



In the matter of the petition of

AIRLINES FOR AMERICA

For an exemption from § 121.463(c)
of Title 14, Code of Federal
Regulations

Exemption No. **18804**
Regulatory Docket No. **FAA-2021-0079**

DENIAL OF EXEMPTION

By letters dated January 27 and February 12, 2021,¹ Mr. Andy Cebula, Vice President, NextGen and New Entrants, Airlines for America (A4A), 1275 Pennsylvania Ave. NW, Suite 1300, Washington, DC 20004 petitioned the Federal Aviation Administration (FAA) on behalf of A4A's member airlines for an exemption from § 121.463(c) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would suspend the requirement for annual aircraft dispatcher recurrent operating familiarization until March 31, 2022. The petition seeks to allow aircraft dispatchers who have completed operating familiarization in previous 24 months to remain qualified.

The petitioner requests relief from the following regulation:

Section 121.463(c) states, in pertinent part, that no certificate holder conducting domestic or flag operations may use any person, nor may any person serve, as an aircraft dispatcher unless within the preceding 12 calendar months the aircraft dispatcher has satisfactorily completed operating familiarization consisting of at least 5 hours observing operations under part 121, in one of the types of airplanes in each group to be dispatched. This observation shall be made from the flight deck. The requirement of this paragraph may be satisfied by observation of 5 hours of simulator training for each airplane group in one of the simulators approved under § 121.407 for the group. However, if the requirement of paragraph (a) is met by the use of a simulator, no reduction in hours is permitted.

¹ The letter dated February 12, 2021, was in response to an FAA request for additional information. See FAA Docket No. FAA-2021-0079-0002

The petitioner supports its request with the following information:

The petitioner requests relief from § 121.463(c), as it pertains to the completion of operating familiarization by aircraft dispatchers within the preceding 12 calendar months, until March 31, 2022. The petitioner states that operating familiarization is an important component of aircraft dispatcher training and qualification. The petitioner asserts that the ability to observe operations from the perspective of the flight crew greatly enhances an aircraft dispatcher's knowledge and understanding of the operation. The petitioner states that operating familiarization promotes enhanced situational awareness, crew/dispatch resource management, decision-making, and team building. The petitioner states that familiarization flights are required annually. However, due to concerns over flight crew safety during the COVID-19 public health emergency, the petitioner asserts that the requested relief would provide important flexibility previously provided by Exemption No. 18511C.²

The petitioner states that it did not request an extension of Exemption No. 18511C because of the past ability of operators to manage the flight crew training, testing, checking, evaluation, or observation activities. However, the petitioner states that, because of the growing adverse impacts of the Coronavirus disease 2019 (COVID-19) and expanding travel restrictions, the need for relief for aircraft dispatcher operating familiarization continues. The petitioner asserts that an exemption until March 31, 2022 is necessary and in the public interest to cover affected personnel with aircraft dispatcher recurrent operating familiarization due between March 1, 2021 and March 31, 2022. Specifically, the petitioner seeks relief from the requirements of § 121.463(c) as it pertains to the completion of operating familiarization within the preceding 12 calendar months until March 31, 2022, to reduce the risk of exposure to COVID-19 to aircraft dispatchers and flight crewmembers. The petitioner clarified that it selected March as the date for implementation of the requested relief because, when the issue of the increase in positive COVID-19 diagnoses among the aircraft dispatcher cadre became a concern and it filed the petition, the training for January was in process, and the training for February was in the scheduling process. The petitioner clarified that it requests that the requirement for aircraft dispatcher recurrent operating familiarization be suspended until March 31, 2022 if an aircraft dispatcher has completed operating familiarization within the past 24 months.³

The petitioner states that many air carrier training centers are open and coping with intermittent closures and disruptions due to COVID-19 contamination and positivity spikes in certain geographic areas. The petitioner asserts that the capacity for training, testing, checking, and observations is still far below pre-COVID-19 levels. The petitioner states that the closure of training centers and disruption to air carrier operations at the onset of the COVID-19 public health emergency resulted in backlogs of air carrier training. The petitioner clarified that, as the backlog of flight training and more specifically simulator training events are resolved and a

² Exemption No. 18511, as amended, provided relief to allow part 119 certificate holders conducting training and qualification under part 121 to complete certain training, testing, checking, evaluation, recency, or observation requirements up to three calendar months after the requirements were due. Exemption No. 18511C terminated on March 31, 2021. *See* Docket ID FAA-2020-0308.

