



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 §§
61.2(a)(5), 61.23(d), and 63.3(b) of
Title 14, Code of Federal
Regulations

Exemption No **18516**

Regulatory Docket No. **FAA-2020-0318**

GRANT OF EXEMPTION

Airlines for America (A4A), on behalf of the pilots and flight engineers employed by its members, requests an exemption from §§ 61.2(a)(5), 61.23(d), and 63.3(b) of Title 14 Code of Federal Regulations (14 CFR) pertaining to the validity of medical certificates required for pilots and flight engineers 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 conducting¹ and that flight engineers must hold a current second class or higher medical certificate.

For the reasons explained herein, the FAA is granting an exemption that extends until June 30, 2020, the duration of medical certificates for pilots and flight engineers who conduct part 121 operations outside the United States, employed by A4A 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 and flight engineers to continue to serve in their assigned duty position in part 121 operations outside the United States. The FAA is granting the requested relief to those pilots and flight engineers 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 part 121 operations must hold a first-class medical certificate, a person serving as a second-in-command in part 121 flag or supplemental operations requiring three or more pilots must hold a first-class medical certificate, and a person serving as a second-in-command serving in all other part 121 operations must hold 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.

Section 63.3(b) states, in pertinent part, that a person may act as a flight engineer of an aircraft only if that person holds a current second-class (or higher) medical certificate issued to that person under 14 CFR part 67.

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 the ability of pilots and flight engineers, employed by A4A 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 and flight engineers employed by A4A 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 and flight engineers to obtain a medical certificate from an aviation medical examiner (AME), resulting in pilot and flight engineer 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 and flight engineers serving in operations outside the United States. As a result, the petitioner further noted that pilots and flight engineers who conduct part 121 operations, employed by A4A 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, in accordance with 14 CFR § 121.383(a)(2), A4A members and other part 119 certificate holders may not use a person as a pilot or flight engineer unless that person has a current medical certificate. As a result, the petitioner asserted that A4A members and other part 119 certificate holders would have a reduced number of employed pilots and flight engineers available to conduct operations outside of the United States.

The petitioner expressed concern that this reduction in the number of qualified pilots and flight engineers 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 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 pilots and flight engineers employed by A4A members when requested in accordance with the conditions and limitations below. The FAA will also grant relief to pilots and flight engineers employed by part 119 certificate holders conducting part 121 operations that are not members of A4A 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 and flight engineers, 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 and flight engineer who will exercise the relief, by name and airman certificate number. The list should include any pilot or flight engineer 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

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

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.

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 and flight engineers 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, until June 30, 2020, due to extraordinary circumstances related to the COVID-19 public health emergency, 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 and flight engineers 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 and flight engineers 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 and flight engineers, conducting part 121 operations

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.

outside the United States and employed by A4A 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 121 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 121 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 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 and flight engineers individually.

The applicability of this exemption is limited to pilots and flight engineers employed by part 119 certificate holders operating under part 121 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), 61.23(d), and 63.3(b), which contain requirements for pilots and flight engineers 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 and flight engineers because § 121.383(a) states, in relevant part, that no certificate holder may use any person as an airman unless that person holds an appropriate and current medical certificate. Because this exemption provides relief that allows certain pilots and flight engineers to use a medical certificate with an extended validity period, providing part 119 certificate holders relief from § 121.383(a) is unnecessary. While this exemption does not directly provide regulatory relief to part 119 certificate holders conducting part 121 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 and 63.19 regarding prohibition on operations during medical deficiency. These prohibitions remain critical for all pilots and flight engineers to observe, especially given 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. Additionally, under § 63.19, no person may serve as a flight engineer during a period of known physical deficiency, or increase in physical deficiency, that would make the flight engineer unable to meet the physical requirements for an unexpired medical certificate.

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 and flight engineer medical certificates. The relief applies to requirements for currently qualified pilots and flight engineers. It does not apply to pilots or flight engineers whose medical certificates expired before March 31, 2020.

Consistent with the above policy, if the pilots and flight engineers employed by an A4A member want to exercise relief provided in this exemption, Condition and Limitation No. 1 requires the A4A member to submit a Letter of Intent, on behalf of its pilots and flight engineers, to use the relief provided in FAA Exemption No. 18516 prior to conducting any operation under Exemption No. 18516. The Letter of Intent must list each pilot and flight engineer 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 121 who are not members of A4A.

As outlined in Condition and Limitation No. 2 below, each certificate holder seeking this relief on behalf of its flightcrew members 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 its safety management system (SMS). 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, pilots and flight engineers, employed by part 119 certificate holders and conducting part 121 operations outside the United States, are granted

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

an exemption from 14 CFR §§ 61.2(a)(5), 61.23(d), and 63.3(b). This exemption is subject to the conditions and limitations listed below.

Conditions and Limitations

1. This exemption applies only to pilots and flight engineers 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:
 - a. Contain a comprehensive list of each pilot and flight engineer 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.
3. This exemption applies only to pilots and flight engineers 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 and flight engineers are made valid until June 30, 2020.
4. This exemption applies only to part 121 operations outside the United States. Certificate holders may dispatch or release flights and pilots and flight engineers may operate outside of the United States under this exemption, unless otherwise prohibited by a foreign country.
5. In accordance with § 121.683(a)(1), part 119 certificate holders must include a copy of this grant of exemption in each pilot and flight engineer crewmember record to which this exemption applies.
6. A part 119 certificate holder requesting to use this exemption must provide a safety risk assessment in accordance with § 5.55 to its assigned principal operations inspector.
7. Pilots and flight engineers 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 and flight engineers 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-2020-0318 (<http://www.regulations.gov>).

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 pilot-in-command in part 121 operations. 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 and flight engineers to continue to serve in their assigned duty position in part 121 operations outside the United States.

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 March 30, 2020.

/s/

Robert C. Carty

Deputy Executive Director Flight Standards Service