



U.S. Department
of Transportation

**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

In the matter of the petition of

Airlines for America

For an exemption from §§
121.311(g), 121.333(f), 121.391(d),
and 121.573(a) of Title 14, Code of
Federal Regulations

Exemption No. **18522**

Regulatory Docket No. **FAA-2020-0372**

GRANT OF EXEMPTION

Airlines for America (A4A), on behalf of its members, requests an exemption from certain regulations codified in Title 14, Code of Federal Regulations (14 CFR) part 121 pertaining to passenger briefings, flight attendant distribution, and flight attendant seat belt requirements. This relief will allow flight attendants to relocate from the seats they would normally occupy in order to comply with recommendations from the World Health Organization (WHO) and Centers for Disease Control and Prevention (CDC) concerning proximity to other people. In addition, this relief from certain requirements of the regulation concerning passenger briefings will excuse crewmembers from demonstrating the use of certain emergency equipment. For the reasons explained herein, the FAA is granting the requested relief through June 30, 2020, to A4A members and other part 119 certificate holders conducting operations under part 121, when the certificate holder submits a Letter of Intent (in the form and manner described below).

The petitioner requests relief from the following regulations:

Section 121.311(g) prescribes, in pertinent part, that each flight attendant must have a seat for takeoff and landing in the passenger compartment that meets the requirements of 14 CFR § 25.785.

Section 121.333(f) prescribes that, before flight is conducted above flight level 250, a crewmember shall instruct the passengers on the necessity of using oxygen in the event

of cabin depressurization. This regulation also states that a crewmember shall point out to the passengers the location and demonstrate the use of the oxygen-dispensing equipment.

Section 121.391(d) prescribes that, during takeoff and landing, flight attendants required by 14 CFR § 121.391 shall be located as near as practicable to required floor level exits and shall be uniformly distributed throughout the airplane in order to provide the most effective egress of passengers in event of an emergency evacuation. This regulation also states that during taxi, flight attendants required by 14 CFR § 121.391 must remain at their duty stations with safety belts and shoulder harnesses fastened except to perform duties related to the safety of the airplane and its occupants.

Section 121.573(a) prescribes that, in addition to the oral briefing required by 14 CFR § 121.571(a), each certificate holder operating an airplane in extended overwater operations shall ensure that all passengers are orally briefed by the appropriate crewmember on the location and operation of life preservers, liferafts, and other flotation means, including a demonstration of the method of donning and inflating a life preserver.

The petitioner supports its request with the following information:

This grant of exemption was initiated by the FAA Air Transportation Division after extensive discussions with A4A regarding health concerns related to the COVID-19 outbreak. In particular, A4A expressed concerns regarding crewmember compliance with certain regulations codified in part 121 that require close proximity to others. A4A also stated certificate holders conducting operations under part 121 remain concerned about the need for crewmembers to don certain equipment for purposes of demonstration to passengers. Due to the extraordinary circumstances associated with the COVID-19 outbreak, the FAA is construing these conversations, which included a request for expedited relief, as a petition for exemption under 14 CFR § 11.61(b).

COVID-19 was detected in China in December 2019. On January 30, 2020, the World Health Organization (WHO) declared the outbreak a public health emergency of international concern. On January 31, 2020, the Department of Health and Human Services declared a public health emergency for the United States to aid in responding to COVID-19. On March 11, 2020, the WHO characterized COVID-19 as a pandemic, as the rates of infection continued to rise in many locations around the world and across the United States. On March 13, 2020, the President proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency. COVID-19 cases have been reported in all 50 States as well as the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