³ A4A's February 12, 2021, letter states that it requests that the requirement for aircraft dispatcher recurrent operating familiarization be suspended until March 31, 2021. Based on reading both of the petitioner's letters in their entirety, the FAA assumes this was a typographical error and that the petitioner requests that the requirements be suspended until March 31, 2022.

normal frequency of scheduling training events returns, it is not the availability of events that presents the hurdle to meeting the aircraft dispatcher operating familiarization requirement. Rather, the petitioner contends that the challenge is the threat of exposure to COVID-19 and potential for transmissibility when exposed to the close environment of the flight deck and the resulting impact on the relatively small population of aircraft dispatchers within a flight operations department. The petitioner states that there is a natural hesitancy for pilots and instructors in a training or operational environment to allow the introduction of unknown individuals who are not part of the required flight crew, potentially increasing the risk of exposure. The petitioner asserts that the same is true for aircraft dispatchers who are hesitant to expose themselves to an unknown pilot/instructor population in an environment that may significantly increase the risk of exposure to the virus for those who have health issues or other medical risk factors.

The petitioner states that, during the 60 days prior to filing the original petition, its member carriers experienced significant cases of COVID-19 spread between pilots. The petitioner contends that this workplace spread raises significant concerns with adding another person to the confined space in an aircraft flight deck or simulators where physical distancing is not possible. The petitioner states that its members are prohibiting observers from occupying simulators. The petitioner notes that FAA has reduced or restricted its personnel from flight decks and simulators over similar concerns throughout the course of the pandemic.⁴ The petitioner states that the small population of aircraft dispatchers makes even low numbers of positive cases critical to overall staffing and operational integrity. The petitioner asserts that the small numbers of qualified aircraft dispatchers make it difficult to provide reserve and standby staffing to manage irregular operations caused by a spike in COVID-19 transmission.

The petitioner states that most of its member airlines' qualified aircraft dispatchers have worked as aircraft dispatchers for 10 or more years and, thus, have completed 10 or more operating familiarization flights. The petitioner describes the demographic breakdown of aircraft dispatchers at one of its major air carriers, which it believes to be representative of its members. The petitioner states that, at the air carrier, 80 percent of dispatch staff have completed 5 or more operating familiarization cycles, with just 14 out of 296 active aircraft dispatchers having completed 2 cycles or less. The petitioner recognizes that operating familiarization is an important component of aircraft dispatcher training and qualification. However, the petitioner does not believe that aircraft dispatchers exceeding the normal 12-month interval between operating familiarization presents a hazard to flight safety. The petitioner contends that temporarily suspending aircraft dispatcher recurrent operating familiarization is in the interest of the public health and the personal safety of the employees. The petitioner states that relief from the requirements of § 121.463(c) as it pertains to the completion of operating familiarization within the preceding 12 calendar months until March 31, 2022, will not adversely affect public safety because all aircraft dispatchers covered by the requested relief have previously completed operating familiarization every year.

⁴ The FAA notes that there has been no general restriction on FAA inspector access to flight decks or simulators during COVID-19. FAA Flight Standards offices are making risk-based determinations regarding inspector travel and ability to support checks and observations based on individual circumstances and COVID-19 conditions in certain geographic areas.

The petitioner believes a grant of exemption would be in the public interest for the purpose of reducing the potential spread of COVID-19 among essential workers in the transportation industry. The petitioner states that, based on the information provided in this petition, it believes it is prudent for the FAA to grant the requested relief from § 121.463(c), as it pertains to the completion of operating familiarization within the preceding 12 calendar months until March 31, 2022.

The FAA's analysis is as follows:

A summary of the petition was published in the Federal Register on March 16, 2021, (86 FR 14514). One anonymous comment was received that did not relate to A4A's petition and is therefore beyond the scope of this document.

The FAA has fully considered the petitioner's supporting information. The FAA finds that a grant of exemption to suspend the requirement for aircraft dispatcher recurrent operating familiarization until March 31, 2022, would adversely impact aviation safety and would not be in the public interest.

Section 121.463(c) requires that each aircraft dispatcher complete recurrent operating familiarization every 12 calendar months in one type of aircraft from each aircraft group in which the aircraft dispatcher is qualified to dispatch. The requirement for aircraft dispatcher recurrent operating familiarization was established in 1972 when the FAA updated aircraft dispatcher qualification requirements to account for advances in air navigation since § 121.463 was established. The final rule amended the requirements for aircraft dispatcher initial operating familiarization under § 121.463(a) to require aircraft dispatcher operating familiarization in each group of aircraft to be dispatched, rather than in each type of aircraft. However, the final rule added the requirement for aircraft dispatcher recurrent operating familiarization under § 121.463(c).⁵

The petitioner stated that operating familiarization is an important component of aircraft dispatcher training and qualification. The FAA agrees and finds that it is necessary for aircraft dispatchers to complete recurrent operating familiarization in accordance with § 121.463(c) to ensure that each aircraft dispatcher remains appropriately qualified to perform his or her assigned duties and responsibilities. As noted by the petitioner, operating familiarization enables the aircraft dispatcher to observe flight operations from the perspective of the flight crew and enhances the aircraft dispatcher's knowledge and understanding of flight operations. The FAA agrees with the petitioner that aircraft dispatcher operating familiarization enhances situational awareness, crew and dispatch resource management, decision-making, and team building. The petitioner asserts that a grant of exemption to suspend the requirement for aircraft dispatcher recurrent operating familiarization until March 31, 2022, would not adversely impact safety because the majority of aircraft dispatchers have completed multiple operating familiarization flights in their tenure.⁶ The petitioner believes there are no hazards to flight safety resulting from

⁵ 35 FR 11035, 37 FR 5606.

