



In the matter of the petition of

**REPUBLIC AIRWAYS INC.**

For an exemption from § 61.160(a)  
of Title 14, Code of Federal  
Regulations

Exemption No. 19419  
Regulatory Docket No. FAA-2022-0535

### **DENIAL OF EXEMPTION**

By letter dated April 14, 2022, Paul Kinstedt, Chief Operating Officer, Republic Airways Inc. (Republic), 8909 Purdue Rd, Suite 300, Indianapolis, IN 46268 petitioned the Federal Aviation Administration (FAA) on behalf of Republic for an exemption from § 61.160(a) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption would allow graduates from Republic's pilot training program to apply for a restricted airline transport pilot (R-ATP) certificate with the same reduced aeronautical experience as military or former military pilots.

#### **Petition for Exemption**

The petitioner requests relief from the following regulation:

Section 61.160(a) prescribes that

*(a) Except for a person who has been removed from flying status for lack of proficiency or because of a disciplinary action involving aircraft operations, a U.S. military pilot or former U.S. military pilot may apply for an airline transport pilot certificate with an airplane category multiengine class rating or an airline transport pilot certificate concurrently with a multiengine airplane type rating with a minimum of 750 hours of total time as a pilot if the pilot presents:*

- (1) An official Form DD-214 (Certificate of Release or Discharge from Active Duty) indicating that the person was honorably discharged from the U.S. Armed Forces or an official U.S. Armed Forces record that shows the pilot is currently serving in the U.S. Armed Forces; and*
- (2) An official U.S. Armed Forces record that shows the person graduated from a U.S. Armed Forces undergraduate pilot training school and received a rating qualification as a military pilot.*

*The petitioner supports its request with the following information:*

Republic states that in 2010, Public Law 111-216 created a requirement for pilots operating for part 121 air carriers to have an ATP certificate with 1,500 flight hours. Additionally, the Public Law allowed the FAA to create pathways to obtain an R-ATP certificate, which consisted of reduced flight hours in accordance with 14 CFR § 61.160(a) – (d). Republic states that its petition is consistent with the standards set forth in the law, the regulations, and need for pathways to create safer and qualified pilots. Additionally, Republic states that its R-ATP program, as subsequently described, resembles U.S. military training by providing comprehensive and structured training for civilian pilots through training that satisfies the spirit of regulations, while enhancing safety and providing a benefit to the public.

Republic seeks an exemption from § 61.160(a) to the extent necessary to allow pilots who graduate from its wholly-owned subsidiary, Leadership in Flight Training Academy (LIFT), an approved Part 141 training program, and meet the requirements outlined in the Republic Restricted-ATP (R-ATP) Program (the Program) to apply for an R-ATP certificate for part 121 operations. Republic describes its program as a closed-loop training program, similar to that experienced in the military. Additionally, Republic states that the close alignment between LIFT and Republic allows the two to share Standard Operating Procedure (SOP) philosophy, with continuous feedback and ongoing enhancements through program assessments, correlating with the part 121 carrier’s Advanced Qualification Program (AQP) data analysis.

Specifically, Republic describes its program as a closed-loop, integrated program that will take a student from initial flight training to a First Officer applicant at Republic through a controlled and rigorous environment that meets or exceeds the safety standards of the military R-ATP certificate in §§ 61.160(a) and 61.159.<sup>1</sup> Republic describes the LIFT program as meeting U.S. regulations and standards, as well as the international core competencies for professional pilots through Specialized Advanced Airline Training.<sup>2</sup> Republic states its program contains four primary “gates:” (1) Pilot Selection Process, (2) Flight Training (part 141 and 61 curriculum training), (3) Advanced Airline Academics Validation, and (4) Certificate of Program Completion.<sup>3</sup> These gates are summarized as follows:

- Pilot Selection Process: Republic states its admissions process is equally as stringent to military selection and includes basic aptitude criteria, which provides data analysis to

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<sup>1</sup> The FAA notes that § 61.159 provides the aeronautical experience requirements for an unrestricted ATP certificate with an airplane category and class rating, including the requirement for 1,500 hours of total time as a pilot.

<sup>2</sup> Republic lists the eight competencies, as set forth by ICAO, IATA, and IFALPA, as (1) application of procedures and compliance with regulations, (2) communication, (3) aircraft flight path management – automation, (4) aircraft flight path management – manual control, (5) leadership and teamwork, (6) problem solving and decision making, (7) workload management, and (8) situational awareness.

<sup>3</sup> Republic later refers to the program assessment gates as (1) program admission for parts 141 and 61 training, (2) check ride for command experience, (3) knowledge validation for command crew flying and ATP/CTP, (4) certificate of program completion for ATP/CTP course, and (5) ATP/CTP for R-ATP. Republic also provides a table that concisely sets forth the prerequisites and assessment details.

measure trending of aptitude and background demographic experience.<sup>4</sup> Republic describes the Program's minimum criteria as consisting of the applicant: being at least 18 years of age at the time of enrollment, holding a valid US driver's license, being a US citizen or legal permanent citizen, having a high school diploma or equivalent,<sup>5</sup> holding a class 1 medical certificate, passing drug and alcohol testing, and passing a criminal background check. Applicants complete an online application form that includes information and essays, as well as a report of previous flight experience. Republic notes that applicants who report more than two previous check ride failures are automatically disqualified. Candidates are then invited for an in-person interview with the LIFT admissions team to evaluate key areas including professionalism, decision-making, time-management, communication, judgement, and ability to overcome obstacles. Applicants with previous flight experience are also asked technical questions by a LIFT CFI. Further, candidates are required to complete certain aptitude tests that Republic advocates are predictive of flying performance of trainee pilots.<sup>6</sup> Finally, Republic states that candidates must provide proof of program requirements and funding.

