



U.S. Department
of Transportation

**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

In the matter of the petition of

Air Medical Operators Association

For an exemption from §§
135.323(b), 135.619(d)(2), and
135.621(b) of Title 14, Code of
Federal Regulations

Exemption No. **18537**

Regulatory Docket No. **FAA-2020-0412**

PARTIAL GRANT OF EXEMPTION

The Air Medical Operators Association (AMOA), on behalf of its members, requests an exemption from Title 14 Code of Federal Regulations (14 CFR) part 135 pertaining to the timeframes for completing recurrent training and testing requirements for certain air ambulance personnel. For the reasons explained herein, the Federal Aviation Administration (FAA) is granting the requested relief to the extent necessary to allow AMOA members and other part 135 air ambulance operators that submit a Letter of Intent (in the form and manner described below) to complete recurrent training and testing activities up to three calendar months after the month in which the activity was due to have been completed.

Under certain part 135 regulations, there is an existing “grace month” for completing certain training requirements. This exemption would allow two additional grace months for the completion of certain recurrent training and testing requirements, creating a total of either two or three grace months for completion depending on the requirement.

The petitioner requests relief from the following regulations:

Section 135.323(b) prescribes that, whenever a crewmember who is required to take recurrent training under this subpart completes the training in the calendar month before, or the calendar month after, the month in which that training is required, the crewmember is considered to have completed it in the calendar month in which it was required.

Section 135.619(d)(2) prescribes, in pertinent part, that no certificate holder may use, nor may any person perform the duties of, an operations control specialist unless the operations control specialist has satisfactorily completed certain training requirements, including that, every 12 months after satisfactory completion of the initial training, each operations control specialist must complete a minimum of 40 hours of recurrent training on various enumerated topics and

pass an FAA-approved knowledge and practical test given by the certificate holder on those topics.

Section 135.621(b) provides, in pertinent part, that a required briefing of medical personnel prior to each helicopter air ambulance operation may be omitted if all medical personnel on board have satisfactorily completed the certificate holder's FAA-approved medical personnel training program within the preceding 24 calendar months. Each training program must include a minimum of 4 hours of ground training, and 4 hours of training in and around an air ambulance helicopter, on various enumerated topics.

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 AMOA regarding the ability of AMOA's members to satisfy impending recurrent training and testing requirements for air ambulance personnel due to concerns over Coronavirus Disease 2019 (COVID-19). Due to the extraordinary circumstances associated with COVID-19, 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, and renewed that declaration on April 21, 2020.¹

As the COVID-19 public health emergency progressed, the petitioner contacted the FAA to discuss limited relief from certain recurrent training and testing requirements. During discussions with the FAA, the petitioner expressed concern that the COVID-19 public health emergency will disrupt training and testing activities, resulting in operations control specialist (OCS) and medical personnel qualifications lapsing because such personnel may not be able to access training facilities. Further, the petitioner expressed concern that classroom-training environments may introduce personnel to unnecessary risks of exposure. Some personnel who may require recurrent training during the next few months are in categories that the Centers for Disease Control and Prevention (CDC) have identified as at a higher risk for severe illness resulting from COVID-19.² In addition to the concern about unnecessary health risk, the petitioner also expressed concern that a reduction in the number of qualified personnel could jeopardize the continuity of air medical transportation services.

¹ 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 public health emergency. COVID-19 cases have been reported in all 50 states as well as the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

² The CDC advises that COVID-19 poses a serious risk to older adults, people who are pregnant, or people of any age who have underlying medical conditions, such as asthma, diabetes, or a weakened immune system.

The petitioner recognizes that the FAA granted the National Air Transportation Association (NATA), on behalf of its members, an exemption (Exemption No. 18510) from part 135 regulations pertaining to the timeframes for completing recurrent training and qualification requirements for ground personnel and crewmembers due through May 31, 2020. The petitioner asserts, however, that additional relief for OCS and medical personnel is necessary to ensure the continuity of air medical transportation services.

The FAA's analysis is as follows:

The FAA finds that there is good cause under 14 CFR § 11.87 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 air ambulance operations essential to the public interest.

