



Exemption No. 18511C
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. 18511B. 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 August 25, 2020, you petitioned the FAA on behalf of Airlines for America (A4A) and its members for an extension of Exemption No. 18511B. That exemption from §§ 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) 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,¹ and aircraft dispatchers due through September 30, 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.² You request an extension of the exemption to provide relief from the timeframes for completing recurrent training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through December 31, 2020.³

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

² 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.

³ The provision of relief for training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through December 31, 2020 corresponds to an extension of the exemption through March 31, 2021 to accommodate the allowance of two additional grace months for training requirements that already include a grace month. *See* footnote 8.

The FAA has not published a summary of the petition in the Federal Register because, under 14 CFR § 11.87, the agency determined that good cause exists for not delaying action on the petition. Nonetheless, the Regional Airline Association (RAA) and the Cargo Airline Association (CAA) submitted comments in support of extending the exemption.⁴ These commenters generally expressed that granting an extension of Exemption No. 18511 is in the public interest, will provide certificate holders with the necessary flexibility to train crewmembers safely, and will support continuity of the air transportation system considering the coronavirus disease 2019 (COVID-19) public health emergency. RAA commented that infection rates in some states are now higher than they were when the first exemption was granted.⁵ RAA and CAA both expressed concern with the reduced training class capacity at training facilities to allow for social distancing and enhanced disinfectant protocols. These commenters also stated that travel to and from training locations for commuting crewmembers remains problematic due to reduced air service throughout the system, which is predicted to continue through the end of the year.

Additionally, the Air Line Pilots Association, International (ALPA) submitted comments in opposition to extending Exemption No. 18511.⁶ ALPA stated that its May 8, 2020 and July 9, 2020 comments submitted in opposition to the previous extensions of Exemption No. 18511 remain valid.⁷ ALPA commented that the relief provided by Exemption No. 18511 is no longer warranted now that training centers are open and airlines have implemented procedures to prevent the spread of COVID-19. ALPA reiterated its concern that the exemption is no longer for COVID-19 health concerns but, instead, is being used by the airlines for financial benefit. ALPA contended that continued extensions result in unnecessary and unmitigated safety risks. ALPA asserted that various safety groups have expanded traditional areas of focus to monitor and continue to receive safety reports due to new distractions for crewmembers. ALPA stated that this data is showing an increase in errors being made across the system. ALPA was particularly concerned with the ability to track when pilots are due to complete training or takeoffs and landings under the exemption due to software limitations. ALPA asserted that, as a result of software limitations, unqualified pilots are being scheduled for and are flying revenue flights with passengers on board. ALPA stated that it has identified cases where air carriers are applying the extension for completing the takeoffs and landings to the same pilots more than once. ALPA asserted that the Safety Risk Assessment (SRA) requirement contained within Exemption No. 18511 does not mitigate this safety risk.

⁴ Regional Airline Association letter, Docket ID FAA-2020-0308-0071 (August 26, 2020); and Cargo Airline Association letter, Docket ID FAA-2020-0308-0072 (August 27, 2020).

⁵ RAA's letter incorrectly states that Exemption No. 18511B expires on October 31, 2020 and that an extension is necessary to cover crewmembers with training and currency requirements due between August 1, 2020 and September 30, 2020. Exemption No. 18511B already provides relief from the timeframes for completing recurrent training and qualification requirements for ground personnel, crewmembers, and aircraft dispatchers due through September 30, 2020. As a result, Exemption No. 18511B expires on December 31, 2020, to accommodate the allowance of two additional grace months for training requirements that already include one grace month. The FAA interprets RAA's request to extend the exemption to March 31, 2021, to mean that RAA supports extending the relief to cover persons due to complete training and qualification requirements due through December 31, 2020. *See* footnote 3.

⁶ Air Line Pilots Association, International letters, Docket ID FAA-2020-0308-0073 (September 1, 2020) and Docket ID FAA-2020-0308-0074 (September 10, 2020).

⁷ Air Line Pilots Association, International letters, Docket ID FAA-2020-0308-0051 (May 8, 2020) and FAA-2020-0308-0065 (July 9, 2020).