As the COVID-19 public health emergency progressed, the petitioner contacted the FAA to discuss limited relief from requiring crewmembers to demonstrate the use of certain emergency equipment during passenger briefings in light of the COVID-19 national emergency. During discussion with the FAA, the petitioner expressed concern that some

demonstrations of the emergency equipment unnecessarily expose personnel to the risk of contracting COVID-19. In particular, the petitioner expressed concern that shortages of disinfectant wipes will place crewmembers in the position of donning and demonstrating the oxygen masks and lifevests during passenger briefings without having the equipment properly disinfected prior to each briefing. The petitioner asserted this possibly could lead to transmission of the virus that causes COVID-19. The petitioner is also concerned that the flight attendant jumpseat configuration on many aircraft is inconsistent with recommendations from the WHO and the CDC concerning social distancing.¹ Section 121.391(d) requires flight attendants to remain at their assigned duty stations during critical phases of flight including taxi, take-off, and landing. The petitioner requests the FAA relieve certificate holders from this requirement to allow flight attendants to occupy seats throughout the airplane, rather than only at their assigned duty stations.

The FAA's analysis is as follows:

The FAA finds that there is good cause under 14 CFR § 11.87 not to publish a summary of the petition in the Federal Register because delaying action on the petition would have an adverse and potentially immediate impact on the petitioner's ability to ensure continuity of critical aviation operations essential to the public interest. Because A4A is a trade association and not a certificate holder, it cannot be granted an exemption from FAA operating requirements. Accordingly, the FAA will grant the relief requested by A4A to its members and all other part 119 certificate holders conducting operations under part 121, when requested. To make this exemption effective, each affected certificate holder must submit to the FAA a request in the form of a Letter of Intent to use this exemption and affirm its intentions to comply with the conditions and limitations of this exemption. Along with the Letter of Intent, certificate holders must submit certain, specific information about alternative methods or procedures they will use, to describe the manner in which they will brief passengers on usage of emergency equipment, the procedure the certificate holder will use for location of flight attendants during taxi, or both.

Under the unprecedented circumstances associated with the COVID-19 public health emergency, the FAA finds that limited relief is justified through June 30, 2020, subject to the conditions and limitations outlined below. The FAA agrees that demonstrating certain emergency equipment and requiring flight attendants to remain at certain duty stations might present a risk to the personal health of crewmembers. In particular, certain environments and uses of equipment may pose an unnecessary risk of exposure to crewmembers, who are a population for which the CDC has provided particularized guidance for protecting themselves from COVID-19. Similarly, the co-location of crewmembers might increase the likelihood that significant portions of the certificate holder's qualified personnel could be exposed to

¹ See World Health Organization, Operational Considerations for Managing COVID-19 Cases or Outbreak in Aviation – Interim Guidance (Mar. 18, 2020), available at <https://apps.who.int/iris/bitstream/handle/10665/331488/WHO-2019-nCoV-Aviation-2020.1-eng.pdf?sequence=1&isAllowed=y>. See also Centers for Disease Control and Prevention, Corona Virus Disease 2019 (COVID-19): How to Protect Yourself (Mar. 18, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>.

COVID-19, possibly necessitating at a minimum a period of quarantine resulting in fewer personnel to rely upon in maintaining operations. Based on the concerns A4A articulated, certificate holders and their personnel do not want to assume this health risk. The FAA has determined that this relief is appropriate for operations within as well as outside the United States.

The FAA finds that granting this exemption supports the continuity of air transportation, which is essential in this national emergency. Part 119 certificate holders conducting operations under part 121 are a key part of the United States infrastructure that transports food, supplies, mail, and personnel. The stability of the U.S. transportation system is particularly critical at this time because of the increased demand for food and medical supplies prompted by the COVID-19 public health emergency. Furthermore, given the immediacy of the public health concerns and the urgency of sustaining continuity in air transportation, it would not be feasible for the FAA to timely address ad hoc requests for relief from certificate holders individually.

In view of the extraordinary situation presented by the COVID-19 public health emergency, the FAA finds that allowing certificate holders the discretion through June 30, 2020, to relocate crewmembers from the seats they would normally occupy is in the public interest and does not present a risk to aviation safety that cannot be mitigated under the conditions and limitations below. In this regard, certificate holders that seek to operate in accordance with this exemption must submit procedures to the FAA for review.² The FAA bases these determinations, in part, on the public health recommendations from the WHO and CDC concerning proximity to others. In addition, relieving crewmembers from the requirement to demonstrate the use of oxygen-dispensing equipment by donning certain equipment for demonstration purposes is similarly in the public interest and would not result in a risk to aviation safety that is unacceptable under the conditions and limitations of this grant of exemption. The limited nature of this grant of relief, in conjunction with adherence to the conditions and limitations in this exemption, will limit any risk to aviation safety.