- **Flight Training:** Republic describes its flight training program as similar to the military to ensure commitment, skills, knowledge, and professional standards are maintained and upheld. Specifically, students train five to seven days per week in a simulator or aircraft and are expected to obtain seven certificates/ratings prior to transitioning to Command Experience. Republic states that as a student progresses through flight training, the student is held to the Airman Certification Standards in an enhanced training environment to include: attendance tracking, complex ATC environments, upset recovery, and observation flights. Republic states that certain failures<sup>7</sup> will trigger advisory sessions, where plans of action will be established to address and retrain as needed and patterns of failure will be escalated to the Flight Operations Management team.
- **Advanced Airline Academies (AAA):** Republic details that, after the completion of the LIFT flight training program, pilots who meet the R-ATP certificate standard and fail no more than two check rides begin Command Experience and a mentorship program. Republic states these courses are designed to enhance aviation knowledge above and beyond that required to fulfill LIFT pilot certifications and ratings. Republic provides the subject areas and instructional hours as follows, and states each course culminates in a

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<sup>4</sup> Republic compares this analysis to the Pilot Composite Scoring Method (PCSM) aptitude testing and skills assessments conducted by the U.S. Air Force UPT-2.5 program.

<sup>5</sup> Republic states that applicants with two- or four-year degrees are generally preferred as this post-secondary education can provide more life-experience and increased student maturity, however, recognizes that this may create an unintended barrier to the program. Republic notes this is similar to military training where an undergraduate degree is preferred but not required and provides the example of Army pilots without a degree who become eligible for the R-ATP with 750 hours.

<sup>6</sup> The tests set forth by Republic as required include WOMBAT Situational Awareness and Stress Tolerance, Sixteen Personality Factor (16PF) Questionnaire, and the Tabular Speed Test. Republic cites specific studies aligning with the position in its petition.

<sup>7</sup> Republic states that failures triggering advisory sessions may include: double lesson failure, refresher flight failure, stage check failure, check ride failure, written exam failure, and unsatisfactory completion of a previously established Plan of Action.

knowledge exam: Aerodynamics and Aircraft Performance (64 hours), Aircraft Systems (42 hours), Aviation Human Factors (44 hours), ATC and Airspace ~44 hours), Aviation Law and Regulations (32 hours), Aviation Weather (42 hours), Aviation Safety (32 hours), Airline Operations (42 hours), and Advanced Academics Review (20 hours).<sup>8</sup> After all courses are satisfactorily completed, a final exam is administered. Republic notes that all coursework follows its Instructional Systems Development process in its AQP.

- Mentorship Program: Prior to attending Republic’s Basic Indoctrination training, students are matched within a mentorship program to a current and qualified Republic line pilot.
- Command Experience: After required part 141 and part 61 training, Republic states that students begin Command Experience, where students build their experience as a LIFT flight instructor. This experience includes annual proficiency checks and observation flights within the Program’s closed-loop environment. Republic states that it collects data on total flight time, student performance, and reliability metrics. During Command Experience, Republic emphasizes that students utilize internally developed Flight Operations Manuals (FOM) and SOP to introduce procedures and equipment that mimic those used as a Republic pilot.<sup>9</sup>
- Specialized Advanced Airline Training: Republic states that it provides specialized training when the students arrives for part 121 first officer qualification training, which includes the First Officer Qualifications Aviation Rulemaking Committee (FOQ ARC) recommendations. Republic describes this phase of the Program as providing combined part 121 training and Republic procedures and philosophies designed to prepare students for the airline environment. Part of the specialized training includes command crew flying after obtaining 700 total flight hours and meeting certain requirements outlined in § 61.159. Republic describes the prerequisites to begin the Command Crew Flying as: 700 hours total flight time, 150 hours cross-country time, 100 hours night time, 75 hours instrument flight time, 250 hours pilot-in-command (PIC) time, 100 hours PIC cross-country time, 25 hours PIC night time, multi-engine rating, and completion of Advanced Airline Academies. After Command Crew Flying, students will enroll in Air Carrier Introduction Training, four weeks prior to the start of Republic’s Initial Qualification (IQ) program and prior to an ATP/CTP course. Republic states this introduction training consists of 8 hours of ground school that introduces Republic’s policies, procedures, SOPs, profiles, and expectations, followed by 24 hours of training in a Level 4 FTD and 12 hours of

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<sup>8</sup> Republic states that LIFT students’ coursework is supplemented with visits to Republic headquarters and hands-on experience to improve students’ understanding of Republic’s structure and operations.