The FAA's Decision

The FAA has determined that an extension of Exemption No. 18511B is justified and is in the public interest. The FAA has assessed all aspects of the relief provided by this exemption as the 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. The air carrier industry is seeing increases in flight operations and improvements in the availability of facilities and personnel to provide air carrier training, testing, and checking. Many training centers are open. However, these facilities are coping with intermittent closures and disruptions due to COVID-19 contamination and positivity spikes in certain geographic areas. At the same time, as noted by A4A, RAA, and CAA, certificate holders are reducing class sizes and increasing disinfection protocols in order to protect the health of their personnel, which reduces training capacity. As aviation activity resumes, the capacity for training, testing, and checking is still not at pre-COVID-19 levels. The closure of training centers and disruption to air carrier operations at the onset of the COVID-19 public health emergency resulted in backlogs of air carrier training, testing, and checking. The demand to accommodate this backlog exceeds the capacity in many locations, which is likely to cause crewmember qualifications to lapse unnecessarily. For these reasons, the FAA disagrees with ALPA's comments that the relief is no longer warranted now that the training centers are open and airlines have implemented procedures to prevent the spread of COVID-19. The relief in this exemption provides additional time and flexibility for part 119 certificate holders conducting operations under part 121 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, crewmembers, and aircraft dispatchers due through December 31, 2020.⁸ The FAA has determined that the provision of three grace months remains necessary due to the volume of personnel that a certificate holder must accommodate and the number and frequency of training, checking and observational events that must occur within a reduced capacity for part 121 personnel. In addition, the scope of the adverse consequences resulting from lapses in qualifications among part 121 personnel has a greater impact on the public than lapses in other operations because part 121 air carriers transport the majority of the traveling public and critical supplies. Under the extraordinary circumstances of the COVID-19 public health emergency, the FAA finds that the additional time and flexibility provided by this exemption does not present a risk to aviation safety that cannot be mitigated under the conditions and limitations of this grant of exemption. The extent of the relief provided by this exemption is maintained in most areas, except for § 121.439(a).

⁸ The inclusion of training due through December 31, 2020 means that, for a crewmember or aircraft dispatcher who was due to complete recurrent training in December as to a requirement that already allowed for one grace month, the original grace month is January. With this two-month extension, the crewmember's or aircraft dispatcher's grace months are January, February, and March 2021. If the crewmember or aircraft dispatcher completes the training in January-March 2021, the crewmember or aircraft dispatcher will be considered to have completed it in December 2020. 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. Furthermore, for reasons explained in the analysis, this exemption provides only one grace month to complete the recency requirements of § 121.439(a). Thus, for a crewmember who is due to meet the requirements of § 121.439(a) in December, the crewmember's grace month is January, but not February or March.

While the current circumstances warrant an extension of the relief provided by Exemption No. 18511B, the FAA finds it unnecessary to grant the same amount of relief with respect to § 121.439(a). Section 121.439(a) requires each person serving as a required pilot flightcrew member to complete at least three takeoff and landings in the preceding 90 days. In the previous issuances of this exemption, the FAA provided a total of two grace months to complete the recent experience requirements of § 121.439(a). The FAA recognizes that air carrier flight operations have increased since the exemption was first issued in March 2020, and subsequently extended in May 2020 and July 2020. With air carrier flight operations increasing, the FAA finds that pilots have more opportunities to accomplish the takeoffs and landings required by § 121.439(a). As a result, the FAA is providing one grace month, as opposed to two grace months, to pilots due to complete recency in October, November, and December of 2020. The FAA notes that, while air carrier flight operations are increasing, they remain distinctly lower than pre-COVID levels. Therefore, the FAA finds that providing one grace month to accomplish the takeoffs and landings required by § 121.439(a) is justified under the conditions and limitations of this exemption for pilots due to complete recency through December 31, 2020. This relief is reflected in new Condition and Limitation No. 5(a).⁹

