

May 18, 2004

Exemption No. 8321
Regulatory Docket No. FAA-2004-17186

Mr. John C. Kline
0510 West 625 South
Wolcottville, IN 46795

Dear Mr. Kline:

By letter dated January 29, 2004, you petitioned the Federal Aviation Administration (FAA) for an exemption from § 121.383(c) of Title 14, Code of Federal Regulations (14 CFR), commonly referred to as the Age 60 Rule, to the extent necessary to permit you to act as a pilot in operations conducted under part 121 after reaching your 60th birthday.

Under the authority of 49 U.S.C. § 44701(f), the FAA, in its discretion, may grant an exemption from the requirements of a regulation if it finds that such an exemption is in the public interest. The petitioner has the burden of showing that an exemption is justified and in the public interest. The FAA recognizes that those persons petitioning for an exemption from § 121.383(c) are, in general, experienced pilots with a history of safe operations. The issue effectively raised by your petition for exemption is whether the age limit might be extended for a general class of persons, an issue more appropriately considered in determining whether the FAA should propose to change the Age 60 Rule.

The FAA has reviewed the Age-60 rule several times to determine whether new and sufficient evidence exists to warrant amendment. Within the past few years, the FAA has provided testimony before the United States Congress, contracted independent studies, and invited public input.

On December 11, 1995, the FAA issued a Disposition of Comments and Notice of Agency Decisions regarding the Age 60 rule (copy enclosed). This disposition discusses many topics identified by various petitioners and commenters to the Age 60 rule. Since 1995, the FAA completed a four-part study on accident rates based on pilot age. (See “Age 60 Reports” link at <http://www.cami.jccbi.gov/aam-400A>.) These studies, conducted in part in response to a request from the United States Congress, do not provide sufficient facts or analyses to warrant increasing the Age 60 limit.

Your participation in the Federal Flight Deck Officer (FFDO) program does not uniquely qualify you to fly in par 121 operations at age 60 or beyond. Your participation in the FFDO program is not a valid basis for the FAA to grant you an exemption from a safety rule. Moreover, each month, the Transportation Security Administration is designating more and more part 121 pilots to be FFDOs.

The FAA believes it is important to continue to collect and examine data relating to pilot age. Until the FAA can be assured that increasing the age limit will not negatively impact the level of safety, it cannot support a rule change. Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from the issues discussed in the enclosed disposition.

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. §§ 40113 and 44701, formerly §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, as amended, delegated to me by the Administrator, your petition for an exemption from 14 CFR § 121.383(c) is hereby denied.

Sincerely,

//s//

John M. Allen
Acting Director, Flight Standards Service

Enclosure