



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Aviation Safety

800 Independence Ave  
Washington, DC 20591

July 30, 2020

Exemption No. 18511B  
Regulatory Docket No. FAA-2020-0308

Mr. Andy Cebula  
Vice President, NextGen and New Entrants  
Airlines for America  
1275 Pennsylvania Ave., NW  
Washington, D.C. 20004

Dear Mr. Cebula:

This letter is to inform you that the Federal Aviation Administration (FAA) has granted your petition to extend Exemption No. 18511A. 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 June 30, 2020, you petitioned the FAA on behalf of Airlines for America (A4A) and its members for an extension of Exemption No. 18511A. That exemption from §§ 121.401(b), 121.411(g), 121.412(g), 121.413(b), 121.414(b), 121.439(a), 121.903(e), and 121.1005(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, crewmembers,<sup>1</sup> and aircraft dispatchers due through July 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 original exemption.<sup>2</sup> You request an extension of the exemption to provide relief from the timeframes for completing recurrent

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

<sup>2</sup> The petitioner provided updated information pertaining to the ongoing impacts of COVID-19 to the aviation industry including reduced operations, limitations on crew training capacity to accommodate social distancing and increased disinfection protocols, and the inability of crewmembers to travel to training facilities. In particular, the petitioner noted difficulties faced by aircraft dispatchers in completing route qualification requirements due to a reduction in routes and foreign restrictions on the carriage of non-crewmembers.

training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through September 30, 2020.<sup>3</sup>

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to A4A members and other part 119 certificate holders seeking to exercise the relief. Notwithstanding, the Regional Airline Association, Cargo Airline Association, and National Air Carrier Association submitted comments in support of extending the exemption.<sup>4</sup> These commenters generally expressed that granting an extension of Exemption No. 18511A is in the public interest, will provide certificate holders with the necessary flexibility to safely train crewmembers, and will support continuity of the air transportation system considering the novel coronavirus disease 2019 (COVID-19) public health emergency. Additionally, the Air Line Pilots Association, International (ALPA) submitted comments in opposition to extending Exemption No. 18511.<sup>5</sup> ALPA stated that its May 8, 2020, comments submitted in opposition to the previous extension of Exemption No. 18511 remain valid and expressed particular concern for providing a total of two grace months to complete the “landing currency” requirements of § 121.439(a).

### **The FAA’s Decision**

The FAA has determined that the justification for the issuance of Exemption No. 18511A remains valid with respect to this exemption and is in the public interest. The petitioner requested relief from the timeframes for completing recurrent training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through September 30, 2020. The COVID-19 public health emergency continues to evolve, and the length and nature of its ongoing effects are uncertain. At this time, we are granting this exemption to recurrent training and qualification requirements due through September 30, 2020.<sup>6</sup> The FAA notes that the COVID-19 public health emergency and the circumstances that justified the grant of Exemption No. 18511A continue. Certain training environments, such as crowded classrooms, may pose an unnecessary risk of exposure to crewmembers and aircraft dispatchers. Certificate holders

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<sup>3</sup> The provision of relief for training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through September 30, 2020, necessarily requires an extension of the exemption through December 31, 2020 to accommodate the allowance of two additional grace months for training requirements that already include a grace month. *See* Exemption No. 18511, footnote 6.

<sup>4</sup> Regional Airline Association letter, Docket ID FAA-2020-0308-0062 (July 1, 2020); Cargo Airline Association letter, Docket ID FAA-2020-0308-0063 (July 2, 2020); and National Air Carrier Association letter, Docket ID FAA-2020-0308-0064 (July 2, 2020).

<sup>5</sup> Air Line Pilots Association, International letter, Docket ID FAA-2020-0308-0065 (July 9, 2020).

