



U.S. Department
of Transportation
**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

In the matter of the petition of

Patient AirLift Services

For an exemption from § 61.113(c) of
Title 14, Code of Federal Regulations

Exemption No. 10294D

Regulatory Docket No. FAA-2011-0324

PARTIAL GRANT OF EXEMPTION

By letter dated February 14, 2019, you petitioned the Federal Aviation Administration (FAA) on behalf of Patient AirLift Services (PALS) for an extension and amendment to Exemption No. 10294C, as amended. That exemption from § 61.113(c) of Title 14, Code of Federal Regulations (14 CFR) allows PALS to reimburse its volunteer pilots for fuel costs incurred in conducting charitable flights. The amendment you request would:

1. Amend Condition and Limitation No. 1 (a), to include flights for humanitarian purposes. Such humanitarian flights include transporting emergency personnel, equipment, and supplies in time of emergency or public need.
2. Change the language of Condition and Limitation No. 13 (b) and (c). The current language specifies completion of the online Aircraft Owners and Pilots Association (AOPA) Foundation Air Safety Institute Courses: “Public Benefit Flying, Balancing Safety and Compassion, and Single Pilot IFR”. According to the petition, sometime during 2019, the course “Single Pilot IFR” will no longer be available. PALS request an amendment to the language of Condition and Limitation 13 No. (b) and (c) as follows:
 - a. Principles and methods of managing passenger needs and special equipment;
 - b. Principles and methods of aviation professionalism, decision-making, risk management and mitigation, and determining personal minimums.

The petitioner requests relief from the following regulation:

Section 61.113(c) prescribes, in pertinent part, a private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.

Although PALS only requested relief from § 61.113(c), the FAA finds that PALS also requires relief from the following regulation:

Section 61.113(a), which prescribes, in pertinent part, that no person who holds a private pilot certificate may act as a pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may that person, for compensation or hire, act as pilot in command of an aircraft.

The petitioner supports its request with the following information:

The petitioner states, since its inception, the fuel reimbursement program has been highly successful. The petitioner explains that not all pilots can afford to conduct charitable flights because a single flight could cost hundreds of dollars in aviation fuel. The petitioner states as a result of Exemption No. 10294, PALS has been able to encourage pilots to volunteer their time and aircraft for flights transporting children and adults for necessary medical care. The petitioner asserts that the relief provided in this exemption has been instrumental in the success of furthering PALS' mission of arranging free flights. According to the petitioner, under this exemption, PALS volunteer pilots have conducted hundreds of flights for children and adults requiring necessary medical treatment at facilities far from their homes. The petitioner states that, in furtherance of PALS' mission to arrange free flights through volunteer pilots for people in need, PALS respectfully requests an extension of Exemption No. 10294 with the modifications.

The petitioner's first request is to change Condition and Limitations No. 1 (a) to include flights for humanitarian purposes. According to the petitioner, many volunteer flights that directly serve the public interest are not for medical purposes alone and such flights include humanitarian flights transporting emergency personnel, equipment, and supplies in time of emergency or public need. The petitioner states that humanitarian flights comprised 12% of PALS flights over the last two years. The petitioner expresses that including humanitarian flights under this exemption would make it possible for many more experienced pilots with limited funds to participate, and allow PALS to greater serve the public interest. The petitioner further explains the additional relief would encourage more pilots to participate in the program, which results in increased safety, as pilots participating in the exemption would meet higher qualifications, training, requirements and standards.

The petitioner's second request is to change the language of Condition and Limitations No. 13 (b) and (c). The petitioner states the current language specifies completion of the online AOPA Foundation Air Safety Institute Courses: "*Public Benefit Flying: Balancing Safety and Compassion*" and "*Single Pilot IFR*". The petitioner notes that the *Single Pilot IFR* course will no longer be available through the Air Safety Institute sometime in 2019 due to changing technology. The petitioner asserts that since PALS does not have control over these specific courses or their availability, an amendment to the language of Condition and Limitation No. 13 (b) and (c.) should read as follows:

- b. Principles and methods of managing passenger needs and special equipment;
- c. Principles and methods of aviation professionalism, decision-making, risk management and mitigation, and determining personal minimums;

The petitioner notes that the proposed change in language is consistent with Exemption No. 10009E (Angel Flight Mid-Atlantic), Condition and Limitation No. 13 and as such demonstrates a level of safety equivalent to and consistent with regulation and does not set a precedent.

