



September 30, 2020

Exemption No. 18510C  
Regulatory Docket No. FAA-2020-0292

Mr. John McGraw  
Vice President of Regulatory Affairs  
National Air Transportation Association  
818 Connecticut Ave., NW  
Washington, D.C. 20006

Dear Mr. McGraw:

This letter is to inform you that the Federal Aviation Administration (FAA) has granted your petition to extend Exemption No. 18510B. The discussion below reviews the petition, states the decision, lists the conditions and limitations, and describes the decision's effect.

### **The Petition**

By letter dated September 1, 2020, you petitioned the FAA on behalf of the National Air Transportation Association (NATA) for an extension of Exemption No. 18510B. That exemption from §§ 61.57(e)(3), 135.245(c), 135.247(a), 135.301(a), 135.323(b), 135.337(g), 135.338(g), 135.339(b), 135.340(b), and 135.505(d) of Title 14, Code of Federal Regulations (CFR) provides limited relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers<sup>1</sup> due through September 30, 2020.

In your petition, you indicate that there has been no change in the conditions and reasons relative to public interest and safety that were the basis for granting the original exemption.<sup>2</sup> You request that the exemption be extended to provide relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers due through December 31, 2020.<sup>3</sup>

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

<sup>2</sup> The petitioner provided updated information pertaining to the ongoing impacts of COVID-19 to the aviation industry including the backlog of personnel who still require training since the closure of training facilities and stay-at-home orders disrupted normal operations, crewmembers who commute long distances being unable to get to training locations due to reduced flying schedules, and limitations on crew training capacity to accommodate social distancing and increased disinfection protocols. NATA states that many of its members have reduced training capacity by a much as 50 percent.

<sup>3</sup> The provision of relief for training and qualification requirements for crewmembers due through December 31, 2020 corresponds to an extension of the exemption through March 31, 2021 to accommodate the allowance of two additional grace months for training requirements that already include a grace month. *See* footnote 4.

The FAA has not published a summary of the petition in the Federal Register because, under 14 CFR § 11.87, the agency determined that good cause exists for not delaying action on the petition.

### **The FAA's Decision**

The FAA has determined that an extension of Exemption No. 18510B is justified and is in the public interest. The FAA has assessed all aspects of the relief provided by this exemption as the coronavirus disease 2019 (COVID-19) public health emergency continues to evolve and impact the U.S. air transportation system. The FAA finds that current circumstances justify continued relief. The air transportation industry is seeing increases in flight operations and improvements in the availability of facilities and personnel to provide air carrier and operator training, testing, and checking. Many training centers are open. However, these facilities are coping with intermittent closures and disruptions due to COVID-19 contamination and positivity spikes in certain geographic areas. At the same time, as noted by the petitioner, certificate holders are reducing class sizes and increasing disinfection protocols in order to protect the health of their personnel, which reduces training capacity. As aviation activity resumes, the capacity for training, testing, and checking is still not at pre-COVID-19 levels. The closure of training centers and disruption to operations at the onset of the COVID-19 public health emergency resulted in backlogs of air carrier and operator training, testing, and checking. The demand to accommodate this backlog exceeds the capacity in many locations, which is likely to cause crewmember qualifications to lapse unnecessarily. The relief in this exemption provides additional time and flexibility for part 119 certificate holders conducting operations under part 135 to meet certain training and qualification requirements.

The FAA is granting relief from the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers due through December 31, 2020.<sup>4</sup> The FAA has determined that the provision of three grace months remains necessary due to the volume of personnel that a certificate holder must accommodate and the number and frequency of training, checking and observational events that must occur with reduced capacity for part 135 personnel. In addition, the scope of the adverse consequences resulting from lapses in qualifications among part 135 personnel has a significant impact on the public. Part 135 air carriers and operators are critical to the U.S. air transportation system because they operate at smaller airports that are not serviced by part 121 air carriers. Many small part 135 operators provide the only air service available to remote communities and are, therefore, essential for the movement of people, goods, and mail. Under the extraordinary circumstances of the COVID-19 public health emergency, the FAA finds that the additional time and flexibility provided by this exemption does not present a risk to aviation safety that cannot be mitigated under the conditions