<sup>6</sup> The inclusion of training due through September 30, 2020 means that, for a crewmember or aircraft dispatcher who was due to complete recurrent training in September as to a requirement that already allowed for one grace month, the original grace month is October. With this two-month extension, the crewmember’s or aircraft dispatcher’s grace months are October, November, and December. If the crewmember or aircraft dispatcher completes the training in October-December, the crewmember or aircraft dispatcher will be considered to have completed it in September. However, the FAA notes that, unlike the other regulatory sections included in the relief provided by this exemption, 14 CFR § 121.439(a) does not already permit a grace month. Thus, for a crewmember who is due to meet the requirements of § 121.439(a) in September, the crewmember’s grace months are October and November, but not December.

reducing class sizes and increasing disinfecting protocols in order to protect the health of their personnel reduces training capacity, which may result in the unnecessary lapse of qualifications.

The FAA emphasizes that this extension does not expand upon the relief already provided to ground personnel, crewmembers, and aircraft dispatchers with training and qualification requirements due through July 31, 2020. Rather, it provides the same relief to a new cohort of ground personnel, crewmembers, and aircraft dispatchers with training and qualification requirements due in August and September 2020. Personnel who complete recurrent training, testing, checking, evaluation, recency, or observation up to either two or three calendar months after the calendar month in which the training, testing, checking, evaluation, recency, or observation is required, 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 No. 4. The FAA finds that providing the same relief to additional ground personnel, crewmembers, and aircraft dispatchers does not present a risk to aviation safety that cannot be mitigated under the conditions and limitations of this grant of exemption.

ALPA commented that extending Exemption No. 18511 would introduce increased risk and asserted that additional conditions and limitations should be added. ALPA asserted that “data proves that inadvertent pilot errors are on the rise due to lack of flying opportunities.” The FAA is not aware of any systemic data that indicates the relief in this exemption has introduced an unacceptable risk to operations. ALPA also asserts that not all A4A member air carriers are applying Exemption No. 18511. The FAA has confirmed that all A4A member air carriers that hold part 119 certificates have been authorized use of Exemption No. 18511, as amended, in their operations specification A005 in accordance with Condition and Limitation No. 2.

ALPA also renewed its concerns with regard to the relief provided to air carriers for takeoff and landing recency.<sup>7</sup> ALPA noted that, while recency in the regulations is specified in terms of days (90 days for three take-offs and landings), the exemption relief is stated in terms of months. The exemption provides an extension of two calendar months. However, ALPA contends the method used by some air carriers to implement the extension has resulted in three-month extensions. The FAA understood when the original Exemption No. 18511 was issued, that the total number of days of extension would vary depending on the date within the month when the pilot’s recency would expire. The FAA understood this variance but retained the two calendar month extension for consistent application with the other relief provided in Exemption No. 18511. As noted, the FAA is not aware of any systemic data that indicates the relief as granted has introduced a level of unacceptable risk to operations.<sup>8</sup> ALPA also asserts, “with operations increasing, the errors shown by the data will likely also increase.” The FAA disagrees. With operations increasing, inherently the flying opportunities for pilots are also increasing. Therefore, the FAA expects that there will be a decrease in the use of the relief in this exemption for recency as pilots increasingly accomplish the required takeoffs and landings while conducting line operations.

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<sup>7</sup> ALPA uses the term “landing currency”; the FAA construes that ALPA is referring to the takeoff and landing recent experience requirements specified in § 121.439(a).

<sup>8</sup> On July 9, representatives of the FAA Flight Standards Service met with ALPA to discuss its concerns about pilot proficiency due to reduced flying opportunities because of the COVID-19 public health emergency among other training issues. As a result of that meeting, Flight Standards has reinforced that principal operations inspectors should review data for their assigned air carrier for any indications of unacceptable risk.

The FAA emphasizes a certificate holder using this exemption must conduct a safety risk assessment. The FAA has amended Condition and Limitation No. 6 to ensure that certificate holders provide a revised plan to mitigate any potential risk introduced by extending the relief to additional ground personnel, crewmembers, and aircraft dispatchers with training and qualification requirements due in August and September. The revised plan must include an updated safety risk assessment that considers relevant data from the certificate holder's safety performance monitoring as required by § 5.71, such as the employee reporting program (e.g., Aviation Safety Action Program (ASAP)) and, if applicable, flight operations quality assurance (FOQA) program. Therefore, the FAA expects that, if data indicated an increase in pilot errors at that certificate holder, the data would guide the certificate holder's decisions on how it will ensure each pilot remains currently proficient in accordance with § 121.415(h)(1) and Condition and Limitation No. 5d.