<sup>9</sup> Republic provides examples of closely coupled procedures such as briefings, Electronic Flight Bag, charting, ProSafeT, grading scales, automation policy, flows and checklist usage, emergency procedures, and callouts and policy.

training in a Level D FFS. After, students attend two days of classroom instruction, complete a pre-ATP written exam, and undergo a student review and interview to determine readiness for an ATP/CTP and IQ programming.

Republic emphasizes the enhanced training environment within which students train, and states that students will be assessed daily and must pass knowledge and skill validations (including lessons, stage checks, knowledge exams, and practical exams) throughout the program to ensure they meet certain performance standards. Upon failure of the performance standards, referred to as gates, Republic states a student will be transitioned out of the R-ATP program and continue through the standard ATP path. Republic also details the equipment that students will train on as a standardized fleet of Diamond DA40 NG and DA42-CI aircraft, intentionally chosen to match the features of the Embraer E170/175 operated by Republic. Republic states that these aircraft feature: Garmin G1000® NXi avionics, synthetic vision with Flight Path Vector, single power level operations, and flight director/autopilot. Further, Republic states that students are trained within an airline-style environment to include formal dispatch and scheduling exposure.

Republic emphasizes that safety is its top priority at LIFT and explains safety programs that are aligned with Republic's Safety Management System (SMS). Specifically, LIFT operates the Voluntary Safety Reporting Program (VSRP), intended to expose LIFT pilots to a non-punitive safety culture and mitigate risks with corrective action. Further, Republic states that LIFT is in process of developing a program mirroring 14 CFR part 5 SMS requirements.

Further, Republic provides data to support its assertion of LIFT's success in training students as safe and competent pilots.<sup>10</sup> Specifically, Republic states that data is not yet available for the Program, but asserts that historical data concludes that LIFT students outperform the national average on metrics including (1) first time and total Designated Pilot Examiner check ride pass rates and (2) knowledge test pass rates. Additionally, Republic asserts that LIFT graduate data, while not inclusive of Program graduates, indicates LIFT graduates outperform non-LIFT graduates in certain metrics (e.g., initial qualification, lesson completion rates, task retakes). Republic maintains that this suggests LIFT students perform above average in retaining pilot training knowledge. Republic also states that LIFT students graduate with an average of over 300 flight hours, which is well above the FAA minimum flight hours requirement. Specifically, Republic states that the industry average for hours to complete a private certificate is 55 – 70 hours, while LIFT students complete the certificate in approximately 73 hours, which Republic identifies as a testament to the quality and rigor of the training program.

Republic details the pilot data collected from the start of initial training at LIFT, specifically as it pertains to the ability to adjust and improve the Program based on analysis of pilot performance, feedback, completion rates, and correlation with the airline's established AQP. Republic states

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<sup>10</sup> Specific data graphs provided by Republic are not republished in entirety in this decision document and may be found in Republic's petition at the docket number provided herein.

that it has initiated data infrastructure to monitor the Program at several stages, including R-ATP data, ATP/CTP,<sup>11</sup> IQ, and Continuing Qualification (CQ) using AQP data. Republic describes tracked performance based data metrics that allows continuous performance assessment. Further, Republic states that the ATP/CTP will validate the success and serve as reinforcement experience to the Program. Additionally, by tracking a student's performance through initial pilot training at LIFT through to IQ and CQ, Republic states it is able to complete comparative reviews of the Program against other Republic pilots in AQP training to validate performance, emphasizing a holistic view of a pilot's training footprint and progression. Republic urges that the end-to-end collection data and analysis enables validation and evaluation of training effectiveness, which in turn maximizes safety and program benefits. For these reasons, Republic asserts that its Program would not be adverse to safety and would arguably provide a higher level of safety to the military pathway provided in § 61.160(a).

Republic contends granting the petition would be in the public interest for several reasons. First, Republic states that the industry has not been successful in opening opportunities for diverse students, which requires a renewed industry-wide commitment to diversity, equity, and inclusion. Specifically, Republic provides data intended to illustrate that composition of CFI and ATP certificate holders domestically has made little progress in reaching minority industry participants via the existing avenues.

Additionally, Republic contends that its Program provides a cost-effective means to flight training, which will be accessible to a large pool of students including those from underrepresented minority groups. In particular, Republic provides figures detailing the combined costs of flight training and tuition at private university programs, public university programs, and the Republic program, estimating such costs at a total of \$219,600, \$171,333, and \$75,000, respectively. Republic notes that this training is often self-financed and cost-prohibitive for many aspiring pilots from underserved communities. Specifically, Republic details that flight training portions of university aviation programs are comparable to non-degree programs, yet the students must also pay tuition, room, and board for these programs, which can be a significant barrier for some highly qualified students that are in socioeconomically disadvantaged communities. Republic notes that as part of its Program, students are employed through Command Experience after approximately 14 months, which helps to offset the students' cost of living, and all training costs are included in the Program cost,<sup>12</sup> which creates broader community access to pilot training opportunities.