According to the petitioner, the requested modifications to the conditions and limitations would allow PALS volunteer pilots to perform more charitable flights, helping more patients access the medical treatment they so desperately need, and serving the public good. Additionally, the petitioner states an extension would allow PALS to continue to offer the fuel reimbursement program to encourage pilots, who could not otherwise afford to participate in their program, to volunteer their time and aircraft in support of PALS' medical and humanitarian services.

The FAA's analysis is as follows:

A summary of the petition was published in the Federal Register on March 27, 2019 (84 FR 11628). The comment period closed on June 16, 2019.

The FAA received one comment in response to PALS's petition for an exemption from § 61.113(c).

The commenter disagrees with the petitioner's request to remove the "Public Benefit Flying: Balancing Safety and Compassion" course requirement. The commenter states it collaborated with the AOPA Foundation Air Safety Institute to produce the course, "Public Benefit Flying: Balancing Safety and Compassion," in response to a recommendation of the National Transportation Safety Board (A-10-104). The commenter asserts that since the course is specifically tailored to volunteer pilot activities, it is the best source of information available.

The commenter affirms that many organizations require completion of the course for all pilots, regardless of whether they are able to receive reimbursement. In addition, the commenter states, by encouraging the utilization of this course it will increase its longevity and provide the incentive to commit the resources to provide maintenance and updates. The FAA amended similar grants of exemption to PALS' requested relief to reflect the removal of the AOPA Foundation Air Safety Institute Course: "Public Benefit Flying: Balancing Safety and Compassion course," as well as the "Single Pilot IFR" course. It is important to note, as of December 31, 2018, the "Single Pilot IFR" course is no longer accessible on AOPA's website. The FAA found that it is not responsible for the quality control of such courses and therefore cannot guarantee the relevancy of the content. To that end, the FAA disagrees with the commenter's request to continue to require PALS to include "Public Benefit Flying: Balancing Safety and Compassion" course requirement. Therefore, the FAA removed the AOPA course requirement from Condition and Limitation No. 13 (b) and (c), as well as added specific areas to include in PALS' initial ground training program.

The commenter supports PALS' request to expand the applicability of its current exemption to include volunteer flights for the humanitarian purpose of transporting personnel, equipment, and supplies in time of public emergency. The commenter states, historically, volunteer pilot organizations (VPO) that are primarily engaged in arranging medical transport have stepped into making their pilots available to provide various forms of aid following events such as the 9/11 attacks, hurricanes, floods and other disasters. The commenter believes that this serves an important public interest that justifies amending PALS' existing exemption to cover such flights. The FAA finds that the charitable efforts of pilot who volunteer their time and piloting services in times of emergency are commendable. However, the petitioner did not provide a detailed description of how expanding the relief would not adversely affect safety, nor did the petitioner provide a detailed explanation as to how the relief would benefit the public as a whole. Additionally, the petitioner did not explain how PALS intends to implement the requested humanitarian flights into its existing operation, e.g., updated risk management/mitigations, risk assessment tool, and initial/recurrent training program, etc. Moreover, PALS did not provide its intended parameters or criteria for determining which event(s) classify as an "emergency" or "public need" to be eligible to receive the additional relief.

PALS' request to include the transportation of emergency personnel, equipment, and supplies in times of emergency or public need ventures beyond the scope provided in Section 821 of Public Law 112-95. Section 821 requires that the FAA allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals) within certain limitations. These limitations include if the aircraft owner or operator has: (1) volunteered to provide such transportation; and (2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight

operation is for charitable purposes and is not subject to the same requirements as a commercial flight. The FAA continues to recognize the practical implications and benefits of charity flights and continues to issue exemptions for flights described by Section 821. However, the law does not include relief for the transportation of non-essential emergency personnel and cargo. If the FAA were to grant the same relief to the majority of the regulated community, it would be considered rulemaking by exemption, which would be contrary to the statutory requirements of the Administrative Procedure Act.