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<sup>4</sup> The inclusion of training due through December 31, 2020 means that, for a crewmember who was due to complete recurrent training in December for a requirement that already allowed for one grace month by regulation, the original regulatory grace month is January. With the two-month extension provided by this exemption, the crewmember's grace months are January, February, and March 2021. If the crewmember completes the training in January through March 2021, the crewmember will be considered to have completed it in December 2020. However, the FAA notes that, unlike the other regulatory sections included in the relief provided by this exemption, 14 CFR §§ 135.245(c) and 135.247(a) do not already permit a regulatory grace month. Furthermore, for reasons explained in the analysis, the exemption provides only one grace month to complete the requirements of §§ 135.245(c) and 135.247(a). Thus, for a crewmember who is due to meet the requirements of §§ 135.245(c) and 135.247(a) in December, the crewmember's grace month provided in this exemption is January, but not February or March.

and limitations of this grant of exemption. The extent of the relief provided by this exemption is maintained in most areas, except for §§ 135.245(c) and 135.247(a).

While the current circumstances warrant an extension of the relief provided by Exemption No. 18510B, the FAA finds it unnecessary to grant the same amount of relief with respect to §§ 135.245(c) and 135.247(a). Section 135.245(c) requires each person serving as a second in command to complete certain instrument experience tasks within the preceding 6 calendar months. Section 135.247(a) requires each person serving as a pilot in command to complete at least three takeoff and landings in the preceding 90 days. In the previous issuances of this exemption, the FAA provided a total of two grace months to complete the recent experience requirements of §§ 135.245(c) and 135.247(a). The FAA recognizes that part 135 flight operations have increased since the exemption was first issued in March 2020, and subsequently extended in May 2020 and July 2020. With part 135 flight operations increasing, the FAA finds that pilots have more opportunities to accomplish the requirements of §§ 135.245(c) and 135.247(a). As a result, the FAA is providing one grace month, as opposed to two grace months, to pilots due to complete recency in October, November, and December of 2020. The FAA notes that, while part 135 flight operations are increasing, they remain distinctly lower than pre-COVID levels. Therefore, the FAA finds that providing one grace month to accomplish the requirements of §§ 135.245(c) and 135.247(a) is justified under the conditions and limitations of this exemption for pilots due to complete recency through December 31, 2020. This relief is reflected in new Condition and Limitation No. 5(a).<sup>5</sup>

The FAA recognizes that the previous issuance of this exemption, Exemption No. 18510B, provided two grace months to pilots due to complete recency through September 30, 2020, and that certificate holders and pilots have been scheduling flights based on this relief. This extension of Exemption No. 18510 is not intended to reduce any relief for the cohort of pilots that received relief under Exemption No. 18510B. Rather, Exemption No. 18510C grants relief to a new cohort of pilots, namely those due to complete training, testing, checking, evaluation, recency, or observation in October, November, or December. In addition, the relief that was previously issued under Exemption No. 18510B is continued under this exemption. Accordingly, for certificate holders who received authorization to operate under Exemption No. 18510B, the FAA will continue to allow pilots due to complete recency through September 30, 2020, to complete recency up to two calendar months after the calendar month in which recency was required. This is reflected in new Condition and Limitation No. 5(b). Because the extent of relief for §§ 135.245(c) and 135.247(a) differs based upon when a pilot is due to complete recency, the FAA has removed the recency relief from Condition and Limitation No. 4 and added it to new Condition and Limitation No. 5. Condition and Limitation No. 5 now states which cohort of pilots maintains two grace months and which cohort of pilot receives one grace month for purposes of completing recency under this exemption.<sup>6</sup> In addition, the FAA is providing the

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<sup>5</sup> The FAA notes that, while unlikely, there could potentially be a situation where a certificate holder who was not previously authorized to operate under Exemption No. 18510B receives authorization to operate under this issuance of the exemption. This certificate holder may have pilots who were due to complete the recency requirements of §§ 135.245(c) and 135.247(a) in September. In this case, the pilots would receive one grace month under this issuance of the exemption. Condition and Limitation No. 5(a) was drafted to encompass this scenario in addition to the new cohort of pilots due to complete recency in October, November or December.