Republic lists several financial support mechanisms by which they plan to aid students with access to pilot training. These include: training subsidies, scholarships to underrepresented groups in partnership with community groups and historically black colleges and universities,

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<sup>11</sup> Republic notes that the Program students will take the FAA approved ATP/CTP in-house at Republic, which enables Republic to add detailed data to the student's data portfolio. Republic also states that survey data shows pilots who take Republic's ATP/CTP are better prepared for Republic's IQ than those who took the ATP/CTP from an outside vendor.

<sup>12</sup> Republic compares this to flight training and tuition costs for four-year degree programs, which Republic states include CFI training costs, but exclude additional costs for students to accumulate enough hours to be eligible for the R-ATP.

cost-of-living stipend awards before Command Experience wages are earned, hourly salary for Command Experience training and flight instructing, and loan assistance. Additionally, Republic states that they partner with community organizations to generate interest in aviation careers and find high potential candidates, especially those from underserved communities (e.g., diversity conferences, summer camps, Virtual Reality pilot experiences, STEM and aviation groups). Republic contends this financial support will be of public benefit in making pilot training more accessible to qualified candidates. Republic states that the exemption, in turn, may allow other part 121 air carrier programs to offer similar programs, which would further additional opportunities for underserved communities.

Finally, Republic contends that the exemption is in the public interest because it will provide for a more efficient training path for aspiring pilots and provide a service to the public by satisfying continuing commercial aviation demand, specifically small communities who rely on commercial aviation services. Republic notes that a typical aviation degree may take anywhere from two to four years to complete, in addition to building flight hours for the ATP certificate, which may take an additional two years. Republic states that its training philosophy resembles that of the U.S. military, characterized by rigorous training in a concentrated period of time in an integrated closed-loop system. Republic states that this efficient training path results in the pursuit of an airline career at a lower cost building career-specific skills, resulting in more time a person can spend in airline pilot careers. Further, Republic opines that this efficiency will further cut carbon consumed by transferring training to ground-based advanced training devices providing equal or better learning experiences while also eliminating carbon required through pilots building time in unproductive flying. Republic contends that, further, the Program will satisfy the need for commercial pilots without drawing from depleted corps of military pilots.

### **Federal Register Notice**

A summary of the petition was published in the *Federal Register* on June 29, 2022 (87 FR 38808) to allow an opportunity for public comment. The FAA received ninety-eight (98) comments regarding Republic's petition. Commenters included individuals, including former Republic employees; Senator Mike Braun; Congressman Trey Hollingsworth; Congresswoman Victoria Spartz; Airline Professionals Association: Teamsters Local 1224 (Local 1224); Flight School Association of North America (FSANA); the Regional Airline Association (RAA); Air Line Pilots Association, International (ALPA); a flight school consortium; former FAA Administrator Jerome Randolph Babbitt; former FAA Chief Counsel, Acting Deputy Administrator, and COO David Grizzle; and retired U.S. Air Force General Darren McDew. The FAA received approximately twenty-five (25) comments in support of consideration of Republic's petition and approximately seventy-three (73) comments in opposition to Republic's petition for exemption.

Several commenters, including U.S. Representative Trey Hollingsworth, Senator Mike Braun, and RAA, were in favor of due consideration of Republic's petition. These commenters, in sum, stated that Republic's training program is a comprehensive program that would present a safer, structured pathway for credit towards the ATP requirement. They pointed out that the alternative means of teaching, training, and scenario-based learning comparative to military training programs may be

more effective than simply flying hundreds of hours. Additionally, commenters asserted that the FAA already has authority within the Act to approve alternative methods of academic credit and pathways resulting in a reduction of the 1,500 hour total flight time requirement. Further, two commenters stated that the Act fails to specify any variety of situations, conditions, or content in which hours must be logged, and emphasized that the structured training in Republic's program will yield improved safety. RAA emphasized Congressional statements that rote accumulation of flight hours is not the only or best way to build pilot proficiency.

The Act grants the FAA authority to allow for the crediting of flight hours based on academic training courses. The FAA further discusses such authority, the intent of the Act, and the FAA's subsequent action below in the analysis of this exemption. However, in its petition, Republic fails to provide specific data to establish that an equivalent level of safety would be obtained through its program to warrant an exemption from required hours, as required by 14 CFR part 11.

Some commenters supported Republic's petition on the grounds that 1,500 hours to obtain an ATP certificate is unduly burdensome and does not necessarily ensure quality training. These commenters generally stated that a rigid amount of required flight time fails to account for quality of training received and described the amount of hours as arbitrary. Further, commenters stated that there were little to no problems when airlines were hiring pilots with 250 to 500 hours of flight time. One commenter stated that the minimum flight time comparisons globally puts the U.S. at a disadvantage in trade and travel. While some commenters supported a general reduction of hours, some commenters supported the addition of certain prerequisites or checks to ensure quality of hours, if reduced. For example, some commenters stated that other factors such as bachelor's degrees, FAASTeam membership, gold seal flight instructors, more Line Oriented Flight Training, or additional ground training should be taken into account towards earning an R-ATP certificate. Two commenters stated that airline training programs with FAA oversight should be afforded the same consideration as military training.