The FAA has previously denied petitions for exemption similar to PALS' additional requested relief to allow reimbursement for expenses for operations involving transportation of personnel and cargo. As with similar requests with this relief, the FAA has determined that the petitioner's request would be contrary to the requirements of § 61.113(c). Since such operations include reimbursement for more than the pro rata share of operating expenses for transporting personnel or cargo, the reimbursement would constitute compensation and would be considered a commercial operation for which a part 119 operator's certificate would be required. Therefore, the FAA found that allowing PALS to include the transportation of emergency personnel, equipment, and supplies would not be in the public interest.

The FAA's Decision

The FAA has amended the conditions and limitations of Exemption No. 10294 at the request of the petitioner and to standardize the relief with similarly granted exemptions. While the relief does not change substantially, all users of the exemption should thoroughly review the revised conditions and limitations.

Condition and Limitations No. 5 (g) now requires an instrument proficiency check (IPC) in accordance with the Instrument Rating Airplane - Airman Certification Standards (ACS), which supersedes the Instrument Rating Practical Test Standards.

Condition and Limitations No. 12 has been amended to remove the AOPA Flight Risk Evaluator as a sample risk assessment tool because the FAA is not responsible for the quality control of such products and therefore cannot guarantee the relevancy of the content.

Condition and Limitations No. 13 has been amended to remove the AOPA Foundation Air Safety Institute Courses "Public Benefit Flying: Balancing Safety and Compassion" and "Single Pilot IFR." The FAA is not responsible for the quality control of such courses and therefore cannot guarantee the relevancy of the content. Therefore, the FAA had added specific areas to include in PALS' initial ground training program.

Condition and Limitations No. 17 has been amended to clarify our original intent to prohibit the use of this exemption outside the United States.

Condition and Limitations No. 19 is included to clarify the FAA's discretion in granting this exemption.

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, I hereby grant Patient AirLift Services an exemption from 14 CFR § 61.113 (a) and (c) to the extent necessary to allow for reimbursement of its volunteer pilots for fuel costs incurred in conducting charitable flights, subject to the following conditions and limitations. The FAA is not amending the relief to include humanitarian flights, but will grant exclusion of the AOPA Foundation Air Safety Course requirements.

Conditions and Limitations

1. Definitions:
 - a. Charitable Medical Flight (CMF): A flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals), if the aircraft owner or operator has volunteered to provide such transportation.
 - b. Volunteer Pilot Organization (VPO): An organization that:
 - i. is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; and
 - ii. is organized for the primary purpose of providing, arranging, or otherwise fostering charitable medical transportation.
2. Before exercising the relief granted by this exemption, PALS must ensure it meets the definition of a VPO and that the flight meets the definition of a CMF, as specified in Condition and Limitation No. 1. In addition, PALS must receive a determination by the Internal Revenue Service (IRS) that the organization meets the requirements for 501(c)(3) tax-exempt status before exercising the relief granted by this exemption.
3. This exemption may be exercised only for CMFs conducted by PALS. A CMF includes flights that are intended to reposition the aircraft to the client pick-up location, as well as reposition the aircraft following the client drop-off. Repositioning flights must be from the aircraft home base to and from the point of client pick-up/drop-off location by the most practical route.