following table to assist certificate holders and pilots in determining when the relief from §§ 135.245(c) and 135.247(a) provided in this exemption ends for each group of pilots:

<b>Cohort of Pilots</b>	<b>Relief from §§ 135.245(c) and 135.247(a)</b>	<b>Date on which Relief from § 135.245(c) Terminates</b>	<b>Date on which Relief from § 135.247(a) Terminates</b>
Pilots who were authorized to operate under Exemption No. 18510B (and whose relief is continued in this exemption) and were due to complete recency under §§ 135.245(c) or 135.247(a) in August 2020	These pilots may complete recency up to two calendar months after the month in which recency was required	October 31, 2020	October 31, 2020
Pilots who were authorized to operate under Exemption No. 18510B (and whose relief is continued in this exemption) and were due to complete recency under §§ 135.245(c) or 135.247(a) in September 2020	These pilots may complete recency up to two calendar months after the month in which recency was required	November 30, 2020	November 30, 2020
Pilots who are authorized to operate under this exemption and are due to complete recency under §§ 135.245(c) or 135.247(a) in October 2020	These pilots may complete recency up to one calendar month after the month in which recency was required	November 30, 2020	November 30, 2020
Pilots who are authorized to operate under this exemption and are due to complete recency under §§ 135.245(c)	These pilots may complete recency up to one calendar month after the month in which recency was required	December 31, 2020	December 31, 2020

<sup>6</sup> Due to the addition of Condition and Limitation No. 5 in this exemption, the FAA has renumbered certain conditions and limitations in this issuance of Exemption No. 18510. The conditions and limitations that were previously numbered 5 through 7 are now numbered 6 through 8.

or 135.247(a) in November 2020			
Pilots who are authorized to operate under this exemption and are due to complete recency under §§ 135.245(c) or 135.247(a) in December 2020	These pilots may complete recency up to one calendar month after the month in which recency was required	January 31, 2021	January 31, 2021

The FAA emphasizes that this extension does not expand upon the relief already provided to ground personnel and crewmembers with training and qualification requirements due through September 30, 2020. Rather, it provides relief to a new cohort of ground personnel and crewmembers with training and qualification requirements due in October, November, and December 2020. Personnel who complete recurrent training, testing, checking, evaluation, recency, or observation in accordance with this exemption will be considered to have taken or completed the training, testing, checking, evaluation, recency, or observation in the calendar month in which it was required. *See* Condition and Limitation Nos. 4 and 5. The FAA continues to find that providing this limited relief to additional ground personnel and crewmembers does not present a risk to aviation safety that cannot be mitigated under the current conditions and limitations of this grant of exemption. Furthermore, the FAA emphasizes that personnel may use the grace months provided by this exemption only once for each training, testing, checking, evaluation, or observation requirement for each crewmember and ground personnel.

The FAA has amended Condition and Limitation No. 7 to ensure that certificate holders using this exemption provide a revised plan to mitigate any potential risk introduced by extending the relief to additional ground personnel and crewmembers with training and qualification requirements due in October, November, and December 2020. *See* Condition and Limitation Nos. 6 and 7.

The FAA notes that, with aviation activity continuing to increase and the increased availability for personnel to complete training, testing, checking, evaluation, or observation events, certificate holders and their personnel should schedule the necessary events as soon as it is practical and safe to do so given individual circumstances. The FAA is considering three petitions for exemption submitted by NATA, on behalf of its members, based on the circumstances created by the COVID-19 public health emergency.<sup>7</sup> These petitions also request relief from certain training and qualification requirements, but the requested relief is different from the relief provided by Exemption No. 18510. The FAA is aware that the COVID-19 public health emergency continues to create challenges for part 135 air carriers and operators as well as the FAA that hinder the ability to schedule and accomplish certain training and qualification requirements. The FAA will continue to monitor the need for relief for certificate holders

<sup>7</sup> National Air Transportation Association letters, Docket ID FAA-2020-0693-003 (August 24, 2020); Docket ID FAA-2020-0694-0003 (August 21, 2020); and Docket ID FAA-2020-0695-003 (August 21, 2020).

operating under part 135 based on current circumstances and will address NATA's submissions in the appropriate public dockets.