For reasons subsequently explained in the analysis of this decision document, the FAA disagrees with reducing the amount of required aeronautical experience at this time. Further, the FAA finds that, if a reduction in hours was appropriate, an exemption is not the appropriate vehicle with which to make such a determination.

Several commenters, including U.S. Representative Victoria Spartz, and U.S. Senator Mike Braun, expressed support for Republic's request as a means to address the current pilot shortage and tip the labor market to pilots' advantage, reduce economic barriers to entry for aviation careers, and support diversity in prospective students. Senator Braun stated that service cuts due to the pilot shortage pose a threat to local economies.

The FAA does not agree that granting the exemption would address a perceived pilot shortage. As stated in previous exemptions and in the analysis of this decision document,<sup>13</sup> the FAA has previously concluded that the argument that an exemption would serve to address a pilot shortage is overly simplistic and does not present a persuasive argument to lower 14 CFR part 61 pilot certification standards. In addition, the exemption process is not the avenue to address the hiring difficulties of an operator that may result in service cuts to particular areas. The FAA continues

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<sup>13</sup> Exemption No. 18237 (Empire Airlines).



to consider the greater public interest ensuring that the level of safety provided by the foundation of an integrated aviation education required by § 61.160 is maintained. The same principle may be applied in the support of diverse prospective students and pilot. The FAA actively participates in a variety of initiatives, outreach programs, scholarships, grants, and industry affiliations to support recruitment from diverse communities and backgrounds.

Finally, RAA opined that, in responding to this or any proposal, the FAA should provide a data-driven explanation of its expectations for future programs.

The FAA does not respond to petitions for exemption with intention to propose an exemption solution for all of the regulated community. However, the regulations do not prohibit LIFT or Republic from producing a mission-specific training program that could better prepare students to operate within the complex environment of commercial air carrier operations through a program similar to the additional items proposed within this petition. The FAA encourages all training providers to collect data and continually analyze the quality of training provided for further improvements.

Several commenters expressed opposition to granting Republic's request. These commenters included numerous individuals, Local 1224, ALPA, FSANA, and the flight school consortium. Specifically, the majority of the comments were concerned that a reduction in flight hours and relaxation of standards would jeopardize safety and result in inexperienced pilots. Many commenters supported the 1,500 hour flight requirements for ATP certificates, characterizing the recent legacy of safety in commercial aviation as an outgrowth of these training requirements. In particular, many commenters cited the 2009 Colgan Air Flight 3407 accident and urged the FAA to maintain the high standard of 1,500 flight hours to ensure pilots are properly trained and experienced, as congressionally intended. Further, commenters stated that the 1,500 flight hours are important to ensure that pilots have experience with decision making, as one commenter stated that no two flight hours are alike. FSANA expressed concern that the reduction in flight hours through the program would effectively remove all checks and balances from the training system and would dangerously weaken industry standards.

Additionally, many commenters, including individuals, FSANA, Local 1224, and ALPA, took issue with the comparison of equivalency to military training. Commenters specifically concluded that military pilots are granted lesser hours for the R-ATP certificate because of the rigorous training required of U.S. Armed Forces pilots. One commenter identified as a former LIFT instructor stated that, in the commenter's experience, the quality of instruction does not compare to a military pilot program because the LIFT curriculum is too fast-paced and rigorous, with no opportunity to make autonomous decisions and learn from mistakes. Another commenter echoed concerns that in-house training allows companies to rush through a company controlled system with little oversight. Further, Local 1224 submitted a table comparing and contrasting Republic's proposed program with a typical military flight program, concluding that Republic's program does not replicate a military pilot's training.

Many commenters, including ALPA, questioned Republic's contention of a pilot shortage in the aviation industry. First, commenters disagreed that there is a pilot shortage and disagreed that there is a first officer pipeline problem. Some commenters stated that, instead, there is a captain retention

problem that would not be addressed specifically by these changes. Further, commenters including ALPA stated that the qualification standards should not be changed to address any perceived pilot shortage; rather, many commenters urged industry airlines to compensate pilots fairly and offer appropriate benefit packages to ensure pilot retention. These commenters urged airlines to fix root problems of pilot retention instead of lowering pilot experience standards. Several commenters drew comparisons to the medical industry and unwillingness to lower medical training and experience standards should there be a medical professional shortage. Commenters, including FSANA, also stated that granting the exemption could result in damage to the pilot pipeline and questioned whether it would unfairly affect the rest of the aviation industry and flight schools; for example, the flight school consortium expressed concern that this exemption would result in the reduction of the pool of instructors to ensure quality instruction by increasing school instructor turnover into airlines. Another commenter suggested that pilot shortages could be addressed by tort reform at the Congressional level, allowing training in experimental aircraft, and relieving barriers to military pilots.<sup>14</sup>

Some commenters agreed with a reduction in hours or urged an examination of ATP hour minimums across § 61.160, but disagreed with a reduction by half to 750 hours. Rather, some commenters suggested a general reduction to 1,000 or 1,250, as is supported by § 61.160(b) and (c). Two commenters suggested that Republic start its own part 141 flight school. Another commenter stated that, if Republic could replicate a two- or four-year program, then Republic should be reduced to 1000 or 1250 hours, but not as low as 750 hours. Another commenter opined that should a flight officer only have 750 hours, it should be accompanied by additional requirements within the program, for example a degree or sufficient jet and turbine aircraft experience. Two commenters expressed concern specifically with the reduction of hours in relation to LIFT's proposed curriculum. One called attention to a possible loophole with transfer credit that is restricted in programs qualifying under § 61.160(b) and (c) that is left unaddressed in LIFT's proposed curriculum. FSANA expressed concern that the exemption attempts to change R-ATP training to the creation of Republic's own standards.