4. PALS must ensure the following items are available to any representative of the FAA Administrator, upon request:
 - a. A detailed description of PALS' process for verification of pilot qualification and training. This process must include a means to verify pilots' qualifications to act as pilot-in-command (PIC) prior to each flight;
 - b. Documentation showing all PALS' pilots' flight experience, airman certificate information, and currency of FAA medical certificate;
 - c. Documentation from each pilot showing that at the time he/she accepts a CMF under this exemption, he/she meets all minimum standards and appropriate currency requirements established by PALS, part 61, and all conditions and limitations of this exemption; and
 - d. Documentation of each flight and reimbursement containing the following information, at a minimum:
 - i. Name and pilot certificate number of the PIC;
 - ii. Name and identifier of the departure and arrival airports;
 - iii. Name of all occupants of the airplane excluding the PIC;
 - iv. Date and time of departure and arrival; and
 - v. Amount of the fuel reimbursement.
 - e. All the documentation required under Condition and Limitation No. 4 must be maintained by PALS for a minimum of 24 calendar months.
5. All pilots operating under the terms of this exemption must possess the following certificates, qualifications and aeronautical experience:
 - a. An instrument rating or Airline Transport Pilot (ATP) certificate that is appropriate to the aircraft being flown;
 - b. A minimum total flight time of 500 hours, with no less than 400 hours as PIC, and a minimum of 50 hours in the specific make and model of the aircraft being flown;

- c. A minimum of 50 hours as PIC must have been logged within the preceding 12 calendar months immediately preceding the month of the flight;
 - d. A minimum of 12 hours flown and logged within the preceding 3 calendar months prior to the month of flight. In lieu of this requirement, a pilot may have logged 2 hours of flight training with a certificated flight instructor within the preceding 3 calendar months prior to the month of the flight;
 - e. A second-class medical certificate (per §§ 61.23(a)(2)(ii) and 61.2);
 - f. A current flight review (per § 61.56(a)) in the same aircraft category, class, and type (if a type rating is required) being flown;
 - g. Within the preceding 12 calendar months, an instrument proficiency check (IPC) meeting the requirements of § 61.57(d). The IPC must be conducted in accordance with the Instrument Rating - Airplane Airman Certification Standards, as applicable. This requirement can be substituted by a FAA practical test for an ATP certificate or instrument rating;
 - h. In addition to meeting the IPC requirement of § 61.57(d) as specified in Condition and Limitation No. 5 (g), the pilot must meet the recent flight experience requirements of § 61.57(c), in the same aircraft category, class, and type (if a type rating is required) being flown; and
 - i. For all operations under this exemption, the pilot must meet the recent flight experience requirements for night operations (per § 61.57 (b)) in an aircraft of the same category, class, and type (if a type rating is required).
6. All operations under this exemption must be in compliance with the following flight duty, rest, and flight time limitations (a duty day starts when the pilot arrives at the airport and begins preparation for the flight and terminates upon completion of the post flight inspection of the aircraft):
- a. No pilot may fly more than 8 hours of flight time (per § 61.1) within any 24-consecutive-hour duty day period;
 - b. No pilot may perform a duty day in excess of 12 consecutive hours; and
 - c. Once the pilot has performed 12 consecutive hours of duty, the pilot must rest a period of at least 12 hours before conducting any other CMF.

7. Prior to each takeoff, the PIC must ensure that all occupants have been orally briefed on the following:
 - a. The flight is being permitted under this grant of exemption and that the operator is not a certificated commercial operator;
 - b. When, where, and under what conditions smoking is allowed;
 - c. Use of safety belts, shoulder harnesses, and child restraint systems: When, where, and under what conditions it is necessary to fasten passenger safety belts and, if installed, shoulder harnesses;
 - d. The placement of seat backs in an upright position before takeoff and landing;
 - e. Location and means for opening the passenger entry door and emergency exits;
 - f. Location of survival equipment;
 - g. Use of normal and emergency oxygen installed; and
 - h. Location and operation of fire extinguishers.

An FAA sample briefing document can be found in the July/August 2014 edition of the FAA Safety Briefing Magazine, located online at:
http://www.faa.gov/news/safety_briefing/2014/media/JulAug2014.pdf#page=26

8. PALS must implement procedures to notify the passengers (or their legal guardians) who will be on the flight that the flight operation is for charitable purposes and is not subject to the same FAA requirements as a commercial flight. These procedures must allow for the notification to be given as early as possible to the passengers (or their legal guardians). Such notification must also be provided to any individual who inquires about receiving or scheduling a CMF.
9. Each aircraft operated under this exemption must have a standard airworthiness certificate.
10. The aircraft must be maintained and inspected in accordance with 14 CFR part 91 Subpart E, 14 CFR part 43, or other inspection programs approved by the FAA.
11. All pilots operating under this exemption must comply with the following requirements:

- a. All flights operated under this exemption must activate an IFR flight plan. The earliest the flight plan may be canceled is upon visual contact with the destination airport;
 - b. For flights in instrument meteorological conditions (IMC), each pilot may only use airports that have a functioning, published, precision approach procedure;
 - c. Each pilot must add 100 feet and ½ mile to all instrument approach minimums;
 - d. Each pilot must add 50 percent to pilot operating handbook (POH) runway length performance for obstacle clearance on takeoff and landing under ambient conditions;
 - e. For IMC takeoff minimums, the PIC must ensure that the weather meets approach landing minimums with the additional margin noted in Condition and Limitation No. 11 (c) (Example: If the Baltimore-Washington International Airport minimums are 200/1/2, then the takeoff minimums will be at least 300 feet and 1 statute-mile visibility);
 - f. Prior to each takeoff, the PIC must ensure that patients, who may need the assistance of another person to exit the aircraft if an emergency occurs, have received a briefing as to the procedures to be followed if an evacuation occurs;
 - g. Each pilot will utilize and brief passengers about sterile cockpit procedures as defined under 14 CFR § 135.100.
12. PALS must develop and implement a preflight risk assessment tool. The tool must be completed by the PIC before each flight and must be transmitted to PALS prior to takeoff for any flight operated under this exemption. The completed tool must be retained by PALS for a minimum of 30 days after the CMF. PALS must identify a maximum score flight value, or other appropriate measure, that is permissible for a flight to be initiated under this exemption. A sample risk assessment tool is available from the following source:

FAA Information for Operators (InFO) 07015:
https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2007/info07015.pdf

The FAA recognizes that any sample tool used to assess any potential safety risk during preflight planning should be modified to adequately address the risk for general

aviation aircraft and PALS' specific operation. As an example, the sample Flight Risk Assessment Tool as outlined in InFO 07015 scores icing as a risk value of 5 when it is moderate to severe. However, for most general aviation aircraft, known icing conditions of any value should be considered grounds for cancellation or postponement of a flight.

13. PALS must develop and implement an initial pilot ground training program that includes the following:
 - a. PALS operational policies and procedures;
 - b. Principles and methods for determining weight and balance, and runway limitations for takeoff and landings;
 - c. Principles and methods of managing passenger needs and handling special equipment;
 - d. Principles and methods of aviation professionalism, decision-making, risk management and mitigation, and determining personal minimums; and
 - e. Informing the pilot of where a copy of this exemption can be located and requiring the pilot to become familiar with the conditions and limitations.
14. Recurrent training is required for all pilots operating under this exemption. The annual recurrent training program must include verification that each pilot is adequately trained, current, and proficient on all of the elements in the PALS initial pilot training program described in Condition and Limitation No. 13.
15. PALS may not exercise the privileges of this exemption unless PALS receives verification indicating acceptance of the PALS risk assessment tool (Condition and Limitation No. 12) and the initial and recurrent pilot ground training program (Condition and Limitation Nos. 13 and 14) from the FAA General Aviation and Commercial Division (AFS-800). This document may be sent to the FAA Airman Certification and Training Branch, 800 Independence Ave. SW, Washington, DC 20591 or via e-mail to 9-AFS-800-Correspondence@faa.gov.
16. PALS must maintain a copy of the aircraft logbook entry for the most recent annual inspection of any aircraft used to conduct flights under this exemption.
17. All flights operated under this exemption must remain within domestic United States airspace.

18. The FAA may, at any time or place, conduct inspections of the pilots, aircraft, and any records required to be kept in accordance with this exemption.

19. The FAA reserves the right to rescind this grant of exemption at any time if the Administrator determines that PALS or its authorized pilots fail to adhere to the conditions and limitations of this exemption.

This exemption terminates on June 30, 2021, unless sooner superseded or rescinded.

Issued in Washington, D.C., on June 28, 2019.

Sincerely,

/s/

Robert C. Carty

Deputy Executive Director, Flight Standards Service