



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 §§  
135.293(b), 135.295(e) and (g),  
135.297(c)(1)(i) and (ii),  
135.331(c)(3), (5), and (7),  
135.347(a), and 135.351(b)(2) and  
(c) of Title 14, Code of Federal  
Regulations

Exemption No **18509**  
Regulatory Docket No. **FAA-2020-0291**

### **GRANT OF EXEMPTION**

The National Air Transportation Association (NATA), on behalf of its members, requests an exemption from Title 14 Code of Federal Regulations (14 CFR) part 135 regulations pertaining to certain required crewmember<sup>1</sup> emergency procedures during recurrent and upgrade training, testing, and checking. For the reasons explained herein, the FAA is granting the requested relief to the extent necessary to allow NATA members and other part 135 air carriers/operators that submit a Letter of Intent (in the form and manner described below) to use alternative methods to conduct certain required crewmember emergency procedures during recurrent and upgrade training, testing, and checking.

**The petitioner requests relief from the following regulations:**

Section 135.293(b) states, in pertinent part, that a pilot competency check may include the maneuvers and procedures for the operations authorized.

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

Section 135.295(e) and (g) states, in pertinent part, that recurrent testing of flight attendants must ensure the person is competent in the operation of emergency equipment and passenger oxygen equipment.

Section 135.297(c)(1)(i) and (ii) require a pilot in command instrument proficiency check to include procedures and maneuvers for the applicable level of pilot certificate.

Section 135.331(c)(3), (5), and (7) and 135.351(b)(2) states, in pertinent part, that each crewmember must perform emergency drills and operate emergency equipment including (1) smoke control, (2) use of crew and passenger oxygen, and (3) donning and inflation of life vests and the use of other individual floatation devices, if applicable.

Section 135.347(a) states, in pertinent part, that pilot upgrade flight training must include each of the maneuvers and procedures in the approved curriculum.

Section 135.351(c) states, in pertinent part, that pilot recurrent flight training must include the maneuvers and procedures in the approved curriculum.

**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 on behalf of part 119 certificate holders operating under part 135 due to potential health concerns over the 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 C.F.R. § 11.61(b).

The Coronavirus (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.<sup>2</sup>

As the COVID-19 pandemic progressed, the petitioner contacted the FAA to discuss limited relief from certain recurrent and upgrade training, testing, and checking requirements in light of the COVID-19 national emergency. During discussion with the FAA, the petitioner expressed concern that some training, testing, and checking requirements unnecessarily expose personnel to the risk of contracting COVID-19. Many of these requirements support crewmember emergency training. For example, § 135.295(g) requires that flight attendants demonstrate competence in operating emergency equipment, such as protective breathing

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<sup>2</sup> The FAA observes further that 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 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.

equipment (PBE), and pilot training on smoke and fire procedures requires donning the flight deck oxygen mask. The petitioner expressed concern that shortages of protective masks and disinfectant wipes will place crewmembers in the difficult position of either (1) donning PBE or oxygen masks in training, testing, and checking without proper disinfectant, or (2) having qualifications lapse for failure to complete these requirements due to concern about possible transmission of COVID-19. In addition to the concern of unnecessary health risk, the petitioner expressed concern that a reduction in the number of qualified crewmembers 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 its members and all part 119 certificate holders conducting operations under part 135 when requested. To make this exemption effective, each affected certificate holder must submit to the FAA a request to use this exemption and affirm its intentions to comply with the conditions and limitations of this exemption.

Under the unprecedented circumstances associated with the COVID-19 pandemic, the FAA finds that relief is justified through May 31, 2020, subject to the conditions and limitations outlined below, from certain emergency procedures during training, testing, and checking. The FAA agrees that requiring crewmembers to don PBEs or oxygen masks in training, testing, or checking unnecessarily exposes them to the risk of contracting COVID-19 and is not in the public interest during this time. It is reasonable to anticipate that the qualifications of crewmembers may lapse unnecessarily because certificate holders and their personnel do not want to assume this health risk.

The FAA finds that granting this exemption supports the continuity of air transportation, which is essential in this national emergency. Part 119 certificate holders operating under part 135 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 pandemic. 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 pandemic, the FAA finds that providing relief would not result in a risk to aviation safety that is unacceptable 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 the

alternative methods used by the certificate holder to conduct certain required crewmember emergency procedures during recurrent and upgrade training, testing, and checking. The relief applies to requirements for currently qualified crewmembers and to pilots completing pilot in command upgrade training who were previously qualified on the same airplane type as a second in command. The relief does not apply to requirements for the training and qualification of new personnel.

Consistent with the above policy, Condition and Limitation No. 1 requires those members of NATA who want to exercise the relief provided in this exemption to submit a Letter of Intent to use the relief provided in FAA Exemption No. 18509 prior to conducting any operation under Exemption No. 18509. 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 135 who are not members of NATA.

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 tracks personnel who completed emergency training, testing, or checking using alternative methods and mitigates the potential risk 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. As outlined in Condition and Limitation No. 6 below, each certificate holder seeking to use this exemption must demonstrate and document how the potential risk associated with using alternative methods will be assessed and mitigated. Additionally, as outlined in Condition and Limitation No. 5 below, each crewmember that performs emergency drills using alternative methods must complete the drills using normal procedures during the crewmember's next regularly scheduled recurrent training.

### **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 part 135 operations are granted an exemption from 14 CFR §§ 135.293(b), 135.295(e) and (g), 135.297(c)(1)(i) and (ii), 135.331(c)(3), (5), and (7), 135.347(a), and 135.351(b)(2) and (c). 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.
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 who are required to complete recurrent training, testing, or checking through May 31, 2020 and to pilots completing upgrade training or checking through May 31, 2020.
4. During recurrent or upgrade training, testing or checking of emergency procedures or drills that require the crewmember to don or use emergency equipment that must be placed on or over the head, the certificate holder may use alternative methods to conduct the training, testing, and checking. This paragraph does not apply to initial or transition training, testing, or checking.
5. Any crewmember that performs emergency drills under paragraph 4 using alternative methods must complete the drills using the normal procedures during the person's next regularly scheduled recurrent ground training or within 12 calendar months (plus grace month) of the training using the alternative methods, whichever is earlier.
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 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.
  - c. The alternative methods the certificate holder will use to accomplish the training, testing, and checking described in paragraph 4 above.
  - d. The method(s) the certificate holder will use in accordance with 14 CFR § 135.329(e)(1) to ensure that each crewmember using relief under paragraphs 3 and 4 above remains adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.
7. Certificate holders may operate outside of the United States under this exemption, unless otherwise prohibited by a foreign country.

If you request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2020-0291 (<http://www.regulations.gov>).

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

This exemption terminates on 05/31/2020, unless sooner superseded or rescinded.

Issued in Washington, D.C., on

**Robert Carty**

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