



U.S. Department
of Transportation

**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

In the matter of the petition of

**National Air Transportation
Association**

For an exemption from §§ 61.2(a)(5)
and 61.23(d) of Title 14, Code of
Federal Regulations

Exemption No **18515**

Regulatory Docket No. **FAA-2020-0317**

GRANT OF EXEMPTION

The National Air Transportation Association (NATA), on behalf of the pilots employed by its members, requests an exemption from §§ 61.2(a)(5) and 61.23(d) of Title 14 Code of Federal Regulations (14 CFR) pertaining to the validity of medical certificates required for pilots conducting operations outside the United States. These requirements include that pilots must hold a medical certificate that is valid for the type of operation the pilot is conducting.¹

For the reasons explained herein, the FAA is granting an exemption that extends until June 30, 2020, the duration of medical certificates for pilots who conduct part 135 operations outside the United States, employed by NATA members and other part 119 certificate holders, if those medical certificates expire between March 31, 2020, and May 31, 2020. The exemption is granted only to the extent necessary for pilots to continue to serve in their assigned duty position in part 135 operations outside the United States. The FAA is granting the requested relief to those pilots whose employer submits a Letter of Intent (in the form and manner described below).

¹ Per 14 CFR § 61.23(d), a person serving as a pilot-in-command in a part 135 operation that requires an airline transport pilot certificate must hold a first-class medical certificate, and a person serving as a pilot-in-command in all other part 135 operations or as second-in-command in part 135 operations may hold either a first-class medical certificate or a second-class medical certificate.

The petitioner requests relief from the following regulations:

Section 61.2(a)(5) states, in pertinent part, that no person may exercise privileges of a medical certificate issued under 14 CFR part 67 if the medical certificate is expired according to the duration standards set forth in § 61.23(d).

Section 61.23(d) states, in pertinent part, that the duration of a medical certificate depends on the age of the person on the date of the medical examination, the duty position in which the person is serving, the type of operation the person is conducting, and the class of certificate.

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 NATA regarding the ability of pilots, employed by NATA members, to renew their medical certificates during the Coronavirus (COVID-19) outbreak. Due to the extraordinary circumstances associated with the 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 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 World Health Organization (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 declared 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 medical certificate requirements for pilots employed by NATA members in light of the COVID-19 national emergency. During discussions with the FAA, the petitioner expressed concern that the COVID-19 public health emergency will disrupt the ability of pilots to obtain a medical certificate from an aviation medical examiner (AME), resulting in pilot qualifications lapsing. Further, the petitioner expressed concern that aviation medical examinations may expend medical resources that would be better directed toward addressing the public health emergency and introduce personnel to unnecessary risks of exposure.

The petitioner noted that the Enforcement Policy for Expired Airman Medical Certificates issued by the FAA on March 26, 2020, specifically stated that it does not apply to pilots serving in operations outside the United States. As a result, the petitioner further noted that pilots who conduct part 135 operations, employed by NATA members and other part 119 certificate holders, would not be able to conduct operations outside the United States if their

medical certificates were no longer current. The petitioner also cited that NATA members and other part 119 certificate holders may not use a person as a pilot unless that person has a current medical certificate. As a result, the petitioner asserted that NATA members and other part 119 certificate holders would have a reduced number of employed pilots available to conduct operations outside of the United States.

The petitioner expressed concern that this reduction in the number of qualified pilots could jeopardize the continuity of air transportation at a critical time when the movement of food, supplies, mail, and personnel is essential to the public interest.

The FAA's analysis is as follows:

The FAA finds that there is good cause 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 NATA 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 NATA, to pilots employed by NATA members when requested in accordance with the conditions and limitations below. The FAA will also grant relief to pilots employed by part 119 certificate holders conducting part 135 operations that are not members of NATA when requested in accordance with the conditions and limitations below. To make this exemption effective, each affected part 119 certificate holder must submit a Letter of Intent, on behalf of its pilots, to use this exemption and affirm its intentions to comply with the conditions and limitations of this exemption. In addition, the Letter of Intent must contain a comprehensive list of each pilot who will exercise the relief, by name and airman certificate number. The list should include any pilot who holds a medical certificate that will expire during the period between March 2020 and May 2020 and will serve as a required flightcrew member in operations outside the United States.²

The President's March 13, 2020, declaration of a national emergency observed that the spread of COVID-19 within our Nation's communities threatens to strain our Nation's healthcare systems. Widespread transmission of COVID-19 could translate into large numbers of people needing medical care at the same time. The Centers for Disease Control and Prevention (CDC) advises that healthcare facilities and clinicians should prioritize urgent and emergency visits and procedures now and for the coming several weeks. The CDC's advice includes rescheduling elective and non-urgent admissions and postponing routine dental and eye care visits. Additionally, the President and the White House Coronavirus Task Force announced a program called "15 Days to Slow the Spread," a nationwide effort to slow the spread of COVID-19 in the U.S. through the implementation of social distancing at all levels of society.

