



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

Aviation Safety

800 Independence Ave  
Washington, DC 20591

Exemption No. 18584A  
Regulatory Docket No. FAA-2020-0492

July 9, 2021

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

Dear Mr. Cebula:

This letter is to inform you that the Federal Aviation Administration (FAA) extends Exemption No. 18584 to December 31, 2021. The discussion below reviews your petition for extension, states the agency's decision, lists the conditions and limitations, and describes the decision's effect.

### **The Petition**

By letter dated March 12, 2021, you petitioned the FAA on behalf of Airlines for America (A4A) and its member airlines for an extension of Exemption No. 18584. That exemption from Title 14 Code of Federal Regulations (14 CFR) §§ 91.9(a) and 121.153(a)(2) allows affected A4A members and other part 119 certificate holders conducting operations under part 121 to carry cargo on the main deck of transport category airplanes, including on passenger seats, when no passengers are being transported, without classifying the main deck as one of the compartments defined in 14 CFR § 25.857, through July 10, 2021. The FAA recognized, at the time that it issued the exemption, that the period of reduced passenger demand might persist and that an extension of the exemption could be in the public interest.

In requesting this extension, you cited the original reasons for exemption and emphasized that optimizing the volume of cargo that certificate holders can carry on passenger aircraft would continue to alleviate overall supply chain capacity constraints.

The FAA published a summary of the petition for this extension in the Federal Register on April 21, 2021. 86 FR 20785. The FAA received a comment from Air Line Pilots Association, International (ALPA). ALPA expressed support for extending the exemption for the requested year, due to the continued downturns in passenger traffic and to provide extra cargo lift capability. ALPA also expressed support for the continuation of the exemption's requirements for inflight firefighting duties, including those in Conditions and Limitations

No. 15, 19, and 20. ALPA asked that Condition and Limitation No. 22 require that onboard fires be extinguished rather than suppressed and that crews receive certain training on extinguishment. The FAA notes that this exemption continues to require that operators taking advantage of the relief this exemption provides have sufficient firefighting equipment and training to extinguish a fire before it can become a hazard to the airplane. Moreover, the purpose of manual firefighting is to extinguish a fire. Operators will address specific procedures in each operator's training program. Therefore it is not necessary to change Condition and Limitation No. 22 in this exemption.

### **Our Decision**

The FAA has determined that the justification for the issuance of Exemption No. 18584 remains valid with respect to this exemption and this exemption is in the public interest. As the FAA explained in Exemption No. 18584, passenger-carrying part 121 flights commonly carry "belly cargo" in the lower deck. Also, some communities that cargo aircraft do not serve, rely on the air freight capabilities of passenger-carrying aircraft. Thus, the decline in passenger-carrying flights as a result of COVID-19 diminished the available air freight capacity.

Since the FAA granted Exemption No. 18584, the demand for passenger air travel has significantly increased; however, the amount of air freight capacity available on passenger-carrying part 121 flights remains below pre-COVID-19 pandemic levels. Further, as part of the FAA's assessment of the petition to extend Exemption No. 18584, the agency determined that air freight capacity has not yet been fully restored to all communities, especially those which are dependent on passenger airplanes for such service. The agency also understands that this continuing need was a primary impetus for the petition for extension. The FAA therefore finds that a short-term extension of this exemption will be in the public interest by supporting the continuity of the carriage of air freight. Although the petitioner requested an additional one-year extension of Exemption No. 18584, the FAA is limiting the extension of the exemption until December 31, 2021, based on the FAA's observation of the ongoing trend toward a return to pre-pandemic passenger air travel, and estimation of the continuing need to bolster the capacity for air freight service to certain communities. The FAA notes that the duration of the relief granted by the agency's foreign counterparts is consistent with these estimations.<sup>1</sup>

Therefore, under the authority provided by 49 U.S.C. 106(f), 40113, and 44701, which the FAA Administrator has delegated to me, part 119 certificate holders conducting part 121 operations are granted an exemption from 14 CFR §§ 91.9(a) and 121.153(a)(2) through December 31, 2021. The petition is granted to the extent necessary to allow affected part 119 certificate holders conducting operations under part 121 to carry cargo on the main deck of transport category airplanes, including on passenger seats, when no passengers are being

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<sup>1</sup> This includes the durations of similar relief granted by the European Union Aviation Safety Agency and Transport Canada Civil Aviation.

transported, without classifying the main deck as one of the compartments defined in 14 CFR § 25.857.

All conditions and limitations of Exemption No. 18584 remain in effect and are listed below.

