



May 16, 2013

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building Ground Floor
Room W12-140
Washington, DC 20590

Re: **Petition for Exemption**

To Whom It May Concern:

The Air Line Pilots Association, Int'l (ALPA), representing more than 50,000 pilots at 33 air carriers in the United States and Canada, submits this "Petition for Exemption" pursuant to 14 C.F.R. Sections 11.61 and 11.63. ALPA is joined in this request by Airlines for America (A4A). Specifically, petitioners request a limited exemption from the requirement of holding a First Class medical certificate pursuant to 14 C.F.R. Section 61.23 (a)((1)(i) for pilots holding airline transport pilot certificates (ATPs) but *not* flying as Captain in 14 C.F.R. Part 121 operations.

Background and Regulatory Framework Requiring Clarification or Modification

Pilots serving as Captain in Part 121 Operations have long been required to hold ATP certificates and, pursuant to 14 C.F.R. Section 61.23(a)(1)(i), First Class medical certificates. For decades, pilots holding a Commercial Pilot Certificate have been able to fly as First Officers (aka Second-In-Command ("SICs")) in Part 121 Operations without meeting the qualifications requirements of an ATP certificate. Pilots exercising the privileges of a Commercial Pilot Certificate are required to hold at least a Second Class medical certificate per 14 C.F.R. Section 61.23 (a)(2). For these many years, covering

millions of FAR 121 flight operations, pilots have safely operated the aircraft as First Officers with a Second Class medical certificate.

The Airline Safety and Federal Administration Extension Act of 2010 (Public Law 111-216), 49 U.S.C. § 44701 Note (2010) (“the Act”) implemented new pilot qualification standards, including the mandate that SICs in part 121 operations are required to “have obtained” or to “hold” an ATP certificate by the statutory deadline of August 2, 2013. *Id.* (Section 216, Flight Crewmember Screening and Qualifications (a)(2)(B)(i) and (c)). The threshold requirements for an ATP are more rigorous than those of a Commercial Pilot Certificate, including a higher minimum age, more extensive aeronautical experience, a greater number of flight hours, and additional flight proficiency standards. *Cf.* 14 C.F.R. Part 61 Subpart F with Subpart G. The Act has further raised the bar for ATP qualification by requiring additional rulemaking to modify the requirements for the issuance of an ATP certificate and enumerating the items to be considered by the FAA in the course of that rulemaking. (*See* Section 217). As a result of section 217 of the Act, FAA proposed rulemaking to modify the requirements of the ATP and to establish a new “restricted” ATP.

ALPA strongly supports the requirement for SICs in part 121 operations to hold an ATP or a restricted ATP, and submitted comments so stating in the FAA’s Rulemaking on *Pilot Certification and Qualification Requirements for Air Carrier Operations*, Docket No. FAA-2010-0100; Notice No. 12-01 (April 28, 2012, attached hereto).

A significant number of pilots represented by ALPA who hold ATPs – and thus meet the statutory qualification requirement to fly as captains – nonetheless fly as SICs because they are capable of satisfying the requirements for Second Class medical certificates, but minor medical issues prevent them from holding First Class medical certificates. Unless the FAA clarifies or modifies its regulations, many long-standing SICs with years of exemplary flying experience who otherwise meet the Act’s ATP qualification requirement may nonetheless be disqualified and unable to continue their careers because of existing FAA regulations conditioning an ATP on holding a First-Class medical certificate. Moreover, unless the regulations are amended, future pilots who fully satisfy the rigorous qualification standards necessary to obtain an ATP might be deemed ineligible to fly in 121 operations unless they also obtain a First Class medical certificate. Precluding ATP-qualified pilots from flying is not required nor intended by the Act. Accordingly, we submit this Petition for Exemption from 14 C.F.R. Section 61.23 (a)(1)(i), to ensure that SICs may be (and continue to be) authorized to exercise the privileges of the ATP while holding a Second Class medical certificate.