Commenters, including FSANA and ALPA, also questioned the validity of the support data cited by Republic. Specifically, one commenter stated that the validation group was too small of a sample size. Another commenter stated that Republic presented unsupported claims of equivalent and superior safety without data and suggested a research study with appropriate performance and safety measures. ALPA echoed that the petitioner failed to set forth substantiation or data to support its request. Another individual commenter stated that the data appeared ignore the current state of the industry and instead presented preferentially selective data.

While commenters who addressed diversity and inclusion in the profession generally supported initiatives to reach underserved and minority communities, several questioned the legality of only focusing on protected classes for Republic's program. For example, one commenter questioned whether Republic's program would violate Titles VII and IX. Another commenter questioned whether the program would result in a violation of the 14<sup>th</sup> Amendment.<sup>15</sup> Additionally, several commenters questioned why Republic could not already offer the diversity and inclusion initiatives

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<sup>14</sup> The FAA notes that Congressional reform and regulatory changes to flight training in experimental aircraft and military pilot qualification are out of scope of the analysis of this exemption.

<sup>15</sup> The FAA notes that these constitutional questions are out of scope of the analysis of this exemption.

detailed within its petition to draw from underrepresented community talent pools. Local 1224 echoed this sentiment and stated that Republic's screening, scholarship, financing, stipends and job opportunities could address such opportunities without the need to reduce minimum flight hours.

Finally, some commenters, including ALPA, questioned whether an exemption was the appropriate route for lowering the pilot flight time standard. For example, one commenter stated that a change of this nature should go through the rulemaking process to ensure a uniform change is applicable to everyone. Another commenter stated that an exemption of this nature would signal to industry that the 1,500 hour requirement is vulnerable. Similarly, ALPA opined that changing pilot certification regulations by exemption rather than rulemaking is inappropriate and provided a historical narrative of rationale as to how the 1,500 hour requirement was congressionally mandated, including detail of the recommendations made by the Air Carrier Training Aviation Rulemaking Committee (ACT ARC) Working Group that were ultimately not adopted.

### **The FAA's Analysis**

As an initial matter, the FAA notes that Republic seeks relief from § 61.160(a). In fact, that section does not apply to Republic, and it instead should have petitioned for relief from § 61.159(a) and requested a reduction from the 1,500 hours required by that section to 750 hours based on its position that the LIFT program merits the same reduction as provided for military pilots in § 61.160(a).<sup>16</sup> The FAA has construed the petition in this manner. After full consideration of Republic's petition for exemption and the public comments, the FAA has determined that the relief requested is not in the public interest and would adversely affect safety.

In 2010, Congress passed the Airline Safety and Federal Aviation Administration Extension Act of 2010 (the Act),<sup>17</sup> which directed the FAA to conduct a rulemaking to improve the qualifications and training for pilots serving in air carrier operations. Specifically, the FAA was directed to conduct a rulemaking to require all pilots serving in part 121 air carrier operations to hold an ATP certificate, as well as to revise part 61 to modify ATP certification requirements to ensure adequate preparation and sufficient flight hours in difficult operational conditions. Section 217 of the Act stated that the minimum total flight hours to be qualified for an ATP certificate shall be at least 1,500 flight hours.<sup>18</sup> The section also gave the FAA discretion to permit specific academic training courses to be credited towards the 1,500 total flight hour requirement, provided that the academic training courses would enhance safety more than requiring the pilot to comply fully with the flight hour requirement.<sup>19</sup>

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<sup>16</sup> Additionally, the FAA notes that the petition for exemption is requested on behalf of Republic, a part 121 certificate holder. However, the requested relief indicates that a part 141 flight school, LIFT, would provide the training curriculum described in the petition and the relief would be utilized and applicable to the individual pilot applying for the R-ATP certificate. The petition fails to describe how the part 121 certificate holder, Republic, would impose conditions and limitations to its part 141 flight school and to the discrete pilots.

<sup>17</sup> Pub. L. 111-216 (Aug. 1, 2010).

<sup>18</sup> While Section 217(b)(1) stated that the sufficient flight hours were to be determined by the Administrator, Section 217(c)(1) required the total flight hours under subsection (b)(1) to be at least 1,500 flight hours.

<sup>19</sup> Section 217(d).