The FAA is adding § 61.57(e)(2) to the relief provided by this exemption. Section 61.57 contains the recent flight experience requirements for pilots in command of an aircraft carrying passengers or of an aircraft certificated for more than one pilot flight crewmember. Section 61.57(e)(2) provides an exception for a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 121 when the pilot is engaged in a flight operation under part 91 or 121 for that certificate holder if the pilot in command complies with the recent experience requirements of part 121 (§ 121.439). Pilots of certificate holders authorized use of Exemption No. 18511, as amended, may not be in compliance with § 121.439 because the certificate holder has been granted limited relief from its requirements. The FAA did not intend to require these pilots to comply with § 61.57 if the certificate holder used the relief from § 121.439. Therefore, the FAA finds that relief from § 61.57(e)(2) is necessary to meet the intent of the exemption.

Pursuant to the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, delegated to me by the Administrator, part 119 certificate holders conducting training and qualification under part 121 are granted an exemption from 14 CFR §§ 61.57(e)(2), 121.401(b), 121.411(g), 121.412(g), 121.413(b), 121.414(b), 121.439(a), 121.903(e), and 121.1005(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 limitation herein.
  - a. A certificate holder that submitted a Letter of Intent prior to July 30, 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, aircraft dispatchers, or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation through September 30, 2020.
4. Personnel who complete recurrent training, testing, checking, evaluation, recency, or observation up to either two<sup>9</sup> or three<sup>10</sup> calendar months after the calendar month in which the training, testing, checking, evaluation, recency, or observation is required, 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.<sup>11</sup>
5. 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 conducting part 121 operations, a safety risk assessment in accordance with § 5.55.
  - b. For certificate holders conducting part 135 operations with an accepted SMS, a safety risk assessment.
  - c. For certificate holders conducting part 135 operations without an accepted SMS, a safety analysis and corresponding risk mitigations to be implemented by the certificate holder.
  - d. The method(s) the certificate holder will use in accordance with § 121.415(h)(1) to ensure that each crewmember and aircraft dispatcher using relief under Conditions and Limitations Nos. 3 and 4 above remains adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.
6. A certificate holder that met Condition and Limitation No. 5 prior July 30, 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, aircraft dispatchers, or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation in August and September 2020. The revised plan must include an updated safety risk assessment that considers relevant data since the certificate holder began using this exemption.
7. Certificate holders may operate outside of the United States under this exemption, unless otherwise prohibited by a foreign country. 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,

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<sup>9</sup> With this exemption, a total of two grace months are available to complete the requirements of 14 CFR § 121.439(a).

<sup>10</sup> With this exemption, a total of three grace months are available to complete the requirements of 14 CFR §§ 121.411(f), 121.412(f), 121.413(a)(2), 121.413(h), 121.414(a)(2), 121.414(h), 121.433(c)(1)(i) and (ii), 121.440(a), 121.441(a)(1)(ii) and (a)(2), 121.453(a), 121.463(c), and 121.1005(a).

<sup>11</sup> The three grace months may only be used once for each training, testing, checking, evaluation, or observation requirement for each crewmember, aircraft dispatcher, and ground personnel. For example, if a pilot proficiency check under § 121.441(a)(2) was due in April 2020, under the original Exemption No. 18511, the pilot could complete the check in May, June, or July and still be considered to have completed the check in April. If the pilot does not complete the check within the three grace months (by the end of July), the pilot must complete requalification training in accordance with § 121.400(b)(9) and the air carrier's approved training and qualification program.

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-2020-0308 (<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. 18511A to 18511B and extends the termination date to December 31, 2020, unless sooner superseded or rescinded.

Sincerely,

/s/

Robert C. Carty

Deputy Executive Director, Flight Standards Service