The Language and Intent of the Act

The Act is very explicit in the language used in Sections 216 and 217 to mandate enhanced ATP qualifications for pilots flying in part 121 operations. First, standards are enhanced by requiring *all* flight crewmembers to hold ATP certificates by the specified effective date, including SICs. Second, Congress required additional FAA rulemaking to raise the bar for ATP qualification and *specifically identified* each area to be addressed in such rulemaking. Thus, congressionally specified minimum requirements require pilots to have “sufficient flight hours to function effectively in an air carrier operational environment;” to have received “flight training, academic training, or operational experience that will prepare a pilot” to function effectively “in a multi-pilot environment;” in “adverse weather conditions, including icing conditions;” to “function effectively during high altitude operations;” to “adhere to the highest professional standards; and function effectively in an air carrier operational environment.” (Section 217(b)). Further, the law specifies a requisite number of flight hours, including “hours flown in difficult operational conditions” for minimum ATP qualification. The Act does not state any concern or have a specific requirement for any specified level of medical qualification. Rather, the detail and focus of the law makes clear that its intent is to address pilot aeronautical qualification – as shown by flight training, academic training, and operational experience.

The new statutory requirement that *every* SIC must hold an ATP is an elevated qualification requirement imposed by the Act. Consistent with that statutory language and intent, we urge the FAA to ensure that all present and future SICs who meet the ATP flight, academic and operational qualification requirements, and the current Second Class medical standards, be permitted to continue flying under part 121 operations.

The Necessity For Clarification, Modification or Exemption from the Regulations

14 C.F.R. Section 61.23(a)(1)(i) states that (with exceptions not relevant hereto) a person must hold a first-class medical certificate “when exercising the privileges of an airline transport pilot certificate” To impose that requirement on *every* SIC after the effective date of the Act’s universal ATP requirement, is wholly unnecessary, unduly burdensome and will cause extreme hardship to numerous SICs. As discussed above, the Act itself imposes no such requirement nor does implementing the regulation as written effectuate any statutory goal. Rather, such language has generally applied to Captains whose position in part 121 operations necessitated both an ATP and a First Class medical.

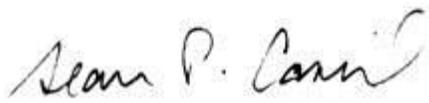
As mentioned above, for decades and millions of FAR 121 flights, First Officers have safely operated aircraft in FAR 121 operations while holding a Second Class medical certificate. We believe that continuing to permit First Officers to fly with a Second Class medical would not adversely affect safety. In fact, changing the current medical certification requirement could force highly qualified and demonstrably safe pilots out of the airline workforce. While FAA cites PL 111-216 as the reason to make First Class medical certificates a requirement, we do not believe that it was the intent of congress to require ALL pilots in FAR 121 operations to hold a 1st class medical certificate. We urge the FAA to act promptly to prevent any adverse effect on qualified SICs. The immediate granting of an exemption from Section 61.23(a)(1)(i) for all SICs will rectify this situation. Granting this exemption will most certainly maintain an equivalent level of safety. The FAA could, of course, also choose to modify or clarify the regulation itself to limit its application to pilots flying as Captains in 121 operations.¹

The Public Interest

We believe that granting this exemption would be in the public interest. The strong safety record of the US airline industry has been achieved while using experienced SICs holding Second Class medical certificates. There has been a demonstrated need to improve the training and other qualifications of the SIC position, as evidenced by Public Law 111-216, but there has been no such demonstrated need to improve the medical qualifications of these individuals in order to maintain or improve safety. It is in the public interest to ensure that otherwise qualified SICs are not forced from airline employment solely because they do not meet the medical requirements of Captains.

¹ While we think that the most equitable and uniform approach is either the granting of an exemption to all SICs, or a change to the regulation, if the FAA rejects this approach we alternatively request that current SICs be “grandfathered” or otherwise credited for their experience so as not to be disqualified by the First Class medical requirement of Section 61.23(a).

Sincerely,



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cc: P. Gilligan, Assoc. Admin. for Aviation Safety, FAA

Attachment