In accordance with the Act, in 2013, the FAA implemented a final rule<sup>20</sup> that required a second-in-command (first officer) in domestic, flag, and supplemental operations to hold an ATP certificate and airplane type rating for the aircraft to be flown. The Act indicated that flight time is not necessarily the only component to developing a safe and qualified pilot, evidenced in the allowance for structured academic training integrated with flight training programs implemented in § 61.160. Based on the discretion provided to the FAA within the Act to permit applicants to obtain an ATP certificate with fewer than 1,500 hours upon completion of specific academic training courses, the FAA adopted new section § 61.160. Section 61.160 set forth three alternative flight hour requirements for an ATP certificate with airplane category multiengine class rating based on academic experience, with certain additional requirements: (1) military pilots who have graduated from an Armed Forces undergraduate training program, which would require 750 total flight hours, (2) graduates of four-year aviation degree programs with integrated flight training, which would require 1,000 total flight hours, or (3) graduates of a two-year aviation degree program, which would require 1,250 total flight hours.<sup>21</sup> This R-ATP certificate was limited to certain operations because the pilot would not have attained the full 1,500 hours of experience required for a full ATP certificate (e.g., a pilot holding an R-ATP certificate would not be permitted to act as PIC in part 121 operations).

The FAA examined typical military pilot training programs during the rulemaking process to adopt § 61.160(a) and determined that the rigorous, demanding, and comprehensive nature of military pilot training would enhance safety more than requiring the pilot to comply fully with the flight hour requirement.<sup>22</sup> Specifically, the FAA chartered the First Officer Qualification Aviation Rulemaking Committee (FOQ ARC) to provide a forum to discuss flight experience and training requirements to fly as a first officer in part 121 air carrier operations. The FOQ ARC recommended a high aeronautical experience credit value to pilots who complete a military fixed-wing flight-training program.<sup>23</sup> In this recommendation, the FOQ ARC noted that military programs are characterized by highly competitive and extensively screened selection process; intense academic and flight training, including extensive training in acrobatics, stalls, spins, and upset recovery procedures; flight training conducted in complex turbine aircraft; and advanced flight training with high-performance aircraft in high-altitude operations.

The FAA finds that the supporting materials and LIFT historical data does not sufficiently support Republic's claim that the Republic R-ATP Program is sufficiently comparable to the

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<sup>20</sup> Final Rule, *Pilot Certification and Qualification Requirements for Air Carrier Operations*, 78 FR 42324 (Jul. 15, 2013).

<sup>21</sup> 14 CFR 61.160. In the final rule preamble, the FAA contemplated other scenarios under which flight time should be reduced to obtain an R-ATP certificate. For example, commenters to the proposed rule suggested that structured flight academies, non-aviation degree programs, and individual academic courses should qualify for a reduction in hours. The FAA explained that the content and substance of the academic curriculum in two- and four- year programs is based on the fact that the broader academic curriculum is aviation focused and completed concurrently with ground and flight training for certification and declined to expand the scope of reduced hours. Additionally, these pilots are required to meet additional requirements delineated in § 61.160(b) and (c), not solely graduate from the two- or four-year program. The FAA has previously declined to recognize part 121 air carrier training program as providing the level equivalent level of safety to an integrated aviation education such that an exemption is warranted; see Exemption No. 18237 (Empire Airlines).

<sup>22</sup> See 78 FR 42345 for discussion on Air Force and Navy pilot training programs contemplated by the FAA.

<sup>23</sup> First Officer Qualification Aviation Rulemaking Committee (FOQ ARC), July 16, 2010, [https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/media/FOQARC-7162010.pdf](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/FOQARC-7162010.pdf).

training program of a military branch to warrant a reduction in flight hours. Specifically, while Republic provides the overarching structure of its training program, the FAA does not find that the curriculum facilitates the rigorous and comprehensive training reflected in military training. Specifically, the characteristics noted by the FOQ ARC are inherent to military pilot programs, may not necessarily be accessible by part 141 programs, and are not present in the Program curriculum as presented. For example, military pilots are swiftly trained on mission-oriented maneuvers involving high performance, complex aircraft with advanced technology that are not typically available to part 141s due to differing resources. These operations, among other characteristics, have been found to warrant a reduction in flight training hours. Republic states that training will be conducted on the Diamond DA40 NG and FA42-VI aircraft; however, the FAA does not find that the training set forth on these aircraft closely replicates the quality of military standard training on a military aircraft to such a degree that an equivalent level of training is provided.

Further, in its petition Republic states that supporting data is not yet available from the Republic R-ATP Program and instead relies on historical data from LIFT to suggest that students going through the Republic R-ATP Program will meet or exceed the level of safety of the military R-ATP and be successful through Republic's Part 121 IQ program. However, the data Republic provided in the petition primarily focuses on comparing LIFT graduates to a generic population of non-LIFT graduates, a method that fails to consider many other variables in the course of its analysis. These variables may include the ambiguous comparison of employment history, educational background, military experience, past FAA check-ride history, recency of experience, and total flight hours of the populations or samples used. Additionally, while Republic states that historical data concludes LIFT students outperform the national average pass rates on check rides and knowledge tests, these pass rates are indicative of students within the current LIFT program, not the program that Republic proposes to operate with flight hours reduced by half. Therefore, the data presented is not definitive in concluding that Republic R-ATP Program will be equivalent to the level of safety provided by § 61.160(a).