Under the unprecedented circumstances associated with the COVID-19 public health emergency, the FAA finds that relief sought by AMOA from §§ 135.323(b) and 135.619(d)(2) is justified, subject to the conditions and limitations outlined below, from timeframes for completing certain training and testing requirements due through May 31, 2020. The FAA agrees that allowing two additional grace months for completing the §§ 135.323(b) and 135.619(d)(2) requirements is in the public interest during this time.³ Certain training environments, such as crowded classrooms, may pose an unnecessary risk of exposure to personnel who are among the population that CDC has identified as high risk. This co-location of personnel increases the likelihood that significant portions of the certificate holder's qualified personnel could be exposed to COVID-19, possibly necessitating, at a minimum, a period of quarantine resulting in fewer personnel to rely upon in maintaining operations. It is reasonable to assume that the qualifications of air ambulance personnel may lapse unnecessarily because certificate holders and their personnel do not want to assume this health risk.

The FAA finds that a grant of exemption supports the continuity of air ambulance operations, which is essential in this public health emergency. Part 119 certificate holders conducting air ambulance operations are critical in supporting essential, effective emergency medical service. Furthermore, given the immediacy of the public health concerns and the urgency of sustaining the continuity of such operations, it would not be feasible for the FAA timely to address ad hoc requests for relief from certificate holders individually.

In view of the extraordinary situation presented by the COVID-19 outbreak, the FAA finds that allowing two additional grace months for completing the covered training and testing requirements 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 personnel qualification. The relief applies to requirements for currently qualified

³ For example, for an OCS who is due to meet the requirements of § 135.619 in May, the grace months are June and July. A total of three grace months are available to complete the requirements of § 135.323, which independent of this exemption already permits one grace month.

personnel only. It does not apply to requirements for the training and qualification of new personnel.

The FAA further finds that relief from § 135.621(b) is not justified. This provision identifies requirements for medical personnel training that serves as an alternative to the pilot briefing otherwise required by § 135.621(a). Given that this training under § 135.621(b) is permissive and an alternative already exists, an exemption from § 135.621(b) is not in the public interest.

Because AMOA is a trade association and not a certificate holder, AMOA cannot be granted an exemption from FAA operating requirements. Accordingly, the FAA will make this partial grant of relief available to AMOA members and all part 119 certificate holders conducting air ambulance operations under part 135 when requested. To make this exemption effective, each affected certificate holder must submit to the FAA a request in the form of a Letter of Intent to use this exemption and affirm its intentions to comply with the conditions and limitations of this exemption.

Condition and Limitation No. 1 requires those members of AMOA 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. 18537 prior to conducting any operation under Exemption No. 18537. Letters of Intent should be submitted by email to the following email address: 9-AVS-AFS200-COVID-Exemptions@faa.gov. The FAA will place the letters in the exemption docket in the Federal eRulemaking Portal at: <https://www.regulations.gov/docket?D=FAA-2020-0412>. 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 air ambulance operations under part 135 who are not members of AMOA.

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 whose due months or grace months were extended through the exemption and mitigates the potential risk of extending those due months or grace months 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. 5 below, each certificate holder seeking to use this exemption must demonstrate and document how the potential risk associated with extending grace months will be assessed and mitigated.

The FAA's Decision

In consideration of the foregoing, I find that a partial 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 air

ambulance operations are granted an exemption from 14 CFR §§ 135.323(b) and 135.619(d)(2). 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 personnel who are required to complete recurrent training or testing through May 31, 2020.⁴
4. Personnel who complete recurrent training or testing up to three calendar months⁵ after the calendar month in which the training or testing is required will be considered to have taken or completed the training or testing in the calendar month in which it was due.
5. 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 personnel using relief under paragraphs 3 and 4 above remain adequately trained and currently proficient for each aircraft, duty position, and type of operation in which the person serves.
6. Part 119 certificate holders conducting operations under part 135 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.

⁴ This exemption does not cover personnel covered by Exemption No. 18510.

⁵ With this exemption, a total of two grace months are available to complete the requirements of § 135.619(d), which does not already provide for a grace month. A total of three grace months are available to complete the requirements of § 135.323, which independent of this exemption already permits one grace month.

If you request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2020-0412 (<http://www.regulations.gov>).

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

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

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