⁶ In its January 27, 2021 petition, the petitioner states that most of its member airlines' qualified aircraft dispatchers have worked as aircraft dispatchers for 10 or more years and have completed 10 or more operating familiarization flights. In the additional information submitted February 12, 2021, the petitioner describes the demographic

a portion of aircraft dispatchers exceeding the normal 12-month interval between operating familiarization flights. The FAA's position on the need for operating familiarization every 12 calendar months has not changed. The FAA finds that the petitioner has not provided sufficient information or safety mitigations to justify suspending aircraft dispatcher recurrent operating familiarization until March 31, 2022.

The petitioner contends that a grant of exemption would continue to provide the flexibility previously provided by Exemption No. 18511C. The FAA finds that the relief requested by the petitioner exceeds the relief granted in Exemption No. 18511C. Exemption No. 18511C did not suspend the requirement for aircraft dispatcher recurrent operating familiarization for 12 calendar months. It provided scheduling flexibility within a 3-month timeframe for an aircraft dispatcher to complete the required operating familiarization. Exemption No. 18511C was granted to provide flexibility during the COVID-19 public health emergency, which caused training facility closures, training backlogs, and decreased flight operations. The FAA notes that the air carrier industry is seeing increases in flight operations and improvements in the availability of facilities and personnel to complete training and qualification activities since the onset of COVID-19. Further, the petitioner clarified that the availability of simulator training events does not present a hurdle to meeting the aircraft dispatcher recurrent operating familiarization requirement. Considering these improvements, the FAA finds that the petitioner has not provided compelling evidence to justify why a longer timeframe is needed to complete the operating familiarization.

The petitioner believes a grant of exemption would be in the public interest for the purpose of reducing the potential spread of COVID-19 among essential workers in the transportation industry. The petitioner contends that the requirement to complete aircraft dispatcher recurrent operating familiarization places an unnecessary health risk on the aircraft dispatcher, as well as, the operating flight crew and check airmen and/or instructors required to operate the flight or simulator. The FAA acknowledges that the COVID-19 public health emergency has caused significant disruptions to the operations of many air carrier certificate holders. These disruptions have led to many new challenges being faced by certificate holders. The FAA continually monitors impacts of COVID-19 on the aviation industry and finds that the current circumstances do not justify granting the broad relief requested by the petitioner.⁷

The FAA notes that 12 calendar months have passed since the FAA first granted relief from certain training and qualification requirements to support air transportation during the COVID-19 public health emergency.⁸ The FAA expects that this timeframe is sufficient for certificate holders to have implemented appropriate plans, processes, and procedures to allow ground personnel and crewmembers to complete recurrent training and qualification requirements in the timeframes required by the applicable regulations. Additionally, the daily increase in the overall

breakdown of aircraft dispatchers at one of its major air carriers, which it believes to be representative of A4A's members. The petitioner states that, at the air carrier, 80 percent of dispatch staff have completed 5 or more operating familiarization cycles.

⁷ The FAA acknowledges that, in the time period leading up to the submission of the petition for exemption, there was a nationwide increase in COVID-19 infections. However, with the increased availability of COVID-19 vaccines, the rate of infection has decreased significantly since that time. https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases.

⁸ The FAA issued Exemption No. 18511 on March 25, 2020.

number of persons vaccinated also reduces the risk of exposure to COVID-19. Furthermore, there are several agencies providing guidance, resources, and scientific-based evidence on mitigating the risk of COVID-19 exposure.⁹ The FAA recommends certificate holders use these resources in the development of their plans, processes, and procedures to schedule and complete the recurrent training and qualification requirements, including aircraft dispatcher recurrent operating familiarization.

The FAA's Decision:

In consideration of the foregoing, I find that a grant of exemption would not be 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, the petition of Airlines for America for an exemption from 14 CFR § 121.463(c) is hereby denied.

Issued in Washington, D.C., on .

⁹ The FAA published Safety Alert for Operators (SAFO) 20009, COVID-19: Updated Interim Occupational Health and Safety Guidelines for Air Carriers and Crews (Nov. 4, 2020). https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2020/SAFO_20009.pdf.