Additionally, Republic describes some characteristics in its petition that the R-ATP Program would adhere to serve as safety mitigations and compare to military flight training; however, the FAA notes that these standards are currently required by regulations and, therefore, would not serve as a safety mitigation for its proposed operations. For example, Republic stated that the ATP/CTP course will serve to validate the success of Republic's proposed R-ATP program. However, this does not serve as a sufficient safety mitigation as, first, the ATP/CTP program is not intended to serve as a validation mechanism for part 121 air carrier programs and, second, the ATP/CTP would already be required for program students.<sup>24</sup> Additionally, Republic stated that its training approach would allow both Republic and the FAA to monitor student performance. However, there are currently requirements to monitor student performance that already exists under part 141.<sup>25</sup> Republic may enhance its processes for monitoring student performance, including monitoring student performance within its wholly-owned part 141 flight school without the granting of the exemption if it so chooses, but the requirement to monitor

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<sup>24</sup> 14 CFR 61.156.

<sup>25</sup> Part 141 generally requires students to accomplish certain stage checks and end-of-course tests pursuant to the certificate or rating sought (e.g., paragraph 6. in appendix E to part 141); section 141.101(a) requires a pilot school to establish and maintain records for each student enrolled in an approved course of training..

student performance does not in and of itself (or cumulatively with the other elements of the program) rise to the level of mitigation such that an equivalent level of safety to total flight time requirements is achieved.

Republic also references the ACT ARC proposed Enhanced Qualification Program (EQP)<sup>26</sup> and describes how Republic's R-ATP Program offers a structured, comprehensive, and advanced aviation academic training pathway similar to that of the EQP. The FAA disagrees with Republic's contention that the two programs are substantially similar. For example, ACT ARC recommendation, 16-8, contains prerequisites for an applicant to enroll in the EQP, which includes minimum academic degree requirements or military experience. However, Republic's proposed R-ATP Program will require neither for enrollment purposes. Further, the FAA notes that although the ACT ARC proposed the EQP as an alternative pathway to achieving the aeronautical experience required to obtain an ATP, the FAA has not adopted the EQP or any other similar programs or recommendations that further reduce the aeronautical experience requirements set forth by § 61.160. Therefore, it does not follow that because Republic contends its program is similar to the EQP that they are entitled to a reduction in flight hours.

The FAA does not agree with Republic that the public interest would be served by granting this request. First, the FAA agrees with commenters that an R-ATP flight time reduction of this nature is not appropriate for the exemption process and notes Republic's statement that granting its exemption may allow other part 121 air carrier programs to offer similar programs. The FAA supports the regulatory requirements that are in place to facilitate the qualification of pilots, and the FAA maintains that the exemption process is not the correct avenue to change the current manner of pilot preparation. Granting Republic an exemption from regulated eligibility requirements would establish a precedent and result in the FAA receiving similar requests for exemption from other part 121 air carrier programs, which is stated as intended by Republic. However, the FAA has consistently stated that broadly applicable changes to basic certification requirements for airmen is not appropriately achieved by exemption.<sup>27</sup>

Additionally, the FAA disagrees that the reduction of R-ATP flight hours will address (1) a perceived pilot shortage, (2) reduced commercial aviation services to small communities, or (3) recruitment within diverse talent pools. The FAA maintains that a reduction of hours is an inappropriate vehicle to lower part 61 pilot certification standards for these reasons. First, the FAA lacks statutory authority to regulate based on a perceived shortage of pilots. The FAA considers it to be of greater public interest to ensure and maintain the level of safety provided by the foundation of an integrated aviation education required by § 61.160.

Further, lowering pilot qualifications through the exemption process is not the proper vehicle to recruit talent from diverse communities. The FAA notes that Republic details that many avenues of its own financial support in collaboration with its partner organizations, including training subsidies, scholarships, stipends, Command Experience salary, and loan assistance to reach

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<sup>26</sup> ACT ARC - Recommendation 16-8: Enhanced Qualification Program.

[https://www.faa.gov/sites/faa.gov/files/about/office\\_org/headquarters\\_offices/avs/ACT\\_ARC\\_Reco\\_16-8.pdf](https://www.faa.gov/sites/faa.gov/files/about/office_org/headquarters_offices/avs/ACT_ARC_Reco_16-8.pdf).

<sup>27</sup> An agency is required to publish a "rule of general applicability" in the Federal Register and comply with notice and comment requirements set forth by the APA. *See* 5 U.S.C. §§552(a), 553(b), and 553(c).

underrepresented communities and recruit from diverse populations. The FAA agrees with commenters that these recruitment efforts may continue to be offered for current Republic programs and other Republic opportunities without the need to reduce flight training hours. For the reasons stated above, the FAA denies Republic an exemption from § 61.160(a).

### **The FAA's Decision**

In consideration of the foregoing, I find that a grant of exemption would not be in the public interest or provide an equivalent level of safety. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, delegated to me by the Administrator, the petition of Republic Airways Inc. for an exemption from 14 CFR § 61.160(a) is hereby denied.

Issued in Washington, D.C., on .

Sincerely,

/s/

Caitlin E. Locke

Acting Deputy Executive Director, Flight Standards Service