

October 23, 2008

Exemption No. 9275A
Regulatory Docket No. FAA-2007-27890

Mr. Jonathan Turley
2000 H Street, NW.
Washington, DC 20052

Dear Mr. Turley:

This letter is to inform you that we are denying your petition for reconsideration on behalf of Mr. David B. Patton concerning the Age 60 Rule. This letter explains the basis of our decision and transmits that decision to you.

The Basis for our Decision

On June 8, 2007, you petitioned the Federal Aviation Administration, on behalf of Mr. Patton, for reconsideration of Denial of Exemption No. 9275 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 Mr. Patton to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

On December 13, 2007, President Bush signed into law the “Fair Treatment for Experienced Pilots Act.” The Act has now been codified at Title 49 of the United States Code, section 44729. It prohibits persons who turned 60 before the effective date of the Statute from serving as pilots in part 121 operations unless certain conditions are met. Specifically, no person may serve as a pilot for an air carrier engaged in covered operations unless (1) he or she was in the employment of that air carrier in such operations on December 13, 2007 as a required flight deck crew member or (2) he or she is newly hired by an air carrier as a pilot on or after December 13, 2007 without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date of rehire under any labor agreement or employment policies of the air carrier.

E-2007-0775

We realize that your request for exemption pre-dates enactment of the Statute; however, we cannot retroactively grant an exemption from a requirement that no longer exists. Nor does the Statute give the FAA the authority to grant exemptions from its requirements. Accordingly, we do not have any discretion to grant exemptions to the provisions of the legislation.

The FAA's Decision

In consideration of the foregoing, I find that the FAA does not have the authority to grant an exemption to the requirements of 14 CFR § 121.383(c). Therefore, your petition for reconsideration of the denial of exemption is hereby denied.

Sincerely,

/s/

Robert A. Sturgell
Acting Administrator