In the matter of the petition of

CRITICAL CARE SERVICES, INC. DBA LIFE LINK III

For an exemption from

§§ 135.619(g)(2)(i) and (ii)
of Title 14, Code of Federal Regulations

Exemption No. 18744
Regulatory Docket No. FAA-2020-1101

GRANT OF EXEMPTION

By letter dated November 18, 2020, Mr. Matthew D. Nelson, Director of Operations, Critical Care Services, Inc. dba Life Link III (Critical Care Services, Inc), 8009 34\textsuperscript{th} Avenue South, Suite 1300 Bloomington, MN 55425, petitioned the Federal Aviation Administration (FAA) on behalf of Critical Care Services, Inc. for an exemption from §§ 135.619(g)(2)(i) and (ii) of Title 14 Code of Federal Regulations (14 CFR) to allow for an increase in an Operations Control Specialist (OCS) duty period from a maximum of 10 hours to a maximum of 12 hours. This exemption, if granted, would allow the petitioner to modify its staffing in Operations Control Centers for Helicopter Air Ambulance Operations to reduce potential staff exposure to Coronavirus Disease 2019 (COVID-19).

The petitioner requests relief from the following regulation:

Section 135.619(g)(2)(i) states that no certificate holder may schedule an operations control specialist for more than 10 consecutive hours of duty.

Section 135.619(g)(2)(ii) stipulates that if an operations control specialist is scheduled for more than 10 hours of duty in 24 consecutive hours, the certificate holder must provide that person a rest period of at least 8 hours at or before the end of 10 hours of duty.

The petitioner supports its request with the following information:

The petitioner states the extent of the relief sought is for Helicopter Air Ambulance Operations (HAA) with established Operations Control Centers (OCC) to modify current staffing requirements. It states that due to the impact of the COVID-19 pandemic, it seeks to extend the authorized work-shift duty-day from 10 to 12 hours.
To mitigate safety concerns, the petitioner indicates it plans to extend the required rest period from 8 to 10 hours. The petitioner states that this exemption, if granted will reduce potential exposure to the OCC staff by an average of 50 percent and increase its ability to staff the OCC during this pandemic.

The petitioner indicates that the COVID-19 pandemic creates staffing concerns for all critical services, and maintaining a high level of safety created with the establishment of Critical Care Services, Inc.'s OCC is paramount to the continued mission of HAA operations. The petitioner further argues that a grant of this petition for exemption would be in the public interest because it would ensure vital emergency medical transportation is available without interruption to critically ill or injured people while maintaining the higher level of safety afforded by an operational OCC staffed with qualified OCS.

The petitioner states that increasing the duty time limitation to 12 hours has a significant impact on the number of OCS in the OCC during a 24-hour period. It asserts that this reduction of OCS in the OCC during a 24-hour period reduces the potential of spreading the disease to others.

The petitioner indicates that it has considered other measures to reduce staff exposure to COVID-19, but asserts those alternatives are not in the public interest. Critical Care Services, Inc. states that, while limiting the number of HAA helicopters on its Operations Specifications would relieve it of the requirement to staff an OCC, such a reduction in aircraft numbers would have a negative impact on the coverage area and the community they serve. The petitioner argues that the reduction of available HAA assets would also have a direct impact on its ability to provide timely emergent medical transportation to critically injured or ill community members. The petitioner indicates the result of this modification would also bypass safety and risk mitigation policies and procedures, and limit its ability to serve the community with safe air medical transportation. The petitioner further argues that not having an OCC will place a greater burden on crew members without a team to assist in identifying the risk associated with HAA operations in accordance with § 135.617.

The petitioner further reports that Critical Care Services, Inc. does not cross-train operations control specialists as communications specialists; therefore, duty time considerations between the OCC and the Communication Center are not applicable.

In support of its petition for relief, Critical Care Services, Inc. proposes to operate with the following conditions to maintain an equivalent level of safety:

1. Critical Care Services, Inc. will increase the required 8-hour rest period as required in § 135.619(g)(2)(ii) and (iii) to a 10-hour rest period immediately preceding a scheduled shift.
   a. Procedures to examine fatigue will be addressed by filling out the OCS Fitness for Duty Assessment before the start of each shift. Any fatigue
concerns will be documented and the Operations Control Center Supervisor will be notified.

b. All fatigue concerns will be documented in the Critical Care Services, Inc. safety program alerting its program safety manager.