The FAA recognizes that the previous issuance of this exemption, Exemption No. 18511B, provided two grace months to pilots due to complete takeoff and landing recency through September 30, 2020, and that certificate holders and pilots have been scheduling flights based on this relief. This extension of Exemption No. 18511 is not intended to reduce any relief for the cohort of pilots that received relief under Exemption No. 18511B. Rather, Exemption No. 18511C grants relief to a new cohort of pilots, namely those due to complete training, testing, checking, evaluation, recency, or observation in October, November, or December. In addition, the relief that was previously issued under Exemption No. 18511B is continued under this exemption. Accordingly, for certificate holders who received authorization to operate under Exemption No. 18511B, the FAA will continue to allow pilots due to complete recency through September 30, 2020, to complete recency up to two calendar months after the calendar month in which recency was required. This is reflected in new Condition and Limitation No. 5(b). Because the extent of relief for § 121.439(a) differs based upon when a pilot is due to complete recency, the FAA has removed the recency relief from Condition and Limitation No. 4 and added it to new Condition and Limitation No. 5. Condition and Limitation No. 5 now states which cohort of pilots maintains two grace months and which cohort of pilot receives one grace month for purposes of completing recency under this exemption.¹⁰ In addition, the FAA is providing the following table to assist certificate holders and pilots in determining when the relief from § 121.439(a) provided in this exemption ends for each group of pilots:

⁹ The FAA notes that, while unlikely, there could potentially be a situation where a certificate holder who was not previously authorized to operate under Exemption No. 18511B receives authorization to operate under this issuance of the exemption. This certificate holder may have pilots who were due to complete the recency requirements of § 121.439(a) in September. In this case, the pilots would receive one grace month under this issuance of the exemption. Condition and Limitation No. 5(a) was drafted to encompass this scenario in addition to the new cohort of pilots due to complete recency in October, November, or December.

¹⁰ Due to the addition of Condition and Limitation No. 5 in this exemption, the FAA has renumbered certain conditions and limitations in this issuance of Exemption No. 18511. The conditions and limitations that were previously numbered 5 through 7 are now numbered 6 through 8.

Cohort of Pilots	Relief from § 121.439(a)	Date on which Relief from § 121.439(a) Terminates
Pilots who were authorized to operate under Exemption No. 18511B (and whose relief is continued in this exemption) and were due to complete recency in August 2020	These pilots may complete recency up to two calendar months after the month in which recency was required	October 31, 2020
Pilots who were authorized to operate under Exemption No. 18511B (and whose relief is continued in this exemption) and were due to complete recency in September 2020	These pilots may complete recency up to two calendar months after the month in which recency was required	November 30, 2020
Pilots who are authorized to operate under this exemption and are due to complete recency in October 2020	These pilots may complete recency up to one calendar month after the month in which recency was required	November 30, 2020
Pilots who are authorized to operate under this exemption and are due to complete recency in November 2020	These pilots may complete recency up to one calendar month after the month in which recency was required	December 31, 2020
Pilots who are authorized to operate under this exemption and are due to complete recency in December 2020	These pilots may complete recency up to one calendar month after the month in which recency was required	January 31, 2021

ALPA commented that extending Exemption No. 18511 would introduce increased risk and asserted that additional conditions and limitations should be added. 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 September 30, 2020. Rather, it provides relief to a new cohort of ground personnel, crewmembers, and aircraft dispatchers with training and qualification requirements due in October, November, and December 2020. 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. The FAA continues to find that providing this limited relief to additional ground personnel, crewmembers, and aircraft dispatchers does not present a risk to aviation safety that cannot be mitigated under the current conditions and limitations of this grant of exemption.

Furthermore, the FAA emphasizes that personnel may use the grace months provided by this exemption only once for each training, testing, checking, evaluation, or observation requirement for each crewmember, aircraft dispatcher, and ground personnel.

ALPA renewed its concerns with regard to data showing an increase in pilot errors and asserted that the Safety Risk Assessment (SRA) requirement contained in Condition and Limitation No. 6 has not resulted in air carriers mitigating this safety risk. The FAA's position on this matter remains unchanged. The FAA is not aware of any systemic data that indicates the relief as granted has introduced a level of unacceptable risk to operations.

The FAA emphasizes a certificate holder using this exemption must conduct an SRA. The FAA understands that certificate holders may use the relief provided by this exemption to varying degrees based on need or the results of SRAs. The FAA has amended Condition and Limitation No. 7 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 October, November, and December 2020. The revised plan must include an updated SRA 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)¹¹ and Condition and Limitation No. 6(d).