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 §§ 61.57(e)(3), 135.245(c), 135.247(a), 135.301(a), 135.323(b), 135.337(g), 135.338(g), 135.339(b), 135.340(b), and 135.505(d). 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 limitations herein.
  - a. A certificate holder that submitted a Letter of Intent prior to September 29, 2020, in accordance with the previous issuances of this exemption has met the requirement of Condition and Limitation No. 1 and does not have to submit another letter.
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 or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation through December 31, 2020.
4. Personnel who complete recurrent training, testing, checking, evaluation, or observation up to or three<sup>8</sup> calendar months after the calendar month in which the training, testing, checking, evaluation, or observation is required will be considered to have taken or completed the training, testing, checking, evaluation, or observation in the calendar month in which it was required.<sup>9</sup>
5. For relief from §§ 135.245(c) or 135.247(a):

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<sup>8</sup> With this exemption, a total of three grace months are available to complete the requirements of 14 CFR §§ 135.293(a) and (b) 135.295, 135.297(a) and (b), 135.299(a), 135.337(f), 135.338(f), 135.339(a)(2), 135.340(a)(2), 135.343, and 135.505(a).

<sup>9</sup> The three grace months may only be used once for each training, testing, checking, evaluation, or observation requirement for each person. For example, if a pilot competency check under § 135.293(b) was due in April 2020, under the original Exemption No. 18510, the pilot could complete the check in May, June, or July and still be considered to have completed the check in April. If the pilot does not complete the check within the three grace months (by the end of July), the pilot must complete requalification training in accordance with § 135.321(b)(8) and the certificate holder's approved training and qualification program.

- a. Except as specified in Condition and Limitation No. 5(b), pilots who are due to complete recency under §§ 135.245(c) or 135.247(a) through December 31, 2020 may complete the requirements of §§ 135.245(c) and 135.247(a) up to one calendar month after the calendar month in which the recency was required.<sup>10</sup>
  - b. For certificate holders who were authorized to operate under Exemption No. 18510B prior to September 29, 2020, pilots who were due to complete recency under §§ 135.245(c) or 135.247(a) through September 30, 2020 may continue to complete the requirements of §§ 135.245(c) and 135.247(a) up to two calendar months after the calendar month in which the recency was required.<sup>11</sup>
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 method(s) the certificate holder will use in accordance with § 135.329(e)(1) to ensure that each crewmember using relief under Condition and Limitation Nos. 3, 4, and 5 above remains adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.
  7. A certificate holder that met Condition and Limitation No. 6 prior to September 29, 2020 must provide a revised plan to its assigned principal operations inspector if the certificate holder intends to apply the relief provided in this exemption to crewmembers or ground personnel who are required to complete recurrent training, testing, checking, evaluation, recency, or observation in October, November, and December 2020.
  8. Certificate holders 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-2020-0292 (<http://www.regulations.gov>). Any extension or amendment request must meet the requirements of 14 CFR § 11.81.

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<sup>10</sup> With this exemption, one grace month is available to complete the requirements of §§ 135.245(c) and 135.247(a) for pilots due to complete recency in October, November or December. In addition, for certificate holders who were not previously authorized to operate under Exemption No. 18510B, this exemption grants one grace month to pilots who were due to complete recency in September.

<sup>11</sup> Exemption No. 18510B previously granted two grace months to this cohort of pilots to satisfy the requirements of §§ 135.245(c) and 135.247(a). For reasons explained in the analysis, this relief is continued under this exemption. Thus, for a crewmember who is due to meet the requirements of §§ 135.245(c) and 135.247(a) in August, the crewmember's grace months are September and October. For a crewmember who is due to meet the requirements of §§ 135.245(c) and 135.247(a) in September the crewmember's grace months are October and November.

**The Effect of the FAA's Decision**

The FAA's decision amends Exemption No. 18510B to 18510C and extends the termination date to March 31, 2021, unless sooner superseded or rescinded.

Sincerely,

/s/

Robert C. Carty

Deputy Executive Director, Flight Standards Service