### **Conditions and Limitations**

1. This exemption applies only to 14 CFR 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](mailto: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 applies only to part 119 certificate holders conducting operations under part 121 that have been granted authorization by their assigned principal operations inspector in operations specification A005.
3. Certificate holders may only carry persons described at §§ 121.583(a)(1), (a)(2), (a)(3), and (a)(4)(i) during operations conducted under this exemption.<sup>2</sup>
4. Certificate holders may not transport dangerous goods (hazardous materials as covered in 49 CFR parts 171 through 178) or mail on the main deck of any airplane being used to conduct operations under this exemption.
5. Certificate holders must disable or deactivate passenger convenience and other cabin systems not necessary for safety or normal operations (e.g., in-flight entertainment systems installed in seats, in-seat power, galley systems, and any other heat generating systems) on any airplane used to conduct operations under this exemption, prior to such operation.
6. Certificate holders must deactivate any automatic activation of the passenger oxygen system on any airplane used for conducting operations under this exemption, prior to such operation.
7. Certificate holders may not load cargo in any stowage compartment (including stowage compartments with internal dividers) containing portable oxygen bottles, protective breathing equipment, or equipment containing lithium batteries. The certificate holder must identify or lock each such compartment prior to cargo loading. Certificate holders may not install portable oxygen, or any equipment containing a lithium battery, on any exposed wall surface in areas where cargo is carried.
8. Cargo loaded on a seat must not exceed 50 lbs. per seat place, or 110 lbs. in a single package per triple seat, and must not extend above the seatback height. A certificate holder may exceed the limits specified in this condition and limitation only upon receiving written approval prior to operation. Any request for such approval must be

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<sup>2</sup> Crewmembers and other persons whose duties on board the airplane include fire detection and firefighting are persons necessary for the safety of flight in accordance with § 121.583(a)(4)(i).

submitted to the certificate holder's principal operations inspector and include the following information: the requested cargo weight per seat place, the proposed method of restraint, and the substantiation data that supports the request.

9. Cargo stowed under seats must not exceed 20 lbs. per seat place.
10. Certificate holders must restrain all cargo loaded on each seat, using the primary load path of the seat so that each cargo installation is restrained to the load factors specified in 14 CFR § 25.561 and complies with all other applicable structural retention requirements. Primary load path elements include:
  - a. The seat belt;
  - b. Seat beams (cross tubes); and
  - c. Seat legs.
11. Cargo restrained to the floor must be restrained to the load factors specified in § 25.561 and comply with all other applicable structural retention and weight and balance requirements. Cargo cannot exceed a height of 50 inches. The volume of each cargo loading area, as defined by the access provisions required in Condition and Limitation No. 12, must not exceed 125 cubic feet.
12. Certificate holders must load all cargo in a manner that allows sufficient access to the cargo to allow effective firefighting. Sufficient access to the cargo to allow effective firefighting requires, at a minimum, the following:
  - a. A longitudinal aisle or aisles a minimum of 20 inches wide, that enables a person to traverse it while walking upright.
  - b. Lateral access fore and aft of each cargo loading area that is 15 inches wide.
  - c. The access dimensions required in Condition and Limitation No. 12a and 12b must not be obstructed by the means used for cargo restraint.
  - d. Certificate holders must load any cargo loaded on the main deck of a twin aisle airplane so that, in each section of the main deck, there is a means to cross from one aisle to the other aisle at approximately equal distance from the existing cross-aisles.
13. Certificate holders must not load or restrain cargo in any manner that obstructs decompression vents or airflow when the vents are activated.
14. Certificate holders must provide each person occupying the main deck of the airplane at the time of operation with portable oxygen equipment that meets §§ 25.1439(b)(1)(2) and (4) and 25.1443(e).
15. Certificate holders must ensure that each person whose duties on board the airplane include fire detection and firefighting on the main deck carry the equipment provided under Condition and Limitation No. 14, during their inspections required by Condition and Limitation No. 20.

16. Certificate holders conducting operations authorized by this exemption must make the following fire extinguishers available on the main deck:
  - a. Two Underwriters Laboratories (UL) 2A (2-1/2 gallon) rated water portable fire extinguishers;
  - b. At least two fire extinguishers with a minimum UL 4A-80B: C-rating or equivalent;<sup>3</sup> and
  - c. The quantity and type of fire extinguishers identified in the certificate holder's safety risk assessment required by Condition and Limitation No. 25 in addition to the number required by Condition and Limitation No. 16a and 16b.
17. Certificate holders must locate the fire extinguishers required by Condition and Limitation No. 16 next to the seats occupied by persons identified in Condition and Limitation No. 21e. Certificate holders may provide additional fire extinguishers identified in Condition and Limitation No. 16 at locations that the operator determines would be effective in providing fire protection.
18. Certificate holders must configure the Environmental Control System (ECS) settings of any airplane used to conduct an operation authorized under this exemption, prior to such operation, to minimize the likelihood smoke would enter the flight deck, and to maximize the ability of a crewmember to detect a fire, including:
  - a. Adapt the ECS setting to the number of aircraft occupants.
  - b. If configured with Gasper outlets, turn them to closed/off position for all phases of flight.
19. The minimum number of persons required to perform the duties specified in Condition and Limitation No. 15 is as follows: at least two persons whose duties are to detect and fight a fire and relay information to the flightcrew; and any additional persons identified by the certificate holder through a safety risk assessment that considered, at a minimum, the size of the airplane, the length of flight, and the availability of alternate airports.
20. Persons assigned to inflight fire-fighting duties must make a visual inspection of the cargo on a regular basis, not exceeding 30 minute intervals including prior to taxi, takeoff, and landing.
21. Prior to conducting operations under this exemption, certificate holders must revise the operating manual required by § 121.133 to:
  - a. Identify the minimum number of additional persons required on the main deck under Condition and Limitation No. 19 during an operation conducted under this exemption;

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<sup>3</sup> Four UL 2A-10B: C extinguishers is equivalent to two fire extinguishers with a minimum UL 4A-80B: C-rating.

- b. Include procedures for persons assigned to inflight fire-fighting duties to make a visual inspection of the cargo on a regular basis, not exceeding 30 minute intervals including prior to taxi, takeoff, and landing;
  - c. Include procedures for persons who must carry portable oxygen equipment, or equivalent, when making the inspection required by Condition and Limitation No. 20;
  - d. Include procedures for the flight crewmembers to notify persons in the main deck in case of a decompression;
  - e. Identify which seats must be occupied during takeoff and landing and in emergency situations such as turbulence or decompression, unless each such seat is individually so placarded;
  - f. Include a main deck fire emergency procedure based on manual firefighting; and
  - g. Update any additional existing procedures (including emergency procedures that result from Condition and Limitation 19 and 20), consistent with the conditions and limitations of this exemption.
22. Certificate holders must provide training to each person who will perform duties on an operation authorized by this exemption, prior to the person's performance of such duty.
- a. For currently qualified pilots and flight engineers serving as the flight crew, training must include the following:
    - i. Instruction in the new or revised emergency assignments and procedures to comply with this exemption, including coordination among crewmembers; and
    - ii. Instruction in the configuration of aircraft systems to comply with this exemption.
  - b. For currently qualified crewmembers who will perform the duties specified in Condition and Limitation No. 15, training must include at least the following:
    - i. Instruction in the new or revised emergency assignments and procedures to comply with this exemption, including coordination among crewmembers;
    - ii. Instruction in the location, function, and operation of fire extinguishers required by Condition and Limitation No. 16;
    - iii. Instruction in the handling of a cargo fire in the cabin, including assessing and evaluating hidden fires and removing cargo restraints required by Condition and Limitation Nos. 10 and 11; and
    - iv. Hands-on emergency drill using the fire extinguisher required by Condition and Limitation No. 16 including removing the extinguisher

from the storage location and moving it to the furthest point on the main deck where a fire could occur.

- c. For other persons who will perform the duties specified in Condition and Limitation No. 15, training must include at least the following:
  - i. Instruction in the emergency assignments and procedures to comply with the exemption, including coordination among crewmembers;
  - ii. Instruction in the location, function, and operation of fire extinguishers required by Condition and Limitation No. 16 and the portable oxygen equipment required by Condition and Limitation No. 14;
  - iii. Instruction in the handling of a cargo fire in the cabin, including assessing and evaluating hidden fires and removing cargo restraints required by Condition and Limitation Nos. 10 and 11;
  - iv. Hands-on emergency drill as specified in § 121.417(c)(1)(i) and (ii);
  - v. Hands-on emergency drill using the fire extinguisher required by Condition and Limitation No. 16, including removing the extinguisher from the storage location and moving it to the furthest point on the main deck where a fire could occur; and
  - vi. Hands-on emergency drill as specified in § 121.417(c)(2)(i)(C).
23. If the hands-on emergency drills required by Condition and Limitation No. 22 are conducted using training equipment instead of actual aircraft equipment, the training equipment must be approved in accordance with § 121.408.
24. Certificate holders must provide any main deck occupant, other than a person assigned to duty during flight, with a briefing regarding the use of all emergency equipment, including portable oxygen systems, and on the operation of emergency exits and evacuation procedures.
25. Any part 119 certificate holder requesting to use this exemption must provide the following information to its assigned principal operations inspector:
  - a. A concept of operations listing the airplanes the certificate holder proposes operating, a description of the anticipated frequency of the operations, and a description of the flights the certificate holder plans to conduct.
  - b. Verification that the certificate holder has completed a safety risk assessment to determine the type and quantity of additional fire extinguishers necessary on the main deck. The safety risk assessment must include statements indicating whether additional fire extinguishers of a particular type need to be installed in the main deck in addition to the fire extinguishers identified in Condition and Limitation No. 16a and 16b.
  - c. Verification that the certificate holder has completed a safety risk assessment to determine whether any additional persons are required during an operation under this exemption. The safety risk assessment should include statements

indicating whether more than two persons are required for the operation, in accordance with Condition and Limitation No. 19.

- d. An outline of the curricula that the certificate holder will use to conduct the training required by Condition and Limitation No. 22.

26. Apart from this exemption's application within the United States, 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 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.

This exemption terminates on December 31, 2021, unless sooner superseded or rescinded.

Sincerely,

**MARY A**  
**SCHOOLEY**

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Mary A. Schooley  
Acting Manager, Technical Innovation Policy Branch  
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