In response to ALPA's concerns regarding software limitations and the inability to track when pilots are due to complete training or recent experience requirements under this exemption, the FAA emphasizes that both certificate holders and crewmembers are responsible for compliance with recurrent training and recency of experience requirements. The regulatory language states that no certificate holder may use nor may any person serve as a required crewmember on an airplane unless certain requirements are met (§§ 121.433(c) and 121.439(a)). The FAA notes that there is no requirement that a certificate holder use software to track flightcrew qualification or scheduling. However, certificate holders must maintain current records that show whether each crewmember complies with the applicable training and qualification requirements (§ 121.683(a)(1)). The FAA is not aware of systematic data that demonstrates that unqualified pilots are operating under this exemption and expects that a certificate holder's SMS would account for crew scheduling considerations.

Finally, to the extent that ALPA has broadly asserted that the exemption is no longer for COVID-19 health concerns but, instead, is being used by the airlines for financial benefit, the FAA responds that financial benefit to certificate holders was not considered in granting the

¹¹ Section 121.415(h) requires certificate holders to ensure that each training program provide ground and flight training, instruction, and practice as necessary to insure that each crewmember and aircraft dispatcher remains adequately trained and currently proficient with respect to each airplane, crewmember position, and type of operation in which that person serves.

relief. Consistent with § 11.81,¹² the FAA assessed safety and the public interest in determining that relief is still warranted. As previously explained, the conditions and limitations sufficiently mitigate any potential risk introduced by extending the relief to additional personnel.

Additionally, the limited relief is in the public interest in light of the current circumstances resulting from the COVID-19 public health emergency. Nevertheless, under the conditions of the exemption, crewmembers, aircraft dispatchers, and ground personnel will retain their original base months for training, testing, checking, evaluation, or observation requirements. Thus, personnel who complete the training, testing, checking, evaluation, or observation requirements in accordance with this exemption are merely reducing the timeframe by which the next training, testing, checking, evaluation, or observation requirements must be completed. Accordingly, certificate holders gain no long-term benefit from prolonging completion of these requirements.

The FAA notes that, with aviation activity continuing to increase and the increased availability for personnel to complete training, testing, checking, evaluation, or observation activities, the FAA might not extend relief to additional cohorts of ground personnel, crewmembers, and aircraft dispatchers after this issuance of Exemption No. 18511, provided this improvement continues. The FAA, therefore, encourages certificate holders and their personnel to schedule the necessary training, testing, checking, evaluation, or observation events as soon as it is practical and safe to do so given individual circumstances.

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 September 29, 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 December 31, 2020.

¹² Under § 11.81(d) and (e), the petitioner must include in the petition for an exemption the reasons why granting the request for exemption would be in the public interest, and why granting the exemption would not adversely affect safety. Therefore, in determining whether to grant an exemption, the FAA assesses the effect on aviation safety and whether the relief would benefit the public.

4. Personnel who complete recurrent training, testing, checking, evaluation, or observation up to three¹³ 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.¹⁴
5. For relief from § 121.439(a):
 - a. Except as specified in Condition and Limitation No. 5(b), pilots who are due to complete recency under § 121.439(a) through December 31, 2020 may complete the requirements of § 121.439(a) up to one calendar month after the calendar month in which the recency was required.¹⁵
 - b. For certificate holders who were authorized to operate under Exemption No. 18511B prior to September 29, 2020 pilots who were due to complete recency under § 121.439(a) through September 30, 2020 may continue to complete the requirements of § 121.439(a) up to two calendar months after the calendar month in which the recency was required.¹⁶
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 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, 4, and 5 above remains adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.

¹³ 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).

¹⁴ 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.

¹⁵ With this exemption, one grace month is available to complete the requirements of 14 CFR § 121.439(a) for pilots due to complete recency in October, November or December. In addition, for certificate holders who were not previously authorized to operate under Exemption No. 18511B, this exemption grants one grace month to pilots who were due to complete recency in September.

¹⁶ Exemption No. 18511B previously granted two grace months to this cohort of pilots to satisfy the requirements of § 121.439(a). For reasons explained in the analysis, this relief is continued under this exemption. Thus, for a crewmember who is due to meet the requirements of § 121.439(a) in August, the crewmember's grace months are September and October. 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.

7. A certificate holder that met Condition and Limitation No. 6 prior to September 29, 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 October, November, and December 2020. The revised plan must include an updated safety risk assessment that considers all relevant data since the certificate holder began using this exemption.
8. 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, 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. 18511B to 18511C and extends the termination date to March 31, 2021, unless sooner superseded or rescinded.

Sincerely,