² As stated in Condition and Limitation No. 1, the pilot must agree to be included on the list.

The FAA agrees that it is not in the public interest at this time to maintain the requirement of an FAA medical examination, which is a nonemergency medical service, in order for pilots with expiring medical certificates to obtain new medical certificates. The FAA finds that the relief granted here is justified, under the conditions and limitations below, because of the burden that COVID-19 places on the U.S. healthcare system, and because these aviation medical examinations increase the risk of transmission of the virus through personal contact between the physician and the applicant for a medical certificate.

On March 26, 2020, the FAA issued an Enforcement Policy for Expired Airman Medical Certificates stating that, due to extraordinary circumstances related to the COVID-19 public health emergency, until June 30, 2020, the FAA will not take legal enforcement action against any person serving as a required pilot flight crewmember or flight engineer based on noncompliance with medical certificate duration standards when expiration of the required medical certificate occurs from March 31, 2020 through June 30, 2020.³ In issuing this policy statement, the FAA determined that pilots and flight engineers may operate beyond the validity period of their medical certificate during the effective period of the policy without creating a risk to aviation safety that is unacceptable under the extraordinary circumstances surrounding the COVID-19 public health emergency. The policy applies only to holders of an FAA-issued medical certificate serving as a required pilot flight crewmember or flight engineer within the United States.

When certificate holders and crewmembers operate outside of the United States, they must be aware of differences between the U.S. regulatory requirements and the regulatory requirements of the foreign state of operation. The FAA notes that, while the March 26, 2020 Enforcement Policy for Expired Airman Medical Certificates affirms the FAA's intention not to take legal enforcement action, it does not extend the validity period of the medical certificates. The Civil Aviation Authorities of other countries may require pilots operating in their system to maintain a valid medical certificate. The FAA finds that limited relief is justified, subject to the conditions and limitations outlined below, to extend the validity period of certain medical certificates so that these pilots may continue to operate outside of the United States, unless otherwise prohibited by a foreign country.

The FAA finds that granting this exemption supports the continuity of air transportation, which is essential in this national emergency. It is reasonable to anticipate that the validity period of medical certificates of pilots, conducting part 135 operations outside the United States and employed by NATA members and other part 119 certificate holders, may lapse unnecessarily because of pressures caused by the COVID-19 public health emergency. Part 119 certificate holders conducting part 135 operations are a key part of the United States infrastructure that transports food, supplies, mail, and personnel. The ability of part 119 certificate holders operating under part 135 to fly internationally is vital to the U.S. supply chain. There are flights that move goods within the United States that must traverse international airspace (e.g., flights to Alaska and Puerto Rico). Further, U.S. suppliers and

³ Per 14 CFR 61.23(d), regardless of whatever day a medical certificate is issued, all medical certificates expire at the end of the last day of the month of expiration.

manufacturers rely on international air transportation to move critical goods and components. 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 pilots individually.

The applicability of this exemption is limited to pilots employed by part 119 certificate holders operating under part 135 outside of the United States, because the continuity of these types of operations is critical to the public interest during the COVID-19 public health emergency. This exemption grants relief from §§ 61.2(a)(5) and 61.23(d), which contain requirements for pilots pertaining to the validity of the medical certificates they must hold to conduct certain operations. These sections do not impose regulatory requirements on the part 119 certificate holders employing these individuals. However, part 119 certificate holders are petitioning on behalf of their pilots because these certificate holders are not able to use a person as a pilot unless that person holds an appropriate and current medical certificate. While this exemption does not directly provide regulatory relief to part 119 certificate holders conducting part 135 operations, the FAA finds that it is necessary for these part 119 certificate holders employing these individuals to comply with certain conditions and limitations below in order to effectuate the purpose and relief of this exemption.

The relief provided in this grant of exemption does not extend to the requirements of § 61.53 regarding prohibition on operations during medical deficiency. This prohibition remains critical for all pilots to observe, especially given the health threat of COVID-19. Accordingly, the FAA emphasizes that under § 61.53, no person who holds a medical certificate issued under part 67 may act as a required pilot flight crewmember while that person: (1) knows or has reason to know of any medical condition that would make the person unable to meet the requirements for the medical certificate necessary for the pilot operation; or (2) is taking medication or receiving other treatment for a medical condition that results in the person being unable to meet the requirements for the medical certificate necessary for the pilot operation.