2. Critical Care Services, Inc. will establish a policy detailing the requirements of the 10-hour rest period. The policy will address the procedures for contacting an OCS for open shift coverage during a required rest period. The Operations Control Center Supervisor has the primary responsibility for determining whether an OCS should be contacted during an off or rest period.

**FAA’s analysis is as follows:**

A summary of the petition was published in the Federal Register on December 31, 2020 (85 FR 86976). Four comments were received.

All four commenters support granting the petition to extend the work-shift duty-day from 10 to 12 hours. They also support the proposed risk mitigation measures of extending the required rest period from 8 to 10 hours, which they believe will maintain at least an equivalent level of safety.

Air Medical Operators Association (AMOA), Air-Evac Lifeteam, Viking Aviation, and Metro Aviation all stated that a grant of this exemption will reduce COVID-19 exposure risks to OCC employees and will increase the ability of operators to appropriately and safely staff the OCC in the event of employee illness. AMOA reported there has been an escalation of positive cases within the operators’ workforce. All four commenters believe a grant would be in the public interest because it would ensure vital emergency medical transportation is available without interruption to critically ill or injured people while maintaining the higher level of safety afforded by an operational OCC staffed with qualified OCS. Air-Evac Lifeteam, Viking Aviation, and Metro Aviation stated they intend to file petitions for similar relief should this petition be granted.

The four commenters all stated the duty time limitations on OCS imposed by the regulatory requirements of § 135.619 introduced unnecessary complexity and staffing concerns under normal operations. They indicate that these staffing difficulties have been amplified during the unprecedented circumstances associated with the COVID-19 pandemic.

The FAA has carefully reviewed the information in the petition for relief, and the information provided by the commenters. The FAA agrees with the petitioner and acknowledges that increasing the duty time limitation to 12 hours would have a significant impact on the number of OCS in the OCC during a 24-hour period and that a reduction of OCS in the OCC during a 24-hour period may reduce the potential of exposure to COVID-19. Additionally, the FAA finds that safety would not be compromised if OCS personnel were assigned to a shift of no longer than 12 hours provided that the OCS was provided with a rest period of not less than 10 hours immediately prior to beginning a work period as an OCS.
The FAA also finds that a grant of exemption would be in the public interest as it would ensure vital emergency medical transportation is available without interruption to critically ill or injured people while maintaining the higher level of safety afforded by an operational OCC staffed with qualified OCSs.

Therefore, due to the unprecedented circumstances associated with the COVID-19 pandemic, the FAA finds that relief is justified, subject to the appropriate conditions and limitations as listed below.

**FAA’s Decision**

In consideration of the foregoing, I find that a 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, Critical Care Services, Inc. dba Life Link III is granted an exemption from 14 CFR § 135.619(g)(2)(i) and (ii). This exemption is subject to the conditions and limitations listed below.

**Conditions and Limitations**

1. Critical Care Services, Inc. must ensure any OCS scheduled for duty completes a rest period of no less than 10 hours immediately prior to the beginning of his or her duty period as an OCS.

2. Under this exemption, Critical Care Services, Inc. OCS rest periods must be free from restraint and not interrupted by the certificate holder.

3. Except in cases where circumstances or emergency conditions beyond the control of the certificate holder require otherwise, Critical Care Services, Inc. will not schedule an operations control specialist for more than 12 consecutive hours of duty.

4. Critical Care Services, Inc. will develop and incorporate into the manual required by § 135.21, an OCS Fitness for Duty Assessment, including procedures for its use.

5. The OCS Fitness for Duty Assessment must be completed by each OCS prior to the start of each shift.

6. Each certificate holder seeking to use this exemption must obtain authorization in Operations Specification A005.

To request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2020-1101 ([http://www.regulations.gov](http://www.regulations.gov)). In addition, you should submit your request no later than 120 days prior to the exemption’s expiration date listed below.

To request an amendment to this exemption, please submit your request no later than 120 days prior to the date you need the amendment using the process indicated above.

AFS-21-00115-E
Any extension or amendment request must meet the requirements of § 11.81 of 14 CFR.

This exemption terminates on April 30, 2023, unless sooner superseded or rescinded.

Issued in Washington, D.C., on    .

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