Consistent with the above policy, Condition and Limitation No. 1 requires those members of A4A who seek to exercise the relief provided in this exemption to submit a Letter of Intent to use the relief provided in FAA Exemption No. **18522** prior to conducting any operation under Exemption No. **18522**. Letters of Intent should be submitted by email to the following address: 9-AVS-AFS200-COVID-Exemptions@faa.gov. The FAA will place the letters in the exemption docket in the Federal eRulemaking Portal at: <http://www.regulations.gov>. Certificate holders should retain documentation to verify proper and timely submission of the Letter of Intent. Given the time sensitive nature of the relief required, the FAA will also accept Letters of Intent from other part 119 certificate holders conducting operations under part 121 that are not members of A4A.

² In drafting the procedures for providing appropriate seating for flight attendants, certificate holders might find helpful the FAA Master Minimum Equipment List Policy Guidance regarding seating for flight attendants. See <http://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMEL%20Policy%20Letters>.

As outlined in Condition and Limitation No. 2 below, each certificate holder seeking to use this exemption must obtain authorization in Operations Specification A005. A key factor for obtaining authorization to use this exemption is that the certificate holder conducts a safety risk assessment in accordance with their safety management system (SMS) as outlined in Condition and Limitation No. 5. Every certificate holder operating under part 121 is required to have an SMS (14 CFR part 5), which is a formal, organization-wide approach to managing safety risk and assuring the effectiveness of safety risk controls.

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. 106(f), 40113, and 44701, delegated to me by the Administrator, part 119 certificate holders conducting operations under part 121 are granted an exemption from 14 CFR §§ 121.311(g), 121.333(f), 121.391(d), and 121.573(a). This exemption is subject to the conditions and limitations listed below.

Conditions and Limitations

1. This exemption applies only to part 119 certificate holders conducting operations under part 121 that 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.
2. This exemption only applies to part 119 certificate holders that have been granted authorization by their assigned principal operations inspector in Operations Specification A005. Alternative methods and procedures submitted in accordance with Conditions and Limitations 3, 4, or 5, should be submitted to the assigned principal operations inspector prior to issuance of Operations Specification A005.
3. Part 119 certificate holders that seek to operate in accordance with this exemption must develop and use alternative methods for conducting the passenger safety briefing. Such alternative methods might involve describing or displaying photographs or other depictions of the required safety equipment in a manner that does not involve donning or using the equipment. Certificate holders must submit for FAA review each alternative method that the certificate holder seeks to use under this exemption, as described in Condition and Limitation 2, above.
4. During take-off and landing, flight attendants are required to be located as near as practicable to the required floor level exits and shall be uniformly distributed throughout the airplane in order to provide the most effective egress of passengers in event of an emergency evacuation. During taxi, each flight attendant must be seated with his or her seatbelt fastened, except to perform duties related to the safety of the airplane and its occupants. Certificate holders must submit for FAA review the procedures the certificate holders will use to position flight attendants who are at a location other than their currently assigned duty station. The FAA

must receive these procedures in the manner described in Condition and Limitation 2, above.

5. Any part 119 certificate holder conducting operations under part 121 that requests to use this exemption must provide a safety risk assessment to its assigned principal operations inspector in accordance with 14 CFR § 5.55 that describes the intended use of this exemption and potential risks that could arise from it.
6. Part 119 certificate holders conducting operations under part 121 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-2020-0372 (<http://www.regulations.gov>).

Any extension or amendment request must meet the requirements of 14 CFR § 11.81.

This exemption terminates on 6/30/2020, unless sooner superseded or rescinded.

Issued in Washington, D.C., on April 8, 2020

/s/

Robert C. Carty

Deputy Executive Director, Flight Standards Service