder that met Condition and Limitation No. 6 prior to December 22, 2020, must provide a revised plan to its assigned principal operations inspector if the certificate holder intends to apply the relief provided in this exemption to crewmembers or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation in January, February, and March 2021.
8. Unless otherwise prohibited by a foreign country, until March 31, 2021, certificate holders may operate outside of the United States under this exemption. Beginning April 1, 2021, certificate holders may not operate outside of the United States under this exemption. Crewmembers must have in their physical possession, or readily accessible in the airplane, a copy of this grant of exemption when exercising the relief provided. In accordance with the Convention on International Civil Aviation (Chicago Convention), and its Annexes, crewmembers must present a copy of this grant of exemption for inspection upon request by a foreign civil aviation authority.

If you request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2020-0292 (<http://www.regulations.gov>). Any extension or amendment request must meet the requirements of 14 CFR § 11.81.

### **The Effect of Our Decision**

The FAA's decision amends Exemption No. 18510C to 18510D and extends the termination date to June 30, 2021, unless sooner superseded or rescinded.

Sincerely,