In view of the extraordinary situation presented by the COVID-19 public health emergency, the FAA finds that the relief granted here does not present a risk to aviation safety that cannot be mitigated under the conditions and limitations of this grant of exemption. These conditions and limitations ensure that certificate holders demonstrate a plan to mitigate any potential risk introduced by extending the validity of pilot medical certificates. The relief applies to requirements for currently qualified pilots. It does not apply to pilots whose medical certificates expired before March 31, 2020.

Consistent with the above policy, if the pilots employed by a NATA member want to exercise relief provided in this exemption, Condition and Limitation No. 1 requires the NATA member to submit a Letter of Intent, on behalf of its pilots, to use the relief provided in FAA Exemption No. 18515 prior to conducting any operation under Exemption No. 18515. The Letter of Intent must list each pilot who will exercise the relief, by name and airman

certificate number. This list is necessary to ensure the FAA knows which individuals are exercising the relief granted in the exemption, to conduct appropriate oversight of such individuals, to foster accountability of those covered by the exemption, and to prevent non-authorized individuals from exercising the privileges granted through the exemption.

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>.⁴ 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 operating under part 135 who are not members of NATA.

As outlined in Condition and Limitation No. 2 below, each certificate holder seeking this relief on behalf of its pilots must obtain authorization in Operations Specification A005. A key factor for obtaining authorization to use this exemption is that the certificate holder tracks personnel whose medical certificates were extended through the exemption and mitigates the potential risk of extending those medical certificates through documented means of risk assessment and control. Some certificate holders operating under part 135 have voluntarily implemented a safety management system (SMS), and those without a formal SMS may have systematic procedures, practices, and policies for the management of safety risk.

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, pilots employed by part 119 certificate holders and conducting part 135 operations outside the United States, are granted an exemption from 14 CFR §§ 61.2(a)(5) and 61.23(d). This exemption is subject to the conditions and limitations listed below.

Conditions and Limitations

1. This exemption applies only to pilots employed by a part 119 certificate holder if that part 119 certificate holder has submitted a Letter of Intent to the FAA at the following address: 9-AVS-AFS200-COVID-Exemptions@faa.gov. The Letter of Intent must contain a comprehensive list of each pilot who will exercise the relief, by name and airman certificate number. Prior to including an individual on the list, the certificate holder must confirm with each individual that the individual agrees with the certificate holder seeking relief on the individual's behalf and that each individual affirms the intention to act consistently with the conditions and limitations herein.
2. This exemption applies only if the part 119 certificate holder has been granted authorization by its assigned principal operations inspector in operations specification A005.

⁴ The FAA will redact the airman certificate number before posting the Letters of Intent to the public docket.

3. This exemption applies only to pilots whose validity period to exercise the privileges of the required medical certificate expires from March 31, 2020 through May 31, 2020.⁵ The medical certificates of these pilots are made valid until June 30, 2020.
4. This exemption applies only to part 135 operations outside the United States. Certificate holders may release flights and pilots may operate outside of the United States under this exemption, unless otherwise prohibited by a foreign country.
5. In accordance with § 135.63(a)(4)(v), part 119 certificate holders must include a copy of this grant of exemption in the individual record of each pilot to which this exemption applies.
6. A part 119 certificate holder requesting to use this exemption must provide the following information to its assigned principal operations inspector:
 - 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.
7. Pilots must have in their physical possession or readily accessible in the aircraft 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, pilots must present a copy of this grant of exemption with their medical certificate for inspection upon request by a foreign Civil Aviation Authority (CAA).

If you request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2020-0317 (<http://www.regulations.gov>).

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

This exemption terminates on 06/30/2020, unless sooner superseded or rescinded.

Issued in Washington, D.C., on 30 March, 2020 .

/s/

Robert C. Carty
Deputy executive Director Flight Standards Service

⁵ For example, a person over 40 years of age must have a part 67 medical examination every six months to remain qualified to serve as a pilot-in-command in part 135 operations that require an airline transport pilot certificate. After six months, if the pilot has failed to obtain a new first-class medical examination, the medical certificate remains valid for other operations including an operation in which the pilot would be exercising only commercial pilot privileges. This exemption extends the validity of a medical certificate to the extent necessary for pilots to continue to serve in their assigned duty position in part 135